

such that the connecting of space and time provides useful insights in regional analyses. Economic geography, these authors write, has much to gain from incorporating concepts from evolutionary economics. History matters. Geoff Hodgson is cited ('The role of institutions and organizations in shaping radical innovations') as subscribing to the view that routines are 'metahabits' which diffuse across populations of organizations within an institutional environment, an insight he is said to borrow from evolutionary biologists such as Ernst Mayr (see Mayr, 1992), and which may owe something to Veblen. There is much else in these rich volumes which cannot be given justice in a brief review. They deserve a place in any well-stocked university library.

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Privatising the public university: the case of law, by Margaret Thornton, Abingdon, Routledge, 2012, xxi + 270 pp., £75, ISBN 978-0-415-67789-9

Margaret Thornton (a law professor at the Australian National University in Canberra) introduces the Preface of her book with a sentence that neatly captures its theme:

The recent pace of social change in universities has been akin to being strapped to a political rollercoaster and being unable to alight, which means that there is scant opportunity to discern clearly what is happening or to reflect on why it is happening. (p.xii)

The task that Thornton has set herself – namely, reflecting on why change is occurring – is indeed daunting, but she addresses it with clarity, producing a persuasive and thoroughly convincing outcome. This is an important and timely work and, although it has a focus on the discipline of law, its relevance extends far beyond that.

Privatising the Public University comprises some six chapters, each dealing with a major aspect in institutional change in the modern university. The strength of

Thornton's analysis comes from the eclectic, theoretical approach she adopts and the compelling evidence she has collected. This evidence takes the form of quotes from some 145 law academics she has interviewed in approximately 40 law schools in Australia, the UK, New Zealand and Canada. This is not a country comparative work since the focus is primarily on Australia with similar trends being identified in the other selected countries. However, Thornton's analysis is not restricted to countries sharing a common law tradition. References are made to the situation in the US to instructive effect. The law discipline is highlighted as a sentinel for what may be happening in other disciplines. Law remains a particularly interesting case, partly because of its centrality to governance in a democratic society, but also because of its ever closer association with the market, a popular theme in the dominant discourse on neo-liberalism.

Thornton is confronted with the thorny issue of describing a system in transition. Over a relatively short period, the state has come to regard higher education as a private good rather than a public one. The shift has been profound for universities and Thornton does well to capture the essence of what is ambiguous, complex and contingent. Thornton does not dwell too much on what was, but rather emphasises the effects of change. She resists the temptation to hark back to a golden age of universities (if there ever was one). Instead, Thornton uses John Henry Newman's *The Idea of a University* to identify values that are under threat as market thinking starts to dominate (Newman, 1852). For example, the idea of universal knowledge, knowledge that is certain and true, has been replaced by the notion of 'new knowledge' – knowledge that is unruly, fluid and fickle, subject to the dictates of the market. This is the place of universities in the New Knowledge Economy. She is also acutely aware that the effects of the impact of change on universities will be contingent.

Thornton adapts the typology of Australian universities used by Marginson and Considine (2000) for her analysis: Sandstones (nineteenth to early twentieth century foundations); Redbricks (1940s–1960s); Generation3 (1960s and 1970s, some of which did not have law schools until the 1990s) and the News (post-1988) (p.xv). This structure provides a loose framework for the interview material cited to support her argument. For example, the quotations from the interviews are accompanied by such abbreviated labels as 'Prof and former Dean, fem, Sandstone, Aus'. Much of this complexity is successfully woven through Chapter 1, where the political economy is described, citing the legacy of Hayek and Friedman as central to this shift towards a market-driven approach to university management and funding. Thornton insightfully captures the shift by referring to an Australian government report that states: '[T]he term "public" university now refers more to the historical circumstances at the time of foundation rather than the nature of institutional financing' (DEEWR, 2008, p.10) (p.xiv). Privatisation and hybrid are key terms that Thornton uses to bring these ideas together. It is a little surprising that she does not explore the differences between privatisation and corporatisation more extensively in this leading chapter. However, this is hardly a criticism; the introductory chapter is an excellent overview of the logic of where universities fit into the new economy and the various forces acting on them as institutions. The chapter concludes rather provocatively with reference to 'Kerr's folly' (Kerr, 1975), the observation that decision-makers in all fields cling to quantifiable standards, which they reward while hoping for quite different normative behaviours. Hence, we observe paradoxes that are well known to all in the academy; for instance, university leaders extolling the

virtues of teaching while rewarding academics for research and publication. This sets the scene for the chapters which follow, each of which examines effects on the law discipline.

Chapter 2 ('The market comes to law school') explores the relationship between the law school and the pressure of the market, where students and courses are commodified. Key pressures, such as the massification of higher education, marketing, brand differentiation and graduate destinations, are explored. The effects are well confirmed by the experience of Thornton's academic interviewees: students interested in accreditation, not learning; expensive marketing campaigns gone wrong; the ever closer association of law schools with law firms, and the constraints of professionalisation. This chapter concludes with the observation that income generation is a risky business and some universities could feel the impact of high fees if demand falls. The core business of the legal academy (teaching and research) is being both challenged and transformed by the market.

Chapter 3 ('Jettisoning the critical') takes a more theoretical approach, one which explores the neo-liberalist excoriation of the interdisciplinary from legal education – socio-legal scholarship, law in context, law and society and sociology of law. To be sure, pockets of resistance remain, but they are being slowly eroded by sloughing off the social through vocationalising the curriculum, dumbing down theoretical understanding, and ignoring diversity (feminist legal scholarship is used as an example). Pedagogical practice also comes into Thornton's sights – mass teaching methods, flexible delivery of courses and assessment methods. Thornton concludes this chapter rather pessimistically (but accurately): 'The new corporatism fosters a return to a technocentric and ostensibly value-free approach to legal education in which a market-driven subtext is occluded' (p.107). The casualties are social justice and equality. As Thornton points out, this is back to the future for the law discipline.

Chapter 4 ('Governance and academic life') explores ground familiar to anyone who has worked as an academic or administrator in a university – the cut and thrust of the daily management and governance of the university. Managerialism, a form of disciplinary power that deploys systems of expertise and technology for the purpose of political control, is under the spotlight in this chapter. From the interviewee comments, it is all too easy to see how resistance by academic staff is gradually worn down, compliance demanded, and culture and spirit eroded. Thornton explores the structure of managerial power associated with the rise of mega-faculties. With the decay of collegiality, deans become subalterns – senior individuals who wield considerable power in the organisation, but are still subject to direction from above. Academic workloads are explored with the finding that more is being demanded with fewer resources, and that no good comes from the casualisation of the academic workforce. Those who resist restructuring initiatives pay with their jobs (and I would think their careers too). The key conclusion of this chapter is that '[M]anagerialism, through its various technologies of power, has insidiously reduced academic freedom and autonomy' (p.164). None of this bodes well for a positive learning experience.

Chapter 5 ('Research in the corporatised university') develops an epistemological theme as Thornton explains how neo-liberalism works to push legal scholarship away from critical legal studies. This narrowness also affects teaching, reinforcing doctrinalism and instrumentalism. Thornton pushes forward into the realm of research entrepreneurialism (so favoured by the modern university), where inputs (grants) are valued as outputs (and valued more as such), with deleterious impact on academic freedom and research higher degrees. There is an excellent analysis of the audit and performance

culture of universities, which makes stars of some high performers and demoralises the majority of more pedestrian legal academics. The chapter revisits Kerr's folly and Thornton laments that, while some may see this pressure cooker type of culture as beneficial, it comes with corrosive side effects. Thornton tries hard to salvage something positive for legal research but, in the end, pins her hopes on a few brave souls, strong-willed and passionate enough to resist the pressure to conform to the prevailing wisdom. All is not lost as long as there are pockets of resistance among legal scholars and not all universities are wedded to orthodoxy.

In her final chapter, Thornton weaves a conclusion from many threads. Citing the work of Thomas (1997), she observes that 'What is clear is the *uni*-versal has gone from *uni*-versities. They are now "poly-versities" or "businessversities"' (p.108). There are sections in this concluding chapter about academic morale, aspirations and what the law school might become. Thornton exhorts concerned legal academics not to give up and to strive for the idea of a university legal education as a public good. The alternative is the impoverished imperatives of corporatisation (p.228). Thornton's knowledge of the epistemological and theoretical underpinnings of law as a discipline in the university is commanding.

Thornton's work provides the reader – lawyer, academic and citizen – with much to ponder. It is difficult to criticise a work that delivers so well on analysis, insight and on capturing the university of the moment. However, it should be remembered that most of Thornton's interviewees appear to hold values that are not entirely aligned with the dominant market logic. Although Thornton does attempt to redress the balance by including some deans and heads of school in her interview list, her sample very much supports her argument (which I believe is entirely valid). But what about those who do not see the situation her way? What about all those vice-chancellors, speaking from the same market-framed page; those members of university councils appointed from the corporate sector; those powerful subaltern deans of mega-faculties who push for efficiencies and performance outcomes? What about those professors who have little else to profess beyond their titles, and the mass of students interested only in accreditation? Change is not the same for everyone and some benefit at the expense of others. However, the bulk of those academics interviewed appear to be labouring under the grind of constant change. Many appear disoriented, worn out by the system, and frustrated.

I sense a hidden message in Thornton's book. Let me paraphrase an astute observation made in *Zen and the Art of Motorcycle Maintenance* (Pirsig, 1974): if you see something is wrong and you value it, you will speak out and try to do something about it. If you do not value it, you will not even notice there is anything wrong and you will see no need to speak out. By now, it may be that the values of many academics and erstwhile leaders of our universities have changed so much that not only are they not able to speak out, but they are unable even to see that anything is wrong. Many of Thornton's interviewees are still able to sense that something is wrong, but are unable to articulate a strategy of opposition.

Citing Jaspers (1923) in the spirit of German idealism, Thornton points out 'that if the spirit leaves the university, it becomes mechanical and technocratic' (p.222). The culture of managerialism, corporatisation and privatisation quashes the spirit of the university. *Privatising the Public University* deserves to be read by many for numerous reasons, not the least of which is to appreciate the spirit we are losing (and I fear have already lost), and the shadow the privatised university casts over our children.

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Communication and creative democracy: Interdisciplinary perspectives, edited by Omar Swartz, Bury St Edmunds, Suffolk, Arima Publishing, 2011, viii + 301 pp., (paperback), ISBN 978 1 84549 456 8

The normative claim that drives this volume is that 'it is time to think creatively about how we conceptualise our democracy and how we think about what it means to be a community' (p.2). Few concerns could be more important. At a time when procedural democracy has become, or is becoming, ascendant across the world, there are widespread anxieties about the extent to which the experiential and affective dimensions of civic democracy fail to realise the lofty aspirations surrounding the ideal of government by the people for the people. Much has been written about the deliberative shortcomings of contemporary democracies, which afford citizens the right to vote while denying them serious opportunities to set the terms of the electoral agenda or reflect upon the most effective actions for realising self-determined ends. Much has been written about the routinely insulting exclusions and participatory inequalities that turn some citizens into second-class actors in the democratic sphere. Much has been written about the serious failings of the mass media from the perspective of informed and reflective democracy. Such concerns all point in a similar direction, but it may be that little can be achieved in relation to any one of them without a more radical re-think about what it means to be a member of a democratic community, not merely constitutionally or symbolically, but in terms of lived and felt experience.

Essays in this volume return repeatedly to a speech entitled 'Creative democracy – the task before us', which was written, but not delivered, by John Dewey on the occasion of his 80th birthday in 1939. In it he argued for the need to 'get rid of the habit of thinking of democracy as something institutional' and instead 'acquire the habit of treating it as a way of personal life'. This is precisely the challenge facing contemporary democracies, in which people find themselves remarkably empowered according to the checklists of procedural constitutionalism, but perva-