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### The dismissal of Ted Steele

In 2001, Ted Steele, a biologist at the University of Wollongong — where I work — was summarily dismissed from his tenured position, resulting in an enormous outcry. This became the most prominent Australian academic dismissal case in half a century.

The Steele case was an important episode in the defense of academic freedom in Australia. In addition, it offers a wealth of evidence on how a dismissal, perceived as an attack on academic freedom and free speech, can backfire on a university administration. In this chapter, I examine backfire dynamics through a close analysis of the Steele case.

Like most of the whistleblower cases in the previous chapter, there was no violence involved in this case: the source of outrage was a dismissal seen as unfair. Yet the matter is more complex than a simple backfire: the actions of dissidents — such as Steele — and unions can also backfire. The Steele case illustrates the existence of multiple backfire dynamics.

The classic cases of backfire from violent assaults on peaceful protesters are relatively easy to analyze because the injustices were so widely recognized and the interaction so one-sided. In the King beating case and most whistleblower cases, the interactions are also commonly seen as very one-sided, despite efforts to stigmatize King and whistleblowers. But Steele's behavior, prior to his dismissal, was more problematic, as described later.

Some previous academic freedom cases seem to have involved backfire effects. For example, the 1958 dismissal of Harry Crowe from United College, Canada, on the basis of material in an intercepted private letter,

triggered a huge outcry.<sup>1</sup> The Principal of the College, Wilfred Lockhart, later said in interview that “if he had known what would happen ... he would have destroyed the letter or buried it at the back of a file drawer,”<sup>2</sup> a good indication that he thought his actions had backfired.<sup>3</sup>

The Steele case is especially useful for analyzing backfire dynamics because it is recent, because there is much published documentation and commentary, and because I have been able to observe the events from close at hand. This chapter reads somewhat differently from the others because my access to information allows closer attention to detail in a way that is seldom possible using secondary sources. I should mention that although I have known Ted Steele for years, I have never been a close friend of his. Since his dismissal, we have not communicated aside from brief e-mails, as discussed later.

The Steele case can be categorized as involving academic freedom, free speech, or both. The expressions “academic freedom” and “free speech” are contested concepts, so it is possible to find differing interpretations of

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1. Michiel Horn, *Academic Freedom in Canada: A History* (Toronto: University of Toronto Press, 1999), 220–45.

2. *Ibid.*, 225.

3. The dismissal of Herbert Richardson from St. Michael's College, University of Toronto in 1994 also appears to fit the backfire model quite well: Brian Martin, “The Richardson Dismissal as an Academic Boomerang,” in *Workplace Mobbing in Academe: Reports from Twenty Universities*, ed. Kenneth Westhues (Queenston, Ontario: Edwin Mellen Press, 2004), 317–30.

their meaning. Academic freedom is commonly taken to cover both institutional autonomy from governmental intervention and the autonomy of faculty to undertake teaching and research without interference and — in some circumstances — to make public comment. The Steele case involved only this latter dimension of academic freedom, namely making public comment.

Free speech is the right to express opinions without penalty. It usually refers to expression in the public domain, and can be claimed by corporations as well as individuals. Within most large organizations, though, there is seldom a presumption that employees have a right to speak in public about organizational problems: those who do are called whistleblowers and frequently suffer reprisals, as discussed in the previous chapter. Universities are a partial exception in that the tradition of academic freedom sometimes offers protection for those, like Steele, who go public about internal problems.

In the next section I give the background to the Steele dismissal, including a fair bit of information about Steele and his behavior. In the following sections I examine backfire dynamics in relation to the university administration, the union, Steele, and the university's Department of Biological Sciences. The extra information about Steele is useful for making two points: that a dissident's own actions can backfire, and that a dismissal can backfire — when it is seen to be grossly unfair — even when the person dismissed has credibility problems. The postscript reveals some of the responses to my writing about the Steele case.

#### **Key Events in the Steele Case**

- 1985. Steele is appointed to the University of Wollongong.
- January 2001. Steele makes claims to the media about students having their marks “upgraded.”
- January 2001. The Vice-Chancellor and members of Biological Sciences deny Steele's claims.
- 1 February 2001. The state Ombudsman declines to investigate Steele's allegations on

the basis that there is no evidence of upgrading.

- 26 February 2001. Steele is dismissed.
- After 26 February 2001. There is a massive backlash against the university administration. The National Tertiary Education Union (NTEU), the national academics' union, undertakes a publicity and lobbying campaign.
- May 2001. The NTEU launches a case in the Federal Court that the university administration violated the enterprise agreement.
- August 2001. A Federal Court judge rules in favor of the NTEU.<sup>4</sup>
- September 2001. The university administration appeals.
- March 2002. The full bench of Federal Court rules in favor of the NTEU.<sup>5</sup>
- April-July 2002. Negotiations occur between the NTEU and the university administration.
- 22 April 2002. Steele is reinstated but remains off campus on study leave (sabbatical).
- 5 July 2002. A settlement is announced. Details are confidential but Steele does not return to his post.

#### **The Steele Case**

The University of Wollongong is located in the city of Wollongong, which is just south of Sydney and has a population of about 250,000. Originally an extension of the University of New South Wales, it became a separate university in 1975 and grew rapidly through the 1980s to reach its present size of about 20,000 students. The university also grew significantly in reputation during this time, especially in research.

In 1985 Steele was appointed as a lecturer, a tenurable position roughly the status of a U.S. assistant professor. He advanced rapidly,

4. NTEIU v University of Wollongong (2001) Federal Court of Australia 1069 (8 August).

5. University of Wollongong v National Tertiary Education Industry Union (2002) Federal Court of Australia 360 (28 March).

being promoted to senior lecturer and then associate professor, a rank in Australia equal in status to full professor in the United States. Steele was an iconoclastic biologist, having proposed a mechanism for the inheritance of acquired characteristics at a genetic level.<sup>6</sup> Originally from Adelaide, he had worked overseas after his PhD but could not sustain a career in Britain due to resistance to his ideas. Wollongong provided a reasonably supportive platform for his research.

In dealing with his detractors and competitors in biology, Steele at times adopted a confrontational style. As well, he often engaged in campus issues using a similar style. With the introduction of a campus-wide e-mail system in the 1990s, Steele soon became a familiar commentator, noted especially for his comments hostile to the university administration. One of his prime targets was what he called “Mickey Mouse professors.” A full professor in the Australian system is an elite academic post, typically comprising no more than one out of seven faculty positions. Until recently at most universities, the rank of professor could not be obtained by promotion but only by appointment to an externally advertised chair. Steele claimed such chairs were being given to people of marginal scholarly achievement because of their connections with senior administrators.

Steele’s dismissal was triggered by his comments about “soft marking,” namely the awarding of undeservedly high grades to students. It is widely thought there has been some grade inflation in Australian universities, though nothing like that said to occur in some parts of the U.S. system such as Harvard. At Wollongong, like most Australian universities, grades are high distinction, distinction, credit,

pass, pass conceded, and fail. Many students mainly receive passes and credits and this is considered quite acceptable. Very high marks are unusual. It is common for only one to five students in a class of 50 to receive a high distinction, or perhaps even none. For a student to receive all high distinctions in a semester is exceptional. For example, at the University of Wollongong in the first semester of 2001, fewer than one in a hundred undergraduate students taking three or four courses received all high distinctions.<sup>7</sup> Grade inflation may be more significant at the bottom end of the grade spectrum, given that there seem to be fewer vocal protests about massive failure rates in introductory courses.

Over a period of decades starting in the 1960s, Australian higher education moved from an elite to a mass system. This led to concern about declining standards, as some academics complained they had to reduce the level of difficulty in their classes. Much more contentious, though, has been the commercialization of higher education since the late 1980s, including the massive increase in full-fee-paying foreign students. Australian students pay significant fees but are entitled to a zero-interest, inflation-adjusted loan that is paid back gradually through an income tax surcharge payable when their taxable income exceeds a specified threshold. Foreign students, on the other hand, pay larger fees (typically around A\$12,000 per year, about US\$9000) and must pay them immediately. Through such fees, higher education has become a major Australian export industry. Foreign student fees have become a significant component of many university budgets and some academics complain there is pressure, open or subtle, to pass foreign students in order to maintain the income flow. Controversies over “soft marking,” raised periodically in the media, are largely about allegedly lower standards for foreign students.

At the beginning of 2001, the *Sydney Morning Herald* — one of Australia’s

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6. E. J. Steele, *Somatic Selection and Adaptive Evolution: On the Inheritance of Acquired Characters* (Chicago: University of Chicago Press, 1979); Edward J. Steele, Robyn A. Lindley, and Robert V. Blanden, *Lamarck’s Signature: How Retrogenes are Changing Darwin’s Natural Selection Paradigm* (Sydney: Allen & Unwin, 1998).

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7. I thank David Macpherson and Aden Steinke for figures on students’ marks.

“quality” daily newspapers — ran a series of stories about soft marking, drawing on an advance report of a survey of social scientists, some of whom claimed the emphasis on fee-based courses was leading to lower standards.<sup>8</sup> However, very few academics were willing to speak publicly about this. Steele jumped into this ferment by making the dramatic allegation that two students in his own department, Biological Sciences, had had their marks boosted — indeed, that he had been instructed to raise their marks.<sup>9</sup>

Other members of the department denied Steele’s allegations, as did Gerard Sutton, the Vice-Chancellor (equivalent to a U.S. university president). Claims and counterclaims flew about on the university e-mail system, with some of the commentary leading to stories in the mass media.

Steele, in one of his widely circulated e-mail missives detailing his allegations, sent a copy to the Ombudsman for the state of New South Wales, in which Wollongong is located. He received a formal reply from the Deputy Ombudsman, who said the office had been obliged to treat the e-mail as a formal submission. In a careful analysis of the case, the Deputy Ombudsman said there was no evi-

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8. Carole Kayrooz, Pamela Kinnear, and Paul Preston, *Academic Freedom and Commercialisation of Australian Universities: Perceptions and Experiences of Social Scientists*, Discussion Paper Number 37 (Canberra: Australia Institute, March 2001).

9. Aban Contractor, “‘High School’ Classes for Fee-paying Uni Students,” *Sydney Morning Herald*, 9 January 2001, pp. 1, 4; Aban Contractor, “Revealed: The Secret Paths to Higher Education,” *Sydney Morning Herald*, 12 January 2001, p. 1. Several years later, in May 2005, the *Sydney Morning Herald* ran a major series of stories about problems due to privatization of Australian higher education, including soft marking. This time, several academics were willing to speak out. See Debra Jopson and Kelly Burke, “Campus Critical,” *Sydney Morning Herald*, 7–8 May 2005, pp. 27, 32–33.

dence of any impropriety in marking and therefore no basis for a formal investigation.<sup>10</sup> On the basis of this assessment, plus information provided by Biological Sciences and the administration, Steele lost credibility in the eyes of many.

### **The University Administration and Backfire**

Then, on 26 February 2001, Steele was summarily dismissed. The Vice-Chancellor stated in a media release that the dismissal “was necessary in the light of Associate Professor Steele’s knowingly false allegations undermining the essential fabric of the employment relationship and puts at serious risk the good name of the university.”<sup>11</sup>

For the administration, the dismissal backfired in a dramatic fashion. Steele, previously perceived by many as having little credibility, was overnight transformed into a martyr. The method of dismissal accentuated the image of free speech muzzled. The dismissal notice was delivered to Steele at his home at 5.15pm; at the same time, the locks on his university office doors were changed.

Commentary in the media was overwhelmingly critical of the dismissal.<sup>12</sup> Many Wollon-

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10. Lisa Sewell, “No Uni Grade Rorts Study: Ombudsman Opts Out,” *Illawarra Mercury*, 3 February 2001, p. 3. The *Illawarra Mercury* is the sole daily newspaper in Wollongong.

11. Aban Contractor and Gerard Noonan, “University Sacks Whistleblower in Grading Row,” *Sydney Morning Herald*, 27 February 2001, p. 1.

12. “Unis Can’t Dismiss Demand for Quality,” *Australian*, 28 February 2001, p. 12; Jim Jackson, “The Freedom of Academe is a Fragile Thing,” *Sydney Morning Herald*, 15 March 2001, p. 10; Ian Lowe, “The Dissent of Steele,” *New Scientist* 169 (17 March 2001): 59; Pdraic P. McGuinness, “Silenced for the Sake of the Corporate University,” *Sydney Morning Herald*, 1 March 2001, p. 12. McGuinness is a regular columnist who

gong academics and staff were dismayed; I heard many say they did not support Steele's behavior but they opposed the way he had been dismissed. Indeed, many people unfamiliar with the details assumed Steele's allegations about boosting of grades must be correct — after all, why else would he be dismissed? When meeting academics from other universities, I — like many others from Wollongong — was frequently quizzed about the affair. For a period, the university seemed more known for the dismissal than for its undoubted achievements.

The attack on Steele backfired because it seemed to compromise his freedom to speak out on matters of academic and social significance and because it was perceived as arbitrary and disproportionate to anything Steele had done. In short, it was seen as both contrary to academic freedom and as unjust treatment.

Some administrators consciously take precautions to prevent or reduce backfire from their actions. Others have an intuitive grasp of how to achieve this. However, it is not necessary to probe motivations in order to observe common methods used by administrators that inhibit outrage: covering up actions, devaluing targets, disguising actions, following procedures, and using intimidation and bribery.

Hiding actions is perhaps the most effective means of inhibiting outrage. After all, if few people know about the issue, few will be upset. In previous cases at the University of Wollongong, academics had lost their jobs with little or no publicity. For example, tenured Geosciences senior lecturer John Formby was dismissed in 1998 following an investigation into allegations about his behavior, even though an investigation committee recommended against dismissal. Formby did not seek publicity, instead making a legal challenge to the decision, which he lost. Aside from gossip around campus, the dismissal was only publicized in an e-mail from departing Geosciences lecturer Laurie Brown (29 August 2001).

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usually writes from a conservative position; Lowe takes a more progressive line.

In contrast, there was little prospect of hiding Steele's dismissal, especially since Steele had a penchant for going to the media. Both the electronic and print media reported the story, using both the administration's brief media release and commentary from Steele, the union, and others.

A variant of cover-up is to say very little, for example by refusing to comment to the media. This is commonly called stonewalling. This reduces the risk of getting caught in lies or contradictions and reduces the attractiveness of the story to journalists, who normally like to obtain comment from both sides. This was the approach adopted, for the most part, by the administration.

When Steele made his original allegations about soft marking — but before his dismissal — all of his colleagues in the Department of Biological Sciences disagreed, and stated so in a letter to a newspaper.<sup>13</sup> However, unlike Steele, they were not used to or comfortable with media campaigning and could not agree on a common approach to it, so after the dismissal they did not make formal public comment — aside from rebutting Steele's claims on the department's website — leaving media comment for the administration, which said very little. For the first year after the dismissal, the same pattern prevailed, with Biological Sciences academics saying virtually nothing publicly and the administration producing only occasional brief formal statements.

Devaluation of the target can be an effective means of inhibiting outrage, but using the technique can be tricky because criticisms need to be credible. The dismissal itself would have devalued Steele in the eyes of some, especially those who believe we live in a just world. But the administration, to its credit, did not launch an open attack on Steele's performance or character. Nor do I have any evidence of covert efforts to discredit Steele. Undoubtedly there was hostile gossip, but much of this

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13. Rob Whelan, et al., "Look to Wollongong for Best-practice Assessment" (letter), *Australian*, 24 January 2001, p. 31.

was stimulated by Steele's own actions and statements, as described later.

Another common means for inhibiting outrage is to describe the events in ways that minimize concern. When academics are dismissed, administrators virtually never say "We are dismissing Professor X because she was a vocal critic of the university president" or, even less likely, "We are dismissing Professor X for exercising her academic freedom." Instead, in almost every case, administrators rhetorically endorse academic freedom while presenting some rationale for their actions: shortage of money, necessary redeployments or reorganizations, procedural violations, or poor performance. The Steele dismissal was unusual in that the administration explicitly stated the reason was Steele's public comments about marking and standards.

Formal procedures, such as grievance procedures or courts, give the appearance of providing justice. Following procedures therefore undercuts outrage even when the procedures themselves are unfair in practice, as in the case of court battles between an unemployed individual and a large organization.

Steele's dismissal was, on the surface at least, a gross violation of procedure. A bit of background is necessary to explain why. Australian academics are covered by a single trade union, the National Tertiary Education Union (NTEU). In the framework of Australian industrial law at the time, each university was expected to come up with an "enterprise agreement" about wages and conditions, with management and the local NTEU branch negotiating to reach the agreement. At Wollongong, the enterprise agreement negotiations in 1999 were exceptionally difficult. To push the process along, academics held a one-day strike, then a two-day strike, and finally a three-day strike. For Australian academics, this was an exceptional level of industrial action. Part of the enterprise agreement reached after this struggle stated that dismissal of an academic could only occur after following a set of procedures, including laying of charges and setting up of an investigation committee. None of this was done before Steele's dismissal. Instead, the admini-

stration relied on an inventive reading of a particular clause in the enterprise agreement.

Intimidation and bribery are potent tools in the hands of any large organization. Many academics are frightened by even the possibility of offending powerful figures in their university, not to mention a misconduct charge, reprimand, demotion, or dismissal, so it doesn't take much to intimidate them. Steele was made of tougher stuff, having confronted the administration for years, but undoubtedly being dismissed was traumatic for him. The obverse of intimidation is bribery through expectations of grants, reduced teaching, promotions, and the like. Again, for many academics it does not require much in the way of inducements to inspire conformity.

In summary, the University of Wollongong administration did little that mitigated outrage. Rather than hiding the dismissal, it was carried out in a heavy-handed manner. Rather than disguising the reason for the dismissal, it was openly stated. Rather than follow obvious procedures, they were openly violated. The administration did reduce backlash by limiting comment to the media and by arguing that its actions could be justified under a particular clause in the enterprise agreement, but this had limited effect. As a result, the dismissal backfired against the administration in a major way.

### **The Union and Backfire**

Just as administrations dislike outrage, so defenders of academic freedom would like to magnify it. If they are ready and able to achieve this, then administrations will be far less likely to mount attacks in the first place. After Steele was dismissed, his defense was largely undertaken by the NTEU, which mounted a three-pronged strategy involving a legal challenge to the dismissal, publicity, and lobbying.

The first prong was a legal challenge. Out of half a dozen legal options, the union decided to launch a case in the Federal Court that the enterprise agreement had been breached. In August 2001, the judge ruled in favor of the union. After the university

administration appealed, in March 2002 the full bench of the court affirmed the ruling.

The second prong was a publicity campaign, with media releases, circulation of information, and an on-line petition eventually signed by nearly 5000 people, the majority of whom were Australian academics.

The third prong was lobbying Council, the University of Wollongong's governing body (similar to a U.S. board of trustees). The two elected academics on Council were union members; informal approaches were made to other members. Despite the NTEU position gaining a degree of support on Council, for the most part Council went along with the Vice-Chancellor.

I now look at each of these prongs in terms of whether it amplified or inhibited the original feelings of outrage over the dismissal. Of course, outrage is not the only factor to be considered, so the NTEU strategy should not be judged on this criterion alone. But it is an important factor and hence worth examining.

The publicity campaign was highly effective in increasing outrage. It emphasized the unfairness and disproportionality of the dismissal and generated awareness and concern throughout Australia and beyond.

Lobbying Council, in contrast, did little to increase outrage. It was a classic insider approach, reinforcing the assumption that Council is a genuine ruling body, when in practice most Australian university councils routinely rubber-stamp decisions by their senior executives.

The court challenge to the administration utilized a set of procedures — the legal system — and thus tended to dampen outrage. During the long periods between court judgments, media and wider academic interest dwindled. Only when the court ruled in the union's favor did interest pick up, but then only briefly. However, the court challenge was also used for publicity purposes. For example, a protest was held outside the Federal Court on 5 July 2001, the day the initial hearings began, with many participants wearing academic gowns.

The dampening effect of formal procedures was most obvious following the union's second court victory, in March 2002, after

which union and administration officials entered negotiations about Steele's future. Nearly all this negotiation occurred behind closed doors, aside from some media flare-ups along the way. At a meeting of the Wollongong branch of the NTEU on 18 April 2002, members of the Biological Sciences Department presented a motion calling for a misconduct inquiry into Steele's actions to be set up. Carolyn Allport, national president of the union, told the meeting the NTEU was negotiating with the administration to obtain a satisfactory outcome regarding Steele; the Biological Sciences members were persuaded to withdraw their motion. The subtext was "trust the union negotiators." Whatever the advantages of this approach, it did little to promote debate about academic freedom at Wollongong or elsewhere.

A settlement between Steele, the administration, and the union was announced on 5 July 2002, stating "All legal and disciplinary procedures have been terminated as a result of the settlement. The details of the settlement remain confidential and all three parties have agreed to make no further public comment."<sup>14</sup> The tight confidentiality of the settlement drastically reduced media coverage. There was little about the settlement in the *Australian* or the *Sydney Morning Herald*, major newspapers that had regularly covered the Steele case.<sup>15</sup> Following the Vice-Chancellor's e-mail announcement about the settlement, not a single other person commented on the university's e-mail system. The union's legal and negotiation strategy defused outrage.

Soon after the dismissal, union branch presidents in New South Wales were keen to campaign on the grounds of defending intellectual freedom. However, they were hampered by reluctance within the Wollongong branch to support Steele's intellectual free-

14. Lisa Sewell, "Steele and Uni Reach Hush-hush Settlement," *Illawarra Mercury*, 6 July 2002, p. 3.

15. Patrick Lawnham, "Scientist Quits after Settling Uni Score," *Australian*, 8 July 2002, p. 3.

dom. To obtain a unified campaign, the lowest common denominator thus became defending the enterprise agreement, with the consequences described here. If, instead, the preference of the branch presidents to highlight intellectual freedom had won the day, then the union's campaign might well have promoted a much more powerful sense of outrage.

In the United States, free speech issues are often argued in terms of the First Amendment, with legal conflict taking the place of direct engagement with the issues. Australia, in contrast, has no constitutional protection of free speech, so free speech is more frequently defended by collectively organizing to oppose attacks on it. (Interestingly, there is no obvious difference between the two countries' overall levels of free speech.) In the case of free speech by Australian academics, though, enterprise agreements offer some formal protection. By providing an avenue for legal action to replace direct action, these agreements, like the First Amendment in the United States, may encourage tactics that dampen outrage.

### **Steele and Backfire**

The actions of individuals, including academic dissidents, can backfire against themselves. Steele had a long history of making allegations, especially against the university administration. According to Steele, his own "vigorous and vituperative interchanges on the e-mail" covered a range of topics, including "space allocations, library cuts, unethical collegial [sic] behaviour, promotional barriers, executive obstacles on overseas/conference travel, funding cuts, parking fines, senseless executive edicts on the pasting of student notices, etc." (e-mail, 23 February 1995). To take another example, in one of his attacks on "Mickey Mouse professors," sent in a 22 December 2000 e-mail to all staff, Steele commented that

The "Professor" title is so associated with derision that it would make that great humanist of good will Walt Disney turn in his grave. It has become so bad,

and VC Sutton is so drunk with power, that the place behaves (to those outside the "Wollongong Loop") much like a tin-pot South American dictatorship in a state of academic degradation metaphorically akin to contemporary Russia/Eastern Europe/Cuba.

Although some academics were sympathetic to both the content and style of such contributions, others were repelled. Steele's rude and aggressive style alienated many who agreed with some of his points. Sometimes individuals sent Steele personal e-mails commenting on some current issue and were surprised and disgruntled to find their message copied to the entire campus accompanied by a commentary by Steele. This discourteous behavior did not win him many friends.

Steele was not on good terms with union officers. On one occasion he used the campus-wide e-mail to criticize the union for not supporting him on some matter; the branch president, Mike Morrissey, rebutted Steele's claims in an equally vitriolic e-mail (2 December 1998). Steele was observed to drive through the picket line during strikes and, although a union member most of the time since joining the university in 1985, he was not a member for a couple of years not long before his dismissal.

By the time he was dismissed, Steele had become notorious on campus for his combative personal style. It should be said, though, that Steele was often quite pleasant, especially on a personal level. In many years of knowing Ted as an acquaintance, I never had anything other than agreeable face-to-face engagements with him. At one point I published a short article on plagiarism issues that favorably reported his position.<sup>16</sup> However, a few years after this I was one of a number of targets in some of his "vituperative" e-mails.

Many of Steele's colleagues in Biological Sciences had had unpleasant encounters with

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16. Brian Martin, "Academic Credit Where It's Due," *Campus Review* 7 (4–10 June 1997), 11.



him over the years, but these were episodic. What eventually united them in opposition to Steele were his claims at the beginning of 2001 about soft marking. Steele alleged the marks of two of his own students had been “upgraded.” The students in question were doing “honors,” something with no exact equivalent in the U.S. academic system. Traditionally, honors is an optional year of study at the end of a normal three-year undergraduate degree, typically involving coursework and a thesis. Those who achieve a high enough honors mark can proceed to a PhD, possibly with a scholarship, and no further coursework or examination is required aside from the PhD thesis. (In some newer degrees, honors is built into a four-year degree. A thesis is still part of it.) In Biological Sciences, honors results were calculated as a straight average of coursework marks and the mark on the thesis, itself an average of the marks of three examiners, two from Biological Sciences itself and one external.

Steele had supervised the theses of the two honors students in question, one in 1997 and the other in 2000. He was reported in the newspaper as claiming he had been instructed to raise their marks. This didn’t make much sense, because Steele himself was not a marker of the students’ work. Furthermore, he was acting chair of the department meeting in 1997 that decided the final marks of honors and other students, and made no objection at the time.

Steele had a different way of viewing the process. He claimed that the mark by the single external thesis examiner — whom he chose and with whom he agreed — should have been definitive and that any other result amounted to “upgrading.” However, to support this position would have been to reject the department’s formal procedures, yet Steele had made no objection to the procedures when they were reviewed in 1999-2000.

Steele’s colleagues knew of these contradictions in Steele’s position and so were angry when he made allegations of upgrading to the media. They were further aggrieved when, prior to a special departmental meeting (17 January 2001) to address the matters in

dispute, Steele threatened to sue them should he be damaged by decisions made at the meeting. They felt vindicated by the Ombudsman’s dismissal of Steele’s claims as not even warranting investigation.

However, free speech means little unless it also applies to those who are disagreeable and who make unsustainable claims. Academic freedom is valueless unless it includes the freedom to make provocative statements and to be wrong. That is why the dissent of a person like Steele should be defended against attack. (The question then arises of how to respond to those who make incorrect, misleading, derogatory, or damaging claims. This is a complex issue. One thing is to ensure the opportunity for others to reply openly and in a timely fashion to such claims.) At the same time as defending Steele’s right to dissent, it is possible to observe that his approach often backfired — leading to less support rather than more — especially when he was perceived as being abusive, making claims without solid foundation, or refusing to accept correction.

There are a number of ways dissidents can reduce the risk that their interventions will backfire.

1. Being polite
2. Couching comments constructively
3. Acknowledging inaccuracy or its possibility
4. Joining others.

Being polite, constructive, and acknowledging fallibility are quite compatible with dissent of the most radical sort. There is no guarantee that behaving this way will protect against attack, but it is certainly more likely to win allies than being abusive, negative, and obstinate. Joining others provides safety in numbers, with individuals less likely to be attacked than if they are ahead of or outside the crowd. Collective action, whether or not sanctioned by a union or industrial agreement, is usually safer than individual action. But individual dissent is sometimes a felt necessity when others are afraid or unwilling to act, or when

they do not have the information or resources to do so.

Steele did not consistently adopt any of these methods, so it is not surprising that his actions seriously backfired. After he was dismissed, he used a different method: he kept quiet. This avoided annoying his supporters or disturbing the union's legal and negotiation strategy. Being quiet avoids generating outrage but is hardly a general prescription for being an effective dissident.

It is not my aim here to tell Steele or anyone else how they should behave. But it is possible to observe that some behaviors are more effective than others in achieving particular purposes. Studying backfire dynamics can give insight into what sorts of behaviors are likely to be counterproductive.

Steele and some of his supporters put great store in a statutory declaration by Bob Blanden of the Australian National University. Blanden, a senior immunologist and collaborator with Steele, was the external examiner for both the students whose marks Steele claimed were upgraded. On 17 May 2002, Steele widely circulated Blanden's declaration. There are obvious gulfs between the perspective of Blanden and Steele and that of the Department of Biological Sciences. For example, Blanden said he awarded a grade of Third Class Honors to the student in 2000 but did not assign a mark; Steele saw this as proof that procedures had been violated. According to the Department, a mark in the Third Class Honors range was selected in the knowledge that the final grade (Second Class Honors, Division One) would have been the same whichever mark in the range was used. Blanden said the 1997 student "should never have been admitted to a Tertiary Course." Obviously the student was admitted, and indeed graduated. Blanden's claim raises the question of why Steele agreed to supervise such a student. Blanden said it was inappropriate "that the marks of two non-immunologists should be averaged with the mark of an external expert in immunology" (himself). Rob Whelan, then head of the Department of Biological Sciences, said the internal examiners were experienced researchers in an appro-

priate field and, implicitly referring to Blanden, that "External examiners (especially those in very narrow research fields in research only institutions) sometimes misjudge the level at which an Honours student is learning."

Adjudication of these and other points of dispute is not essential to examining outrage. I have outlined some points raised in Blanden's declaration in order to suggest the sort of procedural detail that can loom large to participants in disputes. Concentrating on procedural detail, though, is a sure way to discourage outside interest in an issue and to dampen any sense of outrage.

### **Biological Sciences and Backfire**

Members of the Department of Biological Sciences for the most part supported or tolerated Steele for years. Some of them had personal confrontations with Steele on occasion, but no formal complaints were pursued by university officials to the level of a formal inquiry, which, given Steele's willingness to go to the media, would have brought much negative publicity to the university.

In 2001, Steele's claims about upgrading were a direct attack on the department. Initially, these backfired against Steele to some extent, though the department's reputation remained damaged, especially among those who lacked awareness of rebuttals to Steele's claims. Then came the dismissal, which backfired against the university generally and, in the eyes of many, turned Steele into a martyr. The department, which was not consulted about the dismissal, could do little to resuscitate its reputation. Though Steele's attacks had united department members in opposition to Steele and his claims, they lacked the skills and confidence to mount a media campaign. But even if they had been prepared to go to the media, they had little leverage. The line that "assessment procedures were properly followed" is not a great story angle compared to "procedures were violated" or "dissident is dismissed." In short, there were few resources by which the department

could generate or redirect outrage to its own advantage.

The lesson here is that backfires are contingencies that cannot be created at will. A lot of groundwork is required, the conditions have to be right, and the opportunity has to be present. Steele's dismissal backfired against the administration because a commitment to free speech had been nurtured by the visible and invisible efforts of untold thousands over the years. Furthermore, the NTEU felt obliged to defend the enterprise agreement at the University of Wollongong because otherwise enterprise agreements across the country — in particular their procedures against arbitrary dismissal — would have been undermined. But none of this worked to the particular advantage of Biological Sciences.

### Using Backfires

In academia, administrations have much greater formal power than any faculty member, yet for the administration to openly exercise the power of dismissal is to risk triggering a large hostile reaction. Hence it is not surprising that various techniques are used to mitigate the response to dismissals.

This suggests it can be worthwhile looking at other academic freedom cases using the same framework. Like most organizational struggles, the Steele case is quite complex, and indeed only some of the complications have been canvassed here. Nonetheless, it is possible to generalize from the Steele case. Here is a tentative outline of points to look for.

- An attack on an academic can backfire when it seems unfair, seems to violate academic freedom, or appears to be disproportionate to anything the academic has done, and when information about this is communicated to significant audiences.
- Academic administrators are often aware, consciously or intuitively, of the potential for backfire. They can inhibit outrage in various ways, including by hiding actions, stonewalling, disguising actions, or following procedures.

- To activate or magnify outrage, academics need to counter these administration tactics. Possibilities include exposing hidden or disguised actions by documentation and mobilization of support, creating opportunities to expose actions, and avoiding procedures or using them to mobilize support.

Documentation is the foundation of any such effort. "Mobilization of support" means getting support from people, including through conversations, meetings, leaflets, e-mails, media coverage, and many other channels.

It should be remembered that outrage is not an end in itself, nor is it the only way to defend academic freedom. The point here is that it can be a powerful tool in defending dissident academics. The better prepared academics are to counter administration tactics, the less likely administrations are to attack academic freedom in the first place.

Backfires are not just a risk for administrations. Dissidents can generate backfires against themselves by seeming to go beyond norms of accuracy and decency.

The better the documentation and the greater a community's commitment to scholarly norms, the greater the chance participants will share perceptions. But even in the soberest of organizations, there are considerable levels of deception. It is well known that organizational elites use public relations, spin-doctoring, and cover-ups as a matter of course, with "truth" regularly subordinated to organizational imperatives. A totally honest organization would never hide or disguise actions or stonewall, but these are standard practice in numerous dismissals. To the extent that careerism, commercialism, and managerialism infect higher education, pressures exist to misrepresent what is really going on. This is not likely to change soon.

## Postscript

At the beginning of 2002, while the Steele case was still before the court, I wrote an article analyzing strategies of the administration, Steele, the union, and the Department of Biological Sciences. On 27 January I sent a draft of the article to all the key players, indicating that I would be submitting the revised version to *Australian Universities' Review* and inviting comment. This led to diverse responses. The Vice-Chancellor replied saying he declined to comment because the matter was the subject of legal proceedings. Members of Biological Sciences were more forthcoming. Six of them responded, ranging from those who saw my treatment as reasonably balanced to one who saw it as grossly biased in favor of Steele. Their comments on specific points led me to make various minor changes.

I opened the article by comparing Steele's dismissal to the dismissal of Professor Sydney Orr from the University of Tasmania in 1956, the most famous such case in Australian academic history.<sup>17</sup> Ted Steele responded by e-mail in a preliminary fashion, saying "I don't believe my case has any resemblance whatsoever to the Sydney Sparkes Orr case in Tasmania 50 years ago. Indeed what has happened to me, and the damage it has caused me personally and professionally, has no precedent as far as I can see in any advanced western democracy." Contrary to Steele's claim, there are many cases where the damage to challengers has been far more serious, including physical assault — a shot fired into Orr's house narrowly missed killing him — but his response certainly reflected the

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17. W. H. C. Eddy, *Orr* (Brisbane: Jacaranda Press, 1961), and John Polya and Robert Solomon, *Dreyfus in Australia* (Australia: The authors, 1996), are supportive of Orr. Cassandra Pybus, *Gross Moral Turpitude: The Orr Case Reconsidered* (Melbourne: William Heinemann Australia, 1993), is highly critical of Orr and supportive of the University of Tasmania administration.

extremely damaging effect the dismissal had on him.

After this initial response, I received no further personal communication from Steele. I did obtain, though, an e-mail he sent a few days later addressed to the editors of *Australian Universities' Review*. In it, he claimed "there is much misrepresentation in the article and facts that are incorrect" but did not specify any of the alleged misrepresentations or inaccuracies. He then said "In normal circumstances I would vigorously rebut or correct in public much of what Martin intends to publish — as I am a great believer in free speech and academic freedom. At present these freedoms do not exist in Australia and Martin's article damages me at a time when I cannot defend myself. In these circumstances I would appreciate that the NTEU does not publish the article."

This attempt at blocking publication has characteristic features of suppression of dissent,<sup>18</sup> notably that Steele neither provided evidence nor contacted the author (me) but instead intervened at a higher level (the editors). In exerting pressure to thwart criticism, Steele's attempt to block publication was reminiscent of his threats against colleagues in Biological Sciences. Steele's intervention can be taken as an example of a wider phenomenon: dissidents are not necessarily tolerant of others, including other dissidents. Nevertheless, I believe it is still vital to defend dissent, even of intolerant dissidents.

I also sent the draft to both University of Wollongong elected NTEU branch officers and to paid officers in the state and national offices of the union. Less than two weeks later I submitted a revised version to *Australian Universities' Review* which, it is important to note, is published by the union at a national level. *Australian Universities' Review* thus could be said to be a union journal, though it

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18. Brian Martin, C. M. Ann Baker, Clyde Manwell, and Cedric Pugh, eds., *Intellectual Suppression: Australian Case Histories, Analysis and Responses* (Sydney: Angus & Robertson, 1986).

has an independent editorial board. I chose this journal because of its circulation to union members nationally.

I received no response from any union officers. I did hear from the chair of the editorial board, David Burchell, who told me most members of the board were keen to publish the article. However, there were two obstacles to publishing the article, both raised by senior officers within the union. The first obstacle was a concern about defamation. Defamation law in Australia is harsh and leads to both censorship and self-censorship.<sup>19</sup> Union figures were worried about Steele suing the union over my article.

(When my article was eventually published,<sup>20</sup> the following sentences were omitted on the insistence of NTEU's legal advisers: "Indeed, because Steele so often made allegations without first checking the facts, and because of his inflammatory style, he had lost credibility in the eyes of many on campus. Within Biological Sciences, some colleagues were outraged by his behaviour on a number of issues, not all of which were known more widely.")

The second obstacle to publishing my article was that certain senior officers (outside Wollongong) thought it might be prejudicial to the union's court case involving Steele, for example if some of my comments about Steele were used against the union in the case. My view, naturally enough, was different. I thought publicity would be advantageous to the union's position. I also thought it would be better to present Steele warts and all and then to defend his academic freedom. The worry about material in my article being used in the court case seemed artificial, since I had covered the same basic points in a newspaper

article much earlier.<sup>21</sup> Finally, concerning the worry about my analysis being in a union journal, it would be a simple matter to include a disclaimer that I was not speaking on behalf of the union. (The published article included such a disclaimer.)

The response by certain senior union officers to my article has characteristic features of suppression of dissent, notably that those objecting did not contact me but instead intervened at a higher level, namely by putting pressure on the editorial board. This response is compatible with a generalization that academic unions and staff associations are uncertain allies of free speech.<sup>22</sup> Union officers were putting in enormous efforts to defend the enterprise agreement and, by extension, academic freedom across the country, but at the same time attempting to block my article. This can be explained by the priority they placed on the procedural route, namely defending the enterprise agreement through the courts and negotiations, rather than the mobilization route, namely building greater support through participation and publicity. Taking the procedural route implies that anything that might potentially disturb the union's legal and negotiation strategy was to be brushed aside, including my article. The irony is that my article highlighted the rhetorical role of academic freedom. In seeking to block my article, these particular union officers were in effect disagreeing with my analysis, instead asserting the primacy of using formal channels. Using formal channels gives those with power and position more control over the course of events but does little to empower the rank and file.

I am a long-time member and supporter of the union, but that does not mean I have to keep quiet about what I see as inappropriate action. There are many dilemmas of defending dissent, not the least of which is knowing what to do when erstwhile defenders of dissent —

19. Robert Pullan, *Guilty Secrets: Free Speech and Defamation in Australia* (Sydney: Pascal Press, 1994).

20. Brian Martin, "Dilemmas of Defending Dissent: The Dismissal of Ted Steele from the University of Wollongong," *Australian Universities' Review* 45, no. 2 (2002): 7–17.

21. Brian Martin, "When Dollars Do All the Talking," *Australian*, 18 April 2001, p. 35.

22. Martin et al., *Intellectual Suppression*, 246–47.

union officers in this case — attempt to suppress comment. Due to the settlement of the case, it was possible for my article to be published.<sup>23</sup> But if the case had not been resolved in a timely fashion, I like to imagine the editorial board would have successfully stood up to censorship pressure from within the union.

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23. Martin, “Dilemmas of Defending Dissent.”