CHAPTER 19.

THE OVEN CASE.
Mr. Launcelot A. Owen was one of those non conforming persons who caused a lot of trouble to those in contact with them without doing much good for themselves, but who incidentally raise knotty questions of procedure and authority the settlement of which is of value to many.

In May 1920, the Chancellor submitted to the Senate a letter he had received from a Mr. Owen appealing to the Senate against a decision by the Vice Chancellor that he in accordance with an Arts faculty regulation was limited to three subjects at a term exam. The Professorial Board desired to uphold the Vice Chancellor, but found on examining the regulations that the power to limit the number of subjects a student could take was doubtful, so they asked the Senate to give them power by statute to do so. When discussing the Owen appeal, the Senate was much influenced by the Pro Chancellor, Mr. Cecil Andrews M.A. and State director of Education his argument was in effect that from an Education point of view it was inexpedient to limit the number of subjects to be taken and that generally it was an exceptional student who would have such confidence in himself as to desire to take more than the regulations prescribed. So Owen’s appeal was upheld.

The case is interesting as being one of the only two cases I remember in which the Senate has exercised its authority to override the Professorial Board on an Academic matter, and it did so on the advice of one who was learned in Academic matters and an educationist. Mr. Owen justified the decision in his favour by passing well in all four subjects.

Paterson, Vice Chancellor, was annoyed at having his decision overruled and talked of the necessity of a disciplinary committee.

On the next occasion when Mr. Owen is heard of he was appealing to a higher authority than the Senate,
namely the Visitor and his appeal tested the undefined and purely traditional powers of that Official. The University Act in Section 7 declares -

"The Governor of the State of Western Australia shall be the Visitor of the University, and shall have authority to do all things which apertain to Visitors as often as to him shall seem meet."

When the appeal to the W.A. Visitor was lodged it was necessary to ascertain what he could or could not do. Visitors are attached to a large proportion of English Universities, but diligent search failed to find any definition of his powers. An ancient legal text book of generally accepted authority declared in effect that a Visitor was one who exercised their powers of a Visitor. If one may use a vulgar colloquialism about a venerable legal authority this seems to be a very good example of "passing the buck". So good was it that the framers of the W.A. University Act apparently thought they could not do better than pass it on to posterity and the W.A. Visitor is solemnly authorised to do all things which apertain to Visitors as often as he pleases.

Mr. Owen desired to sit for an honours examination. The examiners were to be Mr. G. Wood and an outside examiner. Mr. Owen was dissatisfied with the outside examiner and made certain charges against either his impartiality or ability. The charge was investigated (November 1922) by the G.P.C. and the findings were in effect -

1. The charges were trivial and not sustained.
2. As Mr. Wood was willing to act with another a fresh co-examiner be appointed.
3. That the expense be borne by Owen.

Owen was not satisfied with this and wrote another letter (contents not recorded) dated 7th November 1922 to the Vice Chancellor. On receipt of this letter the Senate decided that no action be taken until Owen paid the fees and withdrew the letter. He was given to December 18th, 1922 to comply, and failing to do so his honours papers would be cancelled and his exam fees re-
Mr. Owen was quiescent for fully three months. In March 1923 the Professorial Board transmitted to the Senate without comment the following recommendation from the Faculty of Arts:

"That Owen request dated 27th November, 1922 for the approval of the subject "Some aspects of the Russian Revolution as a thesis for the degree of M.A. be submitted to the Senate."

The Senate decided that Owen shall not be allowed to submit himself for any further examination until he has withdrawn his letters of November 7th and 8th, and December 13th, 1922.

At the same meeting (March 1923) the Chancellor, (Saw) reported that the Governor had received an appeal from Mr. Cecil Owen that he as Visitor move the Senate to grant his son L.A. Owen the Honours degree of B.A. The Vice Chancellor gave certain information (nature and quality not specified) as to the functions of a Visitor he had gathered by correspondence with the Universities of Sydney, Melbourne and Adelaide from which it appeared that other Visitors did not claim jurisdiction in such matters. The unanimous opinion of the Senate was that no appeal to the Visitor from or on behalf of individual graduate or graduates was contemplated by the University Act. The Chancellor said he would report so the the Visitor.

Presumably the matter ended there so far as the Visitor was concerned.

The action of the Senate in advising the Visitor as to his powers and duties when considering an appeal against its own decision was to say the least peculiar. In theory the Senate was the last authority whom the Visitor should have approached for advice. But if the Senate found it impossible to secure any definite information the Visitor in search of his own powers would have been on a hopeless quest.
In ancient days when the Office was first established the Visitor was evidently intended to act as a final Court of appeal in all disputes over Academic matters arising within the University itself. It could never have been intended to confer upon him any authority in cases where an aggrieved party had any right of appeal to authority outside the University structure. The Owen case was therefore precisely the type of case which the office of Visitor was created to deal with. Mr. Owen can therefore claim the satisfaction of proving the Visitor to be a mere relic of antiquity a legendary figure of very doubtful use, in fact a mere excrescence on our W.A. University Act.

Owen continued his erratic efforts to secure what he thought justice first by further letters to the Chancellor and next by threat of legal action against Shann as Vice Chancellor for having refused to allow him to sit for French I.

In April of the next year 1924 the Chancellor received information that L.A. Owen was wrongfully using B.A. Honours as his qualification when his examination for Honours had been interrupted by his charges against one of the examiners. The matter was considered so important that a special meeting of the Senate was called to consider it (16th April 1924).

The special meeting was apparently in much doubt as to what they could do or if they could do anything. So (Riley, Murdoch) moved that the powers of the University in regard to breaches of Discipline be inquired into and a Committee to do this was appointed. This committee had apparently no doubt as to power for its recommendation was that Owen be expelled and that was to library and all amenities and also exclusion from the mean exclusion from the precincts of the University. The Committee further directed the attention of the Senate to clause 29 of the University Act, with a view to obtaining power to rescind degrees of any person found
guilty of contravening the declaration signed by him on
graduation to uphold the rights and privileges of the
University of W.A. and to endeavour at all times to up-
hold its dignity. This last was, the subject of a long
report by Professor Wilemore who was then Vice Chancellor
as to the powers of exclusion and justifying the exclu-
sion of Owen (if this is deemed of sufficient interest and
if wanted is on page 268 of Senate Minutes for April
1924). If Owen had been heard he would doubtless have
argued that he was upholding the rights of University
membership and rights are at all times more important
than dignities. Be this as it might, the Senate appar-
ently thought that to pursue the matter to the extent of
rescission of Degrees would savour of the vindictive and
at the October meeting 1924 the matter was discharged
from the notice paper. Owen wrote several other letters
containing a strange mixture of insolence and appeal, but
because of the unmistakable insolence in tone they were
all rejected.

The next Owen conundrum the Senate had to answer
was - Can Owen a graduate of the University be excluded
from Convocation? The Universities Solicitors held that
the Senate had no such power. The University Act (Sec.5)
provides "The governing authority of the University shall
consist of the Senate and Convocation". Section 17 sub.
C. provides that all graduates of the University of three
years standing shall be members of Convocation. There is
no qualification of this. So it would appear that until
the University Act is amended a graduate of three years
standing remains a member of Convocation, notwithstanding
the Senate may have expelled him "bell, book, and candle".

Further, what effect has the Senate decision
that he be excluded from the precincts? The Solicitors
were also doubtful if this exclusion had any effect.

So the Owen case seems to have decided -

1. The Senate of 1924 did not think it wise to limit
a student in the number of subjects taken at an
exam.
2. That the Visitor was a mere legendary figure with very doubtful if any power to do anything but be a Visitor.

3. The Senate had no power to exclude a graduate from Convocation.

4. The Senate's authority to exclude a graduate from the Libraries and other amenities and the precincts of the University was very doubtful.

It is pleasant to record that in March 1928 by accepting the terms laid down by the Senate in 1924 and apologising to Associate Professor Wood, Mr. Owen made his peace with the Senate and was by resolution restored to his full rights as a B.A. In September 1928 he was granted a full Hackett Studentship to work in London and on the Continent on the Thesis "The peasant as a factor in Russian political development." In October 1933 he was congratulated by the Senate on being awarded Ph.D. in London University for Slavonic Studies.