

# *CAFAS Update No. 67*

*23 June 2010*

*Council for Academic Freedom & Academic Standards*

*<http://www.cafas.org.uk>*

*Meeting:*

*Saturday 3 July 2010*

*2.00 pm*

*Room 252*

*Birkbeck College*

*Malet Street*

*London WC1*

*Underground: Goodge Street, Euston Square, Euston, Russell Square, Holborn*

## **John Griffith**

**14 October 1918 – 4 May 2010**

John Griffith has died. John was not only my personal inspiration and guide but the patron saint of the whole fight for academic freedom in this country. The thought that his fine brain is no longer at work is immeasurably sad.

**Colwyn Williamson**  
**12 May 2010**

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John Griffith was an active member and a patron of Cafas. Many members, including ourselves, who have benefited from his wisdom will remember him as tireless in his defence of academic freedom, fairness and justice, generous of his time and his many other attributes. We shall be publishing further remembrances of him in Update 68; your contribution would be welcome.

**PB, GT**

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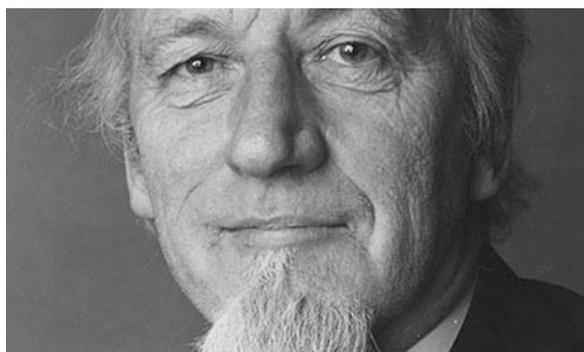
John Griffith's obituary below is taken from the Guardian website:  
<http://www.guardian.co.uk/education/2010/may/25/john-griffith-obituary/>

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## John Griffith obituary

# Leading public law scholar who spent most of his academic career at the LSE

Martin Loughlin  
[guardian.co.uk](http://guardian.co.uk),  
Tuesday 25 May 2010 18.13 BST



**John Griffith was ferociously independent and hated pomp. Photograph: LSE**

John Griffith, who has died aged 91, was one of the leading public law scholars of the 20th century. Central to his work was his association with the London School of Economics, lasting almost all his academic life, from his arrival as an undergraduate in 1937 till his retirement as professor of public law in 1984. He took forward the method in public law developed there during the 1920s by Harold Laski,

Ivor Jennings and William Robson, to the extent that the former director of the LSE, Lord Dahrendorf, described him as "the conscience of the school and guardian of its tradition in critical times".

However, though Griffith represented the last personal link with the radical socialist tradition that shaped the LSE in its founding years and exerted such influence over postwar politics, his was a singular, often eloquent, voice. In addition to writing many of the leading public law texts of the period, he produced occasional press articles, and was a consistent advocate of academic freedom.

In his accounts of public law, Griffith subverted the self-satisfied liberal-democratic view about the nature and functioning of the constitution, replacing it with a more realistic "what actually happens" account. This led to *Principles of Administrative Law* (1952, with Harry Street), the first textbook to be written on the subject, and to major studies of the workings of political institutions: *Central Departments and Local Authorities* (1966), *Parliamentary Scrutiny of Government Bills* (1974) and *Parliament: Functions, Practice and Procedures* (1989, with Michael Ryle). This type of cross-disciplinary, empirically informed legal study was far ahead of its time. In addition to offering new information to political scientists about the functioning of political institutions, it demanded that lawyers should question their standard accounts of the British constitution.

In common with his friend Ralph Miliband, Griffith had absorbed much of Laski's socialist radicalism, and his more explicitly political analyses tended to highlight the authoritarian nature of government and in particular the close political, social and class linkages of the elites in power. It was therefore hardly surprising that he advanced a radical critique of the role of the judiciary, especially when it strayed into the field of politics.

Griffith was condemned in certain circles for his criticism that the judiciary, drawn from the narrowest of social elites, was incapable of responding adequately to the challenge of social justice that underpinned the disputes they were being asked to resolve. But such censure often failed to recognise the historical and institutional frame of his analysis, which included the common law's traditional bias towards property rights protection and the fact that access to the courts has been restricted to all but a handful of wealthy people.

These views went into *The Politics of the Judiciary* (1977). Since it contained nothing that John had not been arguing over the previous 30 years, reaction to the book must have astonished him. It achieved immediate notoriety after the TLS review asserted that Griffith's line "ends up aligned with the Baader-

Meinhof gang in believing that every criminal trial is categorically unjust". The review ensured maximum publicity for the book, which became a runaway bestseller, going through five editions and becoming standard reading for law students. It also caused Lord Denning in one of his public lectures in the 1980s to complain about "that man Griffith". John accepted the Denning tag as a badge of honour and was delighted when his students in Toronto during the 1980s rewarded him with a T-shirt emblazoned with the logo.

Griffith's nonconformist strain also came to attention in the troubles at the LSE in the late 1960s, when he acted as counsel for students in disciplinary proceedings. It was less a matter of being on the students' side, he said, than of being against the high-handedness of the administration. His anti-authoritarianism was similarly evident in the role he played in founding the Council for Academic Freedom and Democracy.

Born in Cardiff into a Baptist family, John moved with his family at an early age to London, when his father, the Rev B Grey Griffith, became home secretary of the Baptist Missionary Society. He was educated at Taunton school in Somerset.

At the wartime LSE, which had been evacuated to Cambridge, Griffith met his wife, Barbara Garnet, a student of economic history and disciple of Eileen Power. They married after graduation in 1941. Influenced by Aldous Huxley's *Ends and Means* (1937), Griffith registered as a conscientious objector, serving as a field ambulanceman in the Middle East. But nagging doubts over the seriousness of the fascist threat and of the sacrifices being made by his comrades led him to apply for deregistration, after which he obtained a commission. He ended the war as a major in the Indian army.

After demobilisation, he was appointed lecturer at the University College of Wales, Aberystwyth, but returned to the LSE in 1948 as a lecturer in law. He was appointed to the chair in English law in 1959 and then, in 1970, to that of public law.

Shortly after his retirement from the LSE in 1984, Griffith was approached by academics at Manchester University to ask whether he would stand in an election for chancellor. The incumbent, the Duke of Devonshire, had just stepped down, and the authorities proposed to replace him with the Marchioness of Anglesey. But the Association of University Teachers noticed that there was provision for an election. Reassured that his chances of success were minimal, Griffith allowed his name to go forward. To his great surprise, he won and went on to serve a seven-year term with great dignity and propriety.

Griffith was a highly charismatic teacher, who genuinely liked the company of young adults, and inspired loyalty in many friends and colleagues. Above all, he was a ferociously independent character who loathed pomp and took a kind of pride in his modesty. Although he was awarded honorary doctorates by Edinburgh, York (in Toronto) and Manchester universities, and was elected fellow of the British Academy in 1977, he quashed attempts to produce a festschrift in his honour on retirement.

He unerringly maintained his political and intellectual stance in the face of changes that saw many on the left embrace rights discourse as a remedy to political issues. For Griffith, conflict remained at the heart of modern society and, since laws could be nothing other than statements of power relations, law could never provide a substitute for politics. The struggle for rights, he argued, remains political throughout, and legislation such as the Human Rights Act is merely "the statement of a political conflict pretending to be a resolution of it".

Like the legal scholar and philosopher Jeremy Bentham, highly influential in the 19th century, Griffith was scathing of attempts to refashion law as a metaphysical entity. The idea of "the rule of law", when extended beyond the need to ensure that government operates in accordance with the laws, is, he suggested, "a fantasy invented by Liberals of the old school in the late-19th century and patented by the Tories to throw a protective sanctity around certain legal and political institutions and principles which they wish to preserve at any cost". He despaired of the range of proposals for "radical constitutional change being advanced by a number of rather improbable people".

His healthy longevity owed much to the strength of his bond with Barbara, to whom he referred as "the centre that holds". She survives him, as do his children, Sarah, Adam and Ben, his five grandchildren and three great-grandchildren.

• **John Aneurin Grey Griffith, legal scholar, born 14 October 1918; died 8 May 2010**

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## The need for an academic ombudsman

**4 September 1998**  
**John Griffith**

The settling of academic disputes by universities alone has always been a difficult process. John Griffith argues the case for an independent watchdog

Academic institutions are notorious for their internal disputes. Sometimes the arguments are about serious matters. It is not universally true, as Henry Kissinger reportedly said, that the reason academics quarrel so bitterly is because so little is at stake. In recent years all sorts of abuses of power have come to light in universities - bullying, corruption, nepotism, cheating, gagging clauses, etc.

Academic disputes fall into two categories. Either they originate in complaints about conditions of employment, in the broadest sense, or in disciplinary charges brought against individuals which may result in dismissal. The structure of universities does not easily lend itself to the resolution of disputes of either kind. The upholding of a complaint or the dismissal of a charge almost invariably carries with it express or implied criticism of senior academics or senior officials and so is difficult to establish before a tribunal composed largely of such persons.

What academics now need, in my view, is a statutory body with investigatory powers. It might be possible to enlarge the jurisdiction of the Local Government Commission to include universities. Its minimum function would be to ensure that university investigation of particular complaints was properly conducted but it should be empowered in appropriate cases to itself undertake a full enquiry into the substantial issues.

Alternatively, regional commissioners could be made available to operate under the Department of Education and Employment - ombudsmen to whom academics with grievances could take their complaints with the assurance that they would be fully and fairly investigated.

The current unsatisfactory climate within universities has been building up for some time. In the late 1960s, there occurred a series of incidents involving individuals at Hornsey and Guildford Colleges of Art, at Birmingham University and, most seriously, at the London School of Economics. These and other incidents suggested an increasingly overt threat to academics' freedom of speech, teaching and research. They also marked attempts on the part of the authorities both inside universities and in government to deal with a developing crisis triggered by student protest questioning the character, purpose and management of higher education.

Some of us who were alarmed by the attitude of university authorities to staff and students worked with others in setting up the Council for Academic Freedom and Democracy in 1970. Over the next decade, the Council campaigned and took up a large number of cases throughout the country.

And so to the Education Reform Act 1988 and the ending of tenure. Universities were to be "first and foremost corporate enterprises to which subsidiary units and individual academics were responsible and accountable". The only advance was that, under great pressure, the government agreed to a section in the

Act to ensure that academic staff had freedom within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions "without placing themselves in jeopardy of losing their jobs or privileges".

But, as Ian Gilmour wrote in 1992, "the Thatcherite espousal of market forces was accompanied in the universities by increased state control, thereby further jeopardising the worldwide reputation of British universities.

The Council for Academic Freedom and Democracy gradually ceased to operate during the 1980s.

Academics were unwilling to court disfavour when their employers were being required to draw up lists of those whose services might be dispensed with.

By far the most important document of recent times in the context is the Report of the Visitorial Inquiry by Sir Michael Davies on 26 May 1993 into the conduct of the Centre for the Study of Philosophy and Healthcare at the University College of Swansea.

Internal disciplinary proceedings had rejected the serious criticisms of the centre by Michael Cohen and Colwyn Williamson, the former being severely reprimanded and the latter recommended for dismissal. The report upheld the criticisms, quashed the convictions, and reinstated Anne Maclean who had been forced into retirement. The case was unique but its subsequent influence has been considerable.

There had been, said Sir Michael, "no knowledge or record in the Privy Council office of anything like it in the past". The report amply demonstrated the superiority of the inquisitorial approach.

Sir Michael tellingly referred to a statement made by the principal of the University College, noted in *The THES*: "If this had happened in a company and I had been managing director, those people (the critics) would have been up the road the moment they kicked up the fuss they did. They would have taken us to an industrial tribunal, but they would have been off the payroll."

The point is, said Sir Michael, that neither the University of Wales nor the University College of Swansea is "a company" in the profitmaking or any other sense.

Because disputes vary so greatly in scope and intensity, no simple reforms are applicable.

Complaints will continue to be channelled through grievance procedures within each institution. But some mechanism is needed for their supervision.

Disciplinary proceedings which may result in dismissal are reviewable by industrial tribunals but reinstatement is unlikely to follow a favourable verdict.

After the Swansea case, Colwyn Williamson and others set up the Council for Academic Freedom and Standards. The emphasis on standards is a sign of the times. Their investigations have uncovered gagging clauses, plagiarism, misuse of public funds, cheating and corruption, nepotism, authoritarianism, inadequate or ignored procedures at hearings, the

targeting of union officials, bullying and much else. Today they represent the best hope for those who find themselves in dispute with university or college management. But perhaps it is time for an alternative.

John Griffith [was] emeritus professor of public law at the University of London.

*This article was first published in the Times Higher Education Supplement, 4 September, 1998.*  
<http://www.timeshighereducation.co.uk/story.asp?storyCode=108884&sectioncode=26>  
*It was reproduced in Cafas Update 58.*

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## Appointed Councillors not required to report to the Council

Southend-on-Sea Borough supported Essex Racial Equality Council over some 25 years by providing office accommodation at SBC Civic Centre, an annual grant of some £4 000 and appointing two councillors to it. The most recent grant was £3 900 and the appointed Councillors were Tony Cox and Marimuthu Velmurugan. EREC Treasurer Mr Colin J Gardner thought that those appointed Councillors would report back to the Council.

Essex County Council, who also supported EREC, were so concerned about how EREC was conducting its affairs that they demanded extra measures before they agreed to continue supporting it.

EREC Annual Reports over two years recorded that £14 703 were paid to the previous treasurer Mr Arthur W Findlay and that the Trustees were of the opinion that that money would be recovered. What is more, the Charity Commission wrote that the issue had been put in the hands of the police.

Mr Gardner informed me by phone on Friday 28 May 2010 that he had reported the matter to Southend Police the previous month.

Southend Borough Council Head of Legal and Democratic Services wrote that there were no requirements on the two appointed Councillors to report to the Council.

**Majzoub B Ali**

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***CAFAS Update seeks to provide an open forum for opinion and discussion. Items do not necessarily reflect the views of the Council.***

## Academic Freedom and Collegiality at the University of Leeds (extract)

### Academic freedom

Through its commitment to academic freedom, the University is committed to ensuring that academic staff and other members of the University have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges. It is similarly committed to ensuring that staff have the right to criticise the functioning of higher education institutions, including their own, without placing themselves in jeopardy.

20 March 2010  
[www.leeds.ac.uk/.../Academic%20freedom%20and%20collegiality%20march%202010.doc](http://www.leeds.ac.uk/.../Academic%20freedom%20and%20collegiality%20march%202010.doc)

### Freedom of Speech and Consultation

Leeds UCU reported on 15 May 2010 that the University of Leeds has withdrawn a policy statement, which ‘incorporated a ban on criticism of the University on Social Networking sites such as Facebook and MySpace,’ following a student contacting the *Times Higher Education* and *Private Eye*. The University said ‘Due to a breakdown in communication, the draft code was released without having gone through the usual approval process and before it had been brought to the attention of the appropriate senior managers. As soon as we discovered the mistake, the item was withdrawn from our website and the draft will be reviewed and revised before being reissued. The University is absolutely committed to freedom of expression within the law. While we would wish to do all we can to protect students and staff from personal abuse, we would never seek to stifle criticism of the institution.’ It reaffirmed its policy on academic freedom underlining the right to criticise the institution (above).

The union responds, ‘This is welcomed, and a line perhaps can be drawn under the issue, but the issue of the right of consultation remains...’

See:  
<http://leedsucu.wordpress.com/2010/05/15/freedom-of-speech-and-cons>

## From the defending-academic-freedom list:

The following motions were carried at the University and College Union Higher Education Sector Conference, which formed part of UCU Congress held from 30th May to 1st June. ...  
Sue B

### **HE34 Research, academic freedom and reform of the libel laws: Northumbria University**

Conference is extremely concerned at the way that UK libel laws can be used to stifle genuine enquiry and criticism, and gives the power to shut down valid comment to those who can outspend their critics. Conference notes that recent examples of this behaviour include the libel proceedings involving scientists giving expert opinion on the efficacy of specific treatments. Conference pledges support to the Libel Reform Campaign, endorses its petition statement, and urges the government to reform UK libel laws to restore the balance between free speech and the protection of reputation. **CARRIED**

### **HE35 Thomson Reuters control over the academic press: LSE**

Conference notes:

1. that appointment, review and promotions decisions in universities are increasingly governed by citation counts.
2. that the most widely used citation counts are those based upon Thomson Reuters owned Web of Science and thus researchers are coerced to publish in those journals included in the Web of Science.
3. that the criteria for inclusion in Web of Science are not public, nor are the membership of advisory panels published, nor are the processes publicly audited.

Conference expresses its deep concern that the careers of UK university staff are in the control of a private company.

Conference instructs the HEC to call for independent public scrutiny of the selection process for Web of Science and similar resources to ensure that all approaches to academic research are given equal treatment.

### **CARRIED**

Further resolutions on academic freedom can be found in the HE Sector conference motions from number 32 at <http://www.ucu.org.uk/index.cfm?articleid=4652>

## NOTICES

**Meeting 2.00 pm  
Saturday 3 July 2010  
Room 252**

### Agenda

1. Minutes
  2. Matters arising
  3. Academic Freedom
  4. Caseworking discussion
  5. Campaigns
  6. AOB
- Officers' meeting in Room 252 at 1.30pm**
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### **Cafas Reports**

Details are on [www.cafas.org.uk](http://www.cafas.org.uk)

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## Committee

### **Co-Chairs:**

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**Founding Member**

Michael Cohen

significance?

- That, despite lip-service to the importance of teaching, universities and colleges take little account of this in career advancement?

- That academic values have been largely displaced by market values?

- That the stated 'mission' of universities to serve the community has been abandoned in favour of commercial priorities?

- That education in the UK no longer has the status of a right bringing social benefits, but is instead treated as a commodity to be bought and sold?

- That discrimination against women and ethnic minorities is still rife in the employment and promotion practices of tertiary education, despite the multicultural community it is supposed to serve?

- That the work of the union in fighting discrimination and victimisation can usefully be supplemented by specialised advice and support from an organisation which focuses on issues of academic freedom and standards?

**If you believe that many or most of these propositions are true, you ought to be a CAFAS member and your UCU branch ought to affiliate.**

**Membership Secretary & Treasurer: Dr Eva Link, 17 Highcliffe, Clivedon Court, London W13 8DP 02089982569; [rekgemL1982@yahoo.co.uk](mailto:rekgemL1982@yahoo.co.uk)**

**If you would like a speaker from CAFAS to address a branch meeting, contact Colwyn Williamson, [colwynwilliamson@hotmail.com](mailto:colwynwilliamson@hotmail.com); 07970 838 276**

**[www.cafas.org.uk](http://www.cafas.org.uk)**

## DO YOU BELIEVE

- That academic standards have been dumbed down throughout the higher and further education sector?
- That this decline has been accompanied by the escalating rhetoric of 'excellence' and 'world-class'?
- That the number of contact hours between teachers and students, which the Dearing Report described as a proper measure of the quality of education, has been reduced across the board?
- That there are all sorts of pressures on examiners to pass candidates who would previously have failed?
- That it is far easier to obtain Firsts and Upper Seconds than it used to be?
- That practices which used to be treated as academically unacceptable, or even as cheating, are now widely regarded as normal and inevitable.
- That the effect of the RAE and other pressures on academics is to increase the quantity of research, not the quality, and to restrict innovative and critical thought?
- That there are pressures, often of a commercial nature, to avoid certain areas of research, or to falsify results or to distort their conclusions and

## CONSTITUTION

CAFAS' aims are outlined on the membership form. The full constitution can be obtained from the Secretary or [www.cafas.org.uk](http://www.cafas.org.uk).

CAFAS was founded in February 1994. It depends on subscriptions and an active membership. It meets in January, April, July and September/October.

### Next deadline: 15 September 2010

Please send letters, news items and articles to:  
Pat Brady [patrick.brady28@tgooglemail.com](mailto:patrick.brady28@tgooglemail.com) & Geraldine Thorpe [thorpegm@googlemail.com](mailto:thorpegm@googlemail.com)

### Discussion List

Access defending-academic-freedom on [www.cafas.org.uk](http://www.cafas.org.uk)

**Next Meeting**  
9 October 2010

