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Timothy V. Kaufman-Osborn. The Autocratic Academy: Re- Envisioning Rule Within America's Universities

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Timothy V. Kaufman-Osborn. *The Autocratic Academy: Re-Envisioning Rule Within America's Universities*. Durham, NC: Duke University Press, 2023. Pp. 342. \$28.95 (paper).

“The disease which is endemic in the university is subordination of the teacher to the academic machine, a kind of hookworm disease which leaves the entire institution anemic,” declared James McKeen Cattell in 1917. As Timothy V. Kaufman-Osborn powerfully shows in *The Autocratic Academy*, this metaphor remains as vivid and truthful today as it did over a century ago. Across the United States, American colleges and universities are ruled by unelected presidents chosen by self-selected boards. “Domination,” in Kaufman-Osborn’s words, is “essential to the constitutional structure of the American academy” (256). *The Autocratic Academy* reveals how members of the academy have long struggled against this domination, from colonial America into the present, but that powerful figures – from U.S. Supreme Court Chief Justice John Marshall to Nicholas Butler, the president of Columbia University against whom Cattell inveighed, to the enterprising leaders of the neoliberal academy today – have built and sustained an anti-democratic structure of governance. The autocratic academy today has absorbed education into workforce training, transferred scholarship’s fruits into commodities, and shackled the worthy aspirations of education to the bottom-line imperatives of private corporations – all while categorically excluding faculty from the ability to govern themselves and the institutions of which they are rightful members.

Commentary about American higher education has often pointed to these phenomena – although rarely with Kaufman-Osborn’s precision and intelligence – but *The Autocratic Academy* goes beyond hand-wringing to diagnose and address deeper causes. Although critics of higher education’s situation today often bemoan its “corporatization,” Kaufman-Osborn argues that the problem is not that academic governance has begun to resemble corporate governance but rather that the *kind* of corporate governance on which higher education once was and could again be governed has been forgotten. Drawing on David Ciepley’s insightful history of corporations, Kaufman-Osborn builds his analysis from a basic distinction between “member” corporations and “property” corporations. Member corporations rule themselves in what Ciepley calls a “republican” form, with each member of the corporation having one vote. Member corporations are thus composed of persons who jointly determine rules of membership and governance (be it directly by themselves or via elected officers). By contrast, the property corporation, which Ciepley calls the “autocratic” form, transfers ownership of assets to “a sempiternal creature of law” – the property corporation – ruled by persons whose relationship to others “is ultimately one of command” (50). Within the property corporation, then, the “specifically political character of the member corporation” – viz. its empowerment of members as citizens of the corporate body – is displaced by “an antipolitical rationality of administration” (51). While the member corporation may sound far from today’s corporations, it was the predominant form of corporation in early modern England, “whether in the guild, the university, or the municipality” (52). More importantly, it was the member corporation that traveled across the Atlantic and informed the constitution of colonial governments before and after the American Revolution.

Seeking to reproduce the models of Oxford and Cambridge, the earliest colleges in North America were founded as member corporations. Yet, as Kaufman-Osborn shows, the membership's governance of these institutions was often both incompletely realized and quickly attacked by control-seeking elites. When William III and Mary II issued a royal charter in 1693 for a college in their name, it empowered trustees to create this institution as a member corporation. The charter, however, did not restrict the trustees (who upon William and Mary's founding became known as "visitors") to occasional interventions, instead reserving to them the right to make the rules according to which the corporation's members were to govern. While the faculty was formally empowered to control its business, the visitors retained "broad and intrusive rights" to intervene. The resulting structure could not withstand conflicts between the self-governing members and the autocratic visitors; the elite visitors soon deprived the members of the ability to rule, refiguring what was the commonwealth of the members – the property of the college – as a trust to be managed by outside agents.

Although the founders of Harvard University wished to recreate Cambridge in Massachusetts, no guild of scholars antedated Harvard's creation. "Few if any were qualified to assume the governance responsibilities of their English counterparts" (85). Harvard's overseers thus assumed the role of rulers, with "sweeping powers," never intended to relinquish governance even once a suitable faculty had developed. These powers did not, however, prevent multiple revolts of underpaid and precarious tutors. Kaufman-Osborn weaves together these protests, which occurred across centuries, to show how the member corporation appeared as a basis for defending the academy's self-governance against autocratic control by elites. The charter that conferred on the college the status of a corporation, these critics argued, invested Harvard with the powers of self-rule such that all office holders in the college "became members of a self-governing corporation rather than agents exercising authority delegated to them by overseers" (95). While the tutors' revolts never succeeded, Kaufman-Osborn suggests that their vision offers "a possible starting point for critical inquiry today" (95).

One major obstacle to the re-constitution of higher education institutions as member corporations, however, has been in place since the early 19th century. The U.S. Supreme Court decision in *Trustees of Dartmouth College v. Woodward* (1819) cemented an interpretation of the governance of colleges and universities that, in Kaufman-Osborn's words, "perfects the autocracy that Harvard's overseers and William and Mary's visitors could only dream of" (131). At the heart of this decision, Kaufman-Osborn argues, lie two mistakes: first, the denial of the public status of the corporation, which in the case of *Dartmouth*, involved the State of New Hampshire's continuing interest in its "grant of a publick nature, for publick purposes" to Dartmouth College (113); and second, a conflation of the charter with a contract, which Chief Justice John Marshall further entangled with the different legal instrument of a trust, making "the body corporate" no longer a corporation of members but a legal instrument whose purpose is that of "representing the donors for the purpose of executing the trust" (121 quoting Marshall).

Marshall's opinion in *Dartmouth*, on Kaufman-Osborn's telling, creates "an odd hybrid" (124): a property corporation with a board of self-governing members that rules autocratically over its subjects. Once members, the faculty are reduced to employees. "*Dartmouth* thus imports into Dartmouth the autocratic governance structure that defines a property corporation but effectively erases any distinction between the body that owns this property and the officers who manage it" (125). The only restriction on the board comes from Marshall's definition of Dartmouth as "an eleemosynary corporation," which obligates the board to employ the college's property on behalf of charitable ends. But because the decision also removes supervision by the state entailed by its being a member corporation, the board stands as the charter's unbound interpreter in the absence of criminal conduct. The "grant of a publick nature, for publick purposes" asserted by the state has entirely disappeared. (One unsavory yet juicy irony of *Dartmouth* was also, as Kaufman-Osborn notes, that its "consolidation of the academy in the form of an autocratic property corporation . . . antedated and in effect provided the template for an analogous transformation of the American business corporation": 140 - 1. The property corporatization of the academy effected by Marshall's decision, in other words, was the recipe for "corporatization" itself!)

The victories of the visitors and overseers in Williamsburg, Virginia and Cambridge, Massachusetts, respectively, anticipate the result of *Dartmouth*; they also contextualize the "professors' literature of protest" of which James McKeen Cattell was an integral member. This literature, so dubbed by one of its participants, Joseph Jastrow, "called for a radical rethinking of rule within US colleges and universities" between 1880 and 1920. These debates also continue the defense of a member corporation structure of rule begun in the centuries before, calling for a "democratic reincorporation of colleges and universities" (137) and an alternative to the verdict of *Dartmouth*. This period witnessed recomposition of governing boards with businessmen and non-academic professionals while colleges and universities also organized themselves more hierarchically (141). In 1918, Thorstein Veblen published *The Higher Learning in America*, in which he diagnosed "*Psychasthenia Universitatis*," a neurological disorder he envisioned afflicting the academy. The primary symptom of this disorder was "the trustee qua philistine," which subordinated professors to the machine of the university whose end was confused with consumer satisfaction (147). The "president qua potentate" provided a secondary symptom of this disorder. Here "the unelected president appointed by an unrepresentative board" (149) flew in the face of an ostensibly democratic country; the president is "a ruler responsible to no one whom he governs" (150 quoting Veblen). Last, a tertiary symptom appeared in "the professor qua subject" (150). Excluded from rule, the faculty is made to appear as a poor candidate for self-governance; since "all real educational issues" are withdrawn from faculty discussion, faculty meetings become "demoralizing spectacles" (150 - 1). Here Kaufman-Osborn is withering: "We may romanticize faculty meetings as deliberative arenas where reason reigns. But what that reason considers is much ado about very little, and so what these gatherings most often accomplish is the faculty's self-stultification" (152).

According to Veblen, *psychasthenia universitatis* proves terminal when the academy no longer incorporates a free association of scholars. In 1918, redress of this illness required, in Veblen's

judgment, the abolition of the board and president. In such a structure of rule, shared governance is a mere “placebo.” Kaufman-Osborn shows how the Association of American University Professors (“AAUP”) avoided the implications of Veblen’s analysis, ratifying faculty’s disempowerment instead of seeking to restore a democracy of scholars. It did not have to be so: John Dewey, the first president of the AAUP, argued that the AAUP needed a strong union to fulfill its mission; such a union would have organized and empowered members to demand and exercise governance for themselves, as Cattell had argued. Yet the AAUP took a different path, opting for what Clyde Barrow has called “an accommodationist strategy” (173), jettisoning “university control” for “shared governance” while also staking its existence on a professional ideal of vocation that exempted (partially and likely only temporarily) professors’ subjection to the “full force of capitalism’s prosaic disciplinary mechanisms” (174). The “Holy Trinity” of academic freedom, tenure, and shared governance replaced broader solidarity with workers more generally; the AAUP became the standard bearer for professorial exceptionalism beneath which even “shared governance” continued to shrink while the “labor market shelter” of academic professionalism quickly deteriorated.

Kaufman-Osborn’s attention to the autocratic structure of governance now dominant in U.S. higher education gives a novel perspective on today’s “corporatization.” For one (and as I’ve described), Kaufman-Osborn gives us a more precise description: higher education has lost its original democratic (member) corporate structure and replaced it by an autocratic (property) one. The autocrats running higher education in the U.S., however, have also begun to willfully erode their own power. “Corporatization” thus points to an additional dimension of the loss of self-governance, namely in how the governing boards of colleges and universities have outsourced their own autocratic power to other corporate entities. Princeton University’s deals with Eli Lilly, Purdue’s with Kaplan, and debt financed building booms around the country all illustrate different dimensions of a broader trend. The “neoliberal academy” has many mutations but one underlying pathology: the subordination of education’s ends to profit. Cattell’s teachers are now, in reality if not in name, at-will employees ruled by unaccountable plutocratic elites.

Could this story have a happy ending? Kaufman-Osborn gives little reason to hope for one. While in the book’s notes he mentions experiments with cooperative modes of education in the U.K. and Spain, he finds no institution worthy of admiration, let alone emulation, in the United States. But are all forms of shared governance made equal – and are there forms that while still ruled by autocratic boards nonetheless accord significant power to members? The same year as Cattell’s diagnosis of the hookworm in the academy, another institution was founded – Deep Springs College – that for over a century has claimed “self-governance” as central to its model of education. Although Deep Springs has a president and board, students and, to a lesser degree, faculty and staff, have asserted significant influence over the institution at key junctures. Indeed, a recent history of Deep Springs and its founder, L.L. Nunn, points to repeated instances when these members – those living on campus and most knowledgeable about the Deep Springs project – have saved the institution from self-destruction.¹ Kaufman-Osborn might still argue that without displacing the autocratic governance of

¹ L. Jackson Newell, *The Electric Edge of Academe: The Saga of Lucien L. Nunn and Deep Springs College* (Utah, 2015).

the property corporation, self-governance at institutions like Deep Springs remains a charade, but such a claim ignores the very real power that well-organized people have exercised in the past and a potential means by which more self-governance could be realized.

Instead of examining varieties of shared governance or moments when members have claimed or actualized power, *The Autocratic Academy* ends with a utopian “re-envisioning” of the academy founded on the member corporation structure of governance – a vision of a “Commonwealth University” (“CU”). CU would be built on two principles: a *republican* principle, which means, at the core, one member, one vote; and a *socialist* principle, which means CU’s assets, be they intellectual or material, are unavailable for capitalist appropriation. This second principle, the *socialist* principle, is no less important than the first, although much of the argument focuses on the first. Member corporations, importantly, give *ownership* as well as *control* over the corporate body they create. Imagine if the faculty could not just protest a new football field’s construction but sell the property to raise funds for creating new tenure lines in understaffed departments! Put this way, Kaufman-Osborn’s claim of the mantle of utopian seems true to Miguel Abensour’s description of utopianism as offering a “pedagogy of desire.” *The Autocratic Academy* does not just critique the present condition of higher education in the United States; through its stories of resistance and its vision of an alternative, it gives readers something else to want. These glimpses of flourishing show us what the health of the body politic might look like. We can begin our convalescence now.

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