



*Carry on Christ Church*, the marooned Oxford movie featuring astronomical cost overruns, bizarre script changes, numerous false allegations, a dodgy dossier and multiplying court cases is fast morphing into a much darker fiasco. How and when will it end? And at what cost, asks Jonathan Aitken

# LOW PANIC AT HIGH TABLE

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FOUR YEARS AFTER A HANDFUL OF DISAFFECTED DONS began their abortive plotting to oust Dean Martyn Percy, the college's charitable foundation has so far spent at least £3 million of its funds on legal, PR and other dispute-related costs. It has also thrown away another estimated £3 million of lost donations because a number of wealthy past and present philanthropists, including Christ Church's greatest benefactor Michael Moritz, are withholding any future gifts until the toxic Tom Quad antics have ended.

No such end is in sight. The latest bulletin to alumni has coyly skated over the news that the Employment Tribunal, one of the half dozen courts, tribunals, or regulatory bodies currently engaged with investigating or judging aspects of the college's legal quicksand, will not even begin hearing its Christ Church *cause célèbre* until 2023.

During these shenanigans the college's academic results have nosedived. Christ Church, which used to be one of the regular leaders of the all-important Norrington League Table, has this year come almost bottom in 34th place out of 37th.

Far from any self-examination for the teaching and lecturing disappointments that must be partly responsible for this débâcle, the self-congratulatory dons on the governing body have just proposed a handsome increase in their salaries and allowances. Only one member, a non-academic, dared to oppose this largesse and walked out of the meeting after strenuous opposition.

The consequences of these recurring failures of judgment are that my alma mater, once so proud of its Oxonian pre-eminence, has suffered the worst reputational damage in terms of negative media reporting of any college in living memory. The hurt is likely to last for a generation at least.

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HOW DID THIS COMBINATION OF TRAGEDY, comedy, incompetence, and farce happen? Attempted Head of House coups d'état are not unknown at Oxford. One or two succeed.

Most fade away. None have ever been as expensively and publicly mishandled as the continuously failed efforts to defenestrate Dean Martyn Percy.

Why was the coup attempted? The answer to this £6.4 million and rising question is at best opaque and at worst pathetically unconvincing. That latter view appears to have been taken by the retired High Court Judge, Sir Andrew Smith, who was appointed by the college in 2017 to chair a tribunal to decide whether to dismiss the Dean. Under the statutes, the head of the college — which is what the dean is at Christ Church — can only be fired for conduct that is “immoral, scandalous or disgraceful”.



This might seem a high hurdle but evidently not to seven members of the governing body — Lindsay Judson, Edwin Simpson, Joseph Schear, Dirk Aarts, Graham Ward, Belinda Jack and James Lawrie. This magnificent seven acted as the complainants for the prosecution and in 2018 formally laid 27 charges against Martyn Percy. All their charges were comprehensively dismissed. “I reject them all” declared Sir Andrew in his scathing judgment at the end of a twelve-day trial. He drew attention to one minor

accidental breach of fiduciary duty by the Dean in respect of a £500 legal bill, but solely to dismiss its significance.

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THE 27-0 DEFEAT WAS A DISASTER for the prosecutors and their allies. If this were the Premier League, the manager and most of the players would have been given their P45s. But the coup leaders sailed complacently on and devised a most original alternative strategy. They launched a new legal battle to keep the full unredacted Smith Tribunal judgment confidential — even from Governing Body members who are the college's charitable trustees. These moves failed hilariously. Knowing something from my Parliamentary days about the law of confidentiality, I took it upon myself as an interested alumnus to send a copy of the unredacted Smith Tribunal to all its 65 members.

The then Senior Censor Geraldine Johnson, taking her job

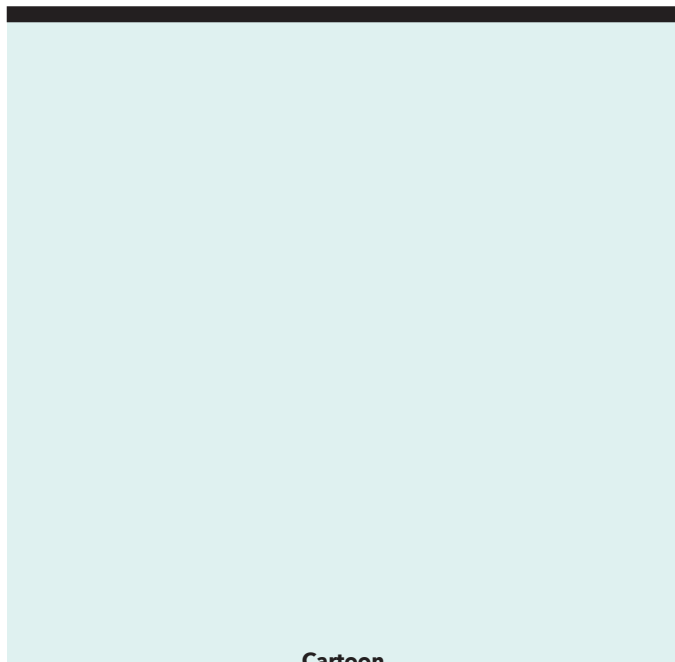
title literally, sent around an email urging her flock to become self-censors: 'Please immediately delete this email from Mr Aitken, including all attachments, and confirm this by return to the senior censor's email address.' *The Times* reported this low panic at high table under the headline: "Don't read it! Oxford college tries to silence defence of the dean".

Once the Censors confidential horse had bolted amidst rising media ridicule, any sensible friend of "The House" might have expected the Governing Body to do what losers in just about every other failed litigation case have to do – accept defeat and pay the other side's costs. Not the "Fighting Dons" of Christ Church. They redoubled their efforts to oust the dean.

To put financial pressure on him, they refused to pay his £400,000 legal costs. One of Martyn Percy's principal persecutors Professor David Hine, a specialist in public ethics, explained to his colleagues that this refusal "may not be moral but it is legal". Hine's view has been rubbished in an opinion by two eminent counsel, Edward Fitzgerald QC and Paul Harris SC, and is to be challenged in court

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DESPITE MORE SQUABBLES AND SKIRMISHES, the dispute seemed to be petering out by the end of 2019, until it was revived by so called "sex scandals". The first of these surfaced in March 2020 when, without prior notice to Martyn Percy, Christ Church announced that several alleged safeguarding cases handled by him were causing concern and had been passed to the Church of England's National Safeguarding Team (NST). In September 2020 the Church of England ruled that there was no substance to the allegations and the Dean was fully exonerated.



Cartoon

Then on 4 October, 2020 there was an incident in the vestry of Christ Church Cathedral now widely known as "Hairgate". A complainant, Ms X, claimed that, in a brief conversation, the Dean had complimented her on her hair, which she was about to donate to charity. It was also alleged that the Dean had touched Ms X's hair and said he had been unable to take his eyes off her during the service.

The Dean denied these allegations. As soon as I heard this story, I regarded it as too insubstantial to support serious charges. My scepticism was not shared by the Christ Church establishment, led by the magnificent seven's theologian, Reverend Canon Professor Graham Ward.

One member of the governing body solemnly told a national newspaper editor that the Dean had been masturbating when in the vestry with Ms X. It was soon clear to most people, including the reporters who investigated this fiction, that the incident had never conceivably been a serious assault or a breach of safeguarding. Nevertheless, a risk assessment report was commissioned. The lurid allegations contained in the document were used as the basis for draconian restrictions on the suspended Dean and for a Church of England Clergy Discipline Measure (CDM) prosecution against him.

But now — alas! — a problem for the Dean's attackers. The alleged authors of the risk assessment document have denied writing it or indeed ever seeing it. A most suspicious mystery. *Mais alors!* Hercule Poirot is now said to be on his way to solve it. The CDM case collapsed when the church's President of Tribunals, High Court judge Dame Sarah Asplin, ruled that it would be entirely disproportionate to take the matter to a tribunal. She added there was no evidence of sexual intent in what was alleged by the complainant, who had originally said that she was not much upset by the alleged vestry incident.

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SO HERE ENDETH THE DEAN-IS-A-SEX-PEST story, you might think. Not so. The Tweedledums and Tweedledees of the Fighting Dons are now using Ms X's allegations to launch a second tribunal to seek the Dean's dismissal. Have the college lawyers again advised the Governing Body, as they did with the first Smith Tribunal, that Christ Church has a 75 per cent chance of winning? If so, fasten your seatbelts for a second tribunal extravaganza next year.

At the heart of these melodramas are two areas of serious concern. The first is about the quality of the college lawyers, the costs, and the delays in the tortuous legal proceedings. The second is about the quality of the present governance of the college. Both areas are now coming under the increasingly intense scrutiny of the regulators, principally the Charity Commission, but also the Solicitors Regulation Authority and the Bar Council

On costs and delays, the fictional *Jarndyce v Jarndyce* looks a bargain compared to the real-life *Christ Church v Percy*. The college has employed an Iolanthe-sized cast of three leading

law firms and several learned counsel. Their combined efforts, aided and abetted by the PR firm Luther Pendragon, have been stunningly unsuccessful, but also unrelentingly determined. Costly experience has not been a teacher here.

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IT IS AN EXTRAORDINARY FACT of this saga that every time Christ Church presents its allegations against the Dean for hearing by an independent judge, tribunal, police force or regulatory body, the college loses. In numerical terms of charges or submissions or allegations won or lost, the results to date are Dean 41, Dons 0. This sounds ridiculous. But study the scorecard.

At the Smith Tribunal all 27 charges against the Dean were dismissed. In front of the recent prehearing of the Employment Tribunal, the college made numerous optimistic submissions starting with the sweeping claim that the Dean's claim was not justiciable at all and going on to assert that he was not entitled to any employment rights. The score after these opening rounds was 7-0 in the Dean's favour. On the purported sex scandal or safeguarding front, seven allegations against the Dean have so far been dismissed or rejected as having "no case to answer" by the Church of England's National Safeguarding Team, by Thames Valley Police and by Dame Sarah Asplin.

Such a track record might cause most litigants, not least those spending charitable and donated monies, to hesitate before embarking on a new £1 million battle in front of a judge-led tribunal.

But no, the "Fighting Dons" and their lawyers are planning to launch a fight on in their attempt to get the Dean dismissed for his "immoral, scandalous or disgraceful" conduct over "Hair-gate". It does not seem to worry the clique responsible that attempts to prosecute this non-event have already failed in front of three investigations and a High Court judge.

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AS FOR THE PRESENT GOVERNANCE of the college, who can possibly believe it is working satisfactorily? Recriminations about the misjudgements and expenditure of the last four years are now beginning to divide the House. The atmosphere in the Senior Common Room is poisonous; so much so that Nigel Biggar CBE, arguably the House's most admired Regius Professor, will not go there because even he has found it necessary to file a complaint to the Charity Commission of deception, manipulation and corporate bullying.

Meanwhile the dinosaur faction among the dons self-interestedly delays the much-needed and much-promised governance review. In support of this "turkeys should not vote for



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Christmas policy", the Censors are promoting the view in the latest College newsletter that is impossible to start such a review until after the Employment Tribunal has reached its decision in 2023. Why? Who believes this spurious argument?

The whole saga is no longer about one man's employment. That's a convenient device to cover up a determination to preserve a flawed and arrogant regime that has laid low what should be Oxford's foremost college.

The Dean became a threat to this by asking for modest reforms such as job descriptions for the Censors (senior dons) and better safeguarding procedures. Professor Hine, indeed, emailed his friends in October 2017 to say that the Dean must be got rid of because his drive for proper job descriptions, transparency and accountability was "making everyone else miserable".

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THE STAKES AT CHRIST CHURCH have foolishly been allowed to grow huge. Yet maybe this misery could be brought to an end by the Charity Commission. In an unexpected intervention, it wrote on August 31 to every member of the governing body to say:

We continue to see the dispute as damaging to the reputation of the charity and affecting its ability to govern itself. We continue to be concerned of the toll that the dispute is placing on all involved and are now considering whether it is appropriate to use our regulatory powers.

Glory, glory hallelujah! This missive, and the searching questions it asks, must be spoiling many a don's breakfast around Tom Quad as Michaelmas term begins.

Up until now, the ever-changing script of *Carry on Christ Church* has lurched between comedy and cruelty, darkness and light. Should we all laugh about it, citing lines from the college's most famous author Lewis Carroll on the White Queen's view that in Wonderland you have to believe six impossible things before breakfast?

Or would it be appropriate to turn to Shakespeare's exhortation, 'Let's kill all the lawyers'? The Governing Body would probably get ripped off by whichever Closeauesque hitmen they ended up hiring. Let us hope the Charity Commission will have the courage and determination to clean up the now rotten state of today's Christ Church. The college has not much further it can fall, and not just in league tables. ©

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