

Review Essay

The Enigma of Expertise

Elizabeth Fisher*

Susan Owens, *Knowledge, Policy and Expertise: The UK Royal Commission on Environmental Pollution 1970-2011* (OUP 2015), 309 + xii pp, £55

It is a bitterly cold January day and I am standing by the pond in the grounds of Bletchley Park wishing I had worn more layers. I am here with my children learning about code breaking in World War II. The story of Bletchley Park is an enthralling one. That is why we are here, but the architecture I am looking at is not the grand symbolic architecture of state.¹ It is an ad hoc collection of low slung and make-shift green huts hastily assembled around a ‘medium sized nineteenth century manor house’.² Its existence was also secret until the 1970s.

Standing there shivering, Bletchley Park strikes me as so very British. The low keyness and extemporised feeling of the place is not just a product of war, but reflects the

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¹ I have pondered architecture before in a book review see Liz Fisher, ‘Book Review: Regulating Pollution: A UK and EC Perspective’ (2001) 13 JEL 115

² Christopher Grey, *Decoding Organisation: Bletchley Park, Codebreaking and Organisation Studies* (CUP 2012) 32.

working logic of the British state – a state which is powerful but which is also ‘ambiguous and indeterminate’.³ Unlike other cultures, the UK has never fully embraced a singular vision of public administration. More specifically, the deployment and fostering of expertise at Bletchley Park is not held aloft or apart. Here it is embodied in the pragmatic. There is little that is glorified in the dingy rooms of Bletchley Park but there is much which is practical.

I tell you this because that morning I left a copy of Susan Owen’s book *Knowledge, Policy and Expertise*⁴ sitting on the kitchen table. Owen’s book is an account of the history of the Royal Commission of Environmental Pollution (RCEP) from its creation in 1970 to its demise in 2011 as part of the Coalition government’s ‘Bonfire of the Quangos’⁵. I had been reading it that morning, a third of the way in and I found myself thinking it a puzzling book. Owens is an accomplished scholar and on picking it up I had readied myself for a narrative arc in some Aaron Sorkin/*West Wingian* tradition. It is definitely not that. Owens analysis is exploratory, playful, rarely linear, and sometimes tentative. Owens moves nimbly between different scholarly lens and the end result is not something that can be summed up in one line. It left me pondering and, as I said, puzzled.

³ Stuart Weir and David Beetham, *Political Power and Democratic Control in Britain* (Routledge 1999) 22.

⁴ Susan Owens, *Knowledge, Policy and Expertise: The UK Royal Commission on Environmental Pollution 1970-2011* (OUP 2015). Also note an early glimpse of the arguments in this book can be found in Susan Owens, 'Experts and the Environment - The UK Royal Commission on Environmental Pollution 1970-2011' (2012) 24 JEL 1.

⁵ Although note that Owens gives a more nuanced account of its demise. See Owens, *Knowledge, Policy and Expertise* (n 4) 160-3.

Staring out over Bletchley Park I suddenly realised that I had missed the point. To put it at its simplest, Owens' analysis seemed puzzling to me because she is engaging in a puzzle. The puzzle is the role and nature of expertise in British public administration. The role of expertise in liberal democracies is a vexed one,⁶ but it is particularly vexed in the UK where the flexibility of the constitutional order has never encouraged either the explicit articulation of principles of administrative governance or ideas of expertise.⁷ The RCEP is not Bletchley Park,⁸ but both are products of this same legal and socio-political culture. Thus while RCEP may not have been physically housed in a set of little green huts, metaphorically it was. And therein lies Owen's puzzle – how to make sense of a longstanding independent institution providing expert advice in such circumstances.

Before considering Owens book in more detail it is worth pondering on the conundrum of British expertise and its role in public administration in greater depth. I do so from the perspective of administrative law – one of the disciplines I work in alongside environmental law. Owens is not an administrative lawyer, but the relationship between administrative law and public administration has been a close one in the UK⁹ and by seeing how concepts of public expertise have developed in the administrative law context the significance of *Knowledge and Expertise* can be better appreciated.

⁶ David Estlund, *Democratic Authority: A Philosophical Framework* (Princeton UP 2008) Ch 1.

⁷ A flexibility expressed in the use of 'public law' to refer to both constitutional and administrative law. See the moving between the two in the essays in Mark Elliott & David Feldman (eds) *The Cambridge Companion to Public Law* (CUP 2015).

⁸ For a history of it see Grey, (n 2) 32-9.

⁹ Carol Harlow and Richard Rawlings, *Law and Administration* (3rd ed, CUP 2009) Ch 1.

1. The Puzzle of Public Expertise in the UK

The deployment of expertise is a necessary feature of all advanced liberal democracies as expertise is needed to carry out the activities that democratic citizens expect their states to discharge.¹⁰ Environmental regulation is no exception. Given the nature of environmental problems, it cannot operate without information and the skills and experience of those that can make sense of that information.¹¹ The problem is that expertise – ‘rule by the knowers’¹² – is at odds with rule by the people.¹³ In most socio-political cultures the response to squaring this circle has been to ‘black box’ expertise – that is treat it as a limited and containable resource to be relied upon only in certain circumstances.¹⁴ The ‘black box’ depiction of expertise is clearly problematic in all cultures,¹⁵ but it is particularly so in the UK where it

¹⁰ Sidney Shapiro, ‘The Failure to Understand Expertise in Administrative Law: The Problem and Its Consequences’ (2015) 50 Wake Forest ULR 1097.

¹¹ Elizabeth Fisher, *Risk Regulation and Administrative Constitutionalism* (Hart Publishing 2007) 20.

¹² Estlund (n 6) 7.

¹³ Harry Collins and Robert Evans, ‘The Third Wave of Science Studies: Studies of Expertise and Experience’ (2002) 32 *Social Studies of Science* 235, 235-6.

¹⁴ Wendy Wagner, Elizabeth Fisher and Pasky Pascual, ‘Misunderstanding Models in Environmental and Health Regulation’ (2010) 18 *New York U Env LJ* 293 discussing scientific models being treated as ‘truth machines’.

¹⁵ Sheila Jasanoff, ‘Serviceable Truths: Science for Action in Law and Policy’ (2015) 93 *Texas LR* 1723.

does not resonate either historically or normatively.¹⁶ This of course returns me to those little green huts.

Within UK administrative law and public administration there has always been scepticism of attempts at bureaucratic rationalisation. Public administration in most jurisdictions grew in a haphazard fashion but in the UK particularly so.¹⁷ The reasons for this are many and overlapping. The lack of a vigorous doctrine of separation of powers and thus a fused constitutional and administrative law is one factor.¹⁸ The failed ‘Prussian bureaucratic’ experiments of Edwin Chadwick in the 19th century another.¹⁹ As are the ideal of the generalist civil service as promoted by the Northcote Trevelyan report in 1870.²⁰ Administrative law took far longer in the UK to be recognised and when it did the American administrative lawyer, Kenneth Culp Davis accused British judges of being too much like ‘bricklayers’ and not enough like architects’.²¹ He also noted that ‘the essence of the

¹⁶ Sheila Jasanoff, ‘Civilisation and Madness: The Great BSE Scare of 1996’ (1997) 6 *Public Understanding of Science* 221 and Sheila Jasanoff, ‘Epistemic Subsidiarity – Coexistence, Cosmopolitanism, Constitutionalism’ (2013) 4 *EJRR* 133.

¹⁷ XYZ, ‘Book Review: The New Despotism’ (1930) 1 *Public Quarterly* 125.

¹⁸ Weir and Beetham (n 3) 27.

¹⁹ R Lewis, *Edwin Chadwick and the Public Health Movement 1832-1854* (Longmans, Green & Co 1952).

²⁰ Fulton Committee, *The Civil Service - Volume One* (Cmnd 3638 1968) Appendix B.

²¹ Kenneth Culp Davis, ‘The Future of Judge-Made Public Law in England: A Problem of Practical Jurisprudence’ (1961) *Columbia L Rev* 201, 201.

administrative process is missing from the literature of English administrative law'.²² It is also useful to remember that Lord Diplock's articulation of the three grounds of judicial review was an act of codification not rationalisation.²³ As Kamenka has put it, the common law also has traditionally had an 'anti-administrative character'.²⁴ Black boxing anything in such a context was always going to be tricky and it should come as no surprise that a very different vision of public expertise emerged in the UK.

Throughout the 19th century there was a 'piecemeal accumulation of expertise' in British government.²⁵ By the 1920s the need for expert public administration was becoming obvious. A major catalyst for this need was World War One as it made clear the nexus between knowledge and power.²⁶ Recognising that nexus did not however result in a rose tinted understanding of expertise. 'The expert is a notoriously bad judge'²⁷ ECS Wade wrote in 1930 (judges on the other hand were of course good at judging). Lord Hewart in 1930

²² Kenneth Culp Davis, 'English Administrative Law – An American View' [1962] Public Law 139.

²³ *Council of Civil Service Unions v Minister for the Civil Service* [1985] AC 374.

²⁴ Eugene Kamenka, *Bureaucracy* (Basil Blackwell Ltd 1989) 116

²⁵ Ben Pontin, 'Tort Law and Victorian Government Growth: The Historical Significance of Tort in the Shadow of Chemical Pollution and Factory Safety Regulation' (1998) 18 OJLS 661, 661. See also Roy MacLeod, *Government and Expertise : Specialists, Administrators and Professionals, 1860-1919* (CUP 1988).

²⁶ Alfred Zimmern, 'Democracy and the Expert' (1930) 1 Public Quarterly 7, 7 and Harold Laski, *Studies in Law and Politics* (Yale UP 1932) 125-6.

²⁷ ECS Wade, 'Consultation of the Judiciary by the Executive' (1930) 46 LQR 169, 176.

wrote that expert officials were ‘naturally and necessarily hidden and anonymous’ so that they could not be examined or ‘brought to book’.²⁸ Zimmern noted that ‘the solution worked out by Expert Committees are not edicts imposed by an omniscient dictatorship’.²⁹

It was not that expertise did not play a role, but a very particular one. Expertise needed to be connected with the ‘actual practice of administrative law’.³⁰ The expertise envisioned was not ‘technical’³¹ or technocratic. As Leslie Scott noted (the ultimate chair of the Donoughmore Committee) ‘To us Englishmen the rationalistic attitude of mind is alien in life as well as law’.³² Likewise, such expertise had to be practical: ‘it is said that if a bureaucrat wants to damn a proposal he calls it academic’.³³ The Haldane Committee in 1918 may have called for greater expertise in government but they explicitly stated, despite the formal title of their report, that bureaucracy was not a ‘machine’ and pointed to the ‘living

²⁸ Lord Hewart, *Essays and Observations* (Cassell & Co 1930) 94.

²⁹ Zimmern, (n 26) 22.

³⁰ J Roberts, ‘The Professional Expert and Administrative Control’ (1929) 7 *Public Administration* 247, 251.

³¹ On technical definitions of expertise see Theodore Porter, ‘How Science Became Technical’ (2009) 100 *Isis* 292.

³² Sir Leslie Scott, ‘Evolution of Public Law’ (1932) 14 (3rd Ser) *Journal of Comparative Legislation* 163.

³³ Cecil Thomas Carr, *Concerning English Administrative Law* (OUP 1941) 162.

forces' supplied by Parliament.³⁴ In promoting expertise they also focused upon deliberation and 'the duty of investigation and thought as preliminary to action'.³⁵

The general distrust of both rationalisation and rational expertise meant that while the administrative state began to solidify as a concept post World War II, this did not result in the bureaucratisation of expertise. The civil service was largely generalist and experts were advisors.³⁶ Even when the Fulton Report in 1968 called for greater expertise in the civil service, it was arguing against a 'rigid'³⁷ vision of civil service organisation:

The public interest must suffer from any exclusiveness or isolation which hinders a full understanding of contemporary problems or unduly restricts the free flow of men, knowledge and ideas between the service and the outside world.³⁸

As such 'imaginative humanity' as opposed to 'administrative uniformity'³⁹ was more important. Likewise, the Robens Report in recommending the creation of a new body to oversee occupational health and safety (which led to the creation of the Health and Safety Executive and the Health and Safety Commission). They explicitly argued that while such a

³⁴ Ministry of Reconstruction, *Report of the Machinery of Government Committee* (Cd 9230 1918) 16.

³⁵ *Ibid* 6.

³⁶ TH Profitt, 'Great Britain' in F Ridley (ed) *Specialists and Generalists: A Comparative Study of the Professional Civil Servant at Home and Abroad* (Allen & Unwin 1968) 16. See also WC Harris, 'The Role of the Professional in the Civil Service' (1969) 47 *Public Administration* 33, 35.

³⁷ Fulton Committee (n 20) 22.

³⁸ *ibid* 12-3.

³⁹ *ibid* 11.

body would ‘pool’ expertise⁴⁰ such expertise was not so much in terms of ‘formal qualifications in the academic or narrow professional sense’ but in the broadest sense’.⁴¹

2. Nevertheless.....

And that returns me to Owens’ book. All of the above, gives the scholar pause for thought. The role of expertise in British public life is counter-intuitive and defies easy explanation. Studying the RCEP, a body somewhat unique, exacerbates this scholarly predicament. While the creation of the RCEP in 1970 was embedded in the above discourse and its institutional form (a Royal Commission) is distinctively British,⁴² its longevity and the breadth of its remit makes it unique. The RCEP existed between 1970 and 2011. As Owens notes, its Royal Warrant described its remit as ‘to advise on matters, both national and international concerning the pollution of the environment; on the adequacy of the research in this field; and the future possibilities of danger to the environment’.⁴³ It produced 33 reports over its life span, some short, some long,⁴⁴ covering a range of topics.⁴⁵ As an institutional artefact, the RCEP is perhaps closer (although still very different) to the Law Commission of England and Wales than to public inquiries that focus on a specific event.

⁴⁰ Committee on Health and Safety at Work, *Health and Safety at Work* (Cmnd 5034 1972), 63.

⁴¹ *ibid* 69.

⁴² This is noted by Owens, *Knowledge, Policy and Expertise* (n 4) 4.

⁴³ *ibid*.

⁴⁴ *ibid* 66.

⁴⁵ *ibid*, Appendix One

Owens faces the challenges of making sense of expertise head on. Chapter One provides an overview of the different social science approaches to thinking about expert policy advice in government and the problem created by a lack of coherence due to literatures running in 'parallels track, with surprisingly little cross fertilisation of ideas'.⁴⁶ She also notes the lack of studies that combine theory and empirical work as well as the lack of work studying the reliance on expertise over a long period of time. She provides an overview of different 'conceptualisations' of the relationship between knowledge and policy: technical rationality, political rationality, cognitive perspectives, and co-production/boundary work. After surveying these different perspectives she argues that 'the most promising framework' is one that 'combines the cognitive and co-productionist models' particularly because this highlights how a single committee might 'perform different, sometimes multiple roles'.⁴⁷ If one were being unfair, this chapter reads a little like a literature review and the framework Owens provides does not feel very robust. This is where my puzzlement began to set in, but considered in light of the history of UK public administration it is the only honest approach possible. There is no neat narrative to hand and what is very clear is Owens is deftly pushing to one side any black box or technical vision of expertise.

Chapter Two provides a brief history of how 'environmental protection' figured in UK politics between the late 1960s and the 2010s. This history is a sketch but it provides an important 'backdrop'⁴⁸ so as to understand the context in which the RCEP was operating. In particular, it makes clear that the political appetite for reform to respond to environmental problems changed over time. As this is the case, RCEP was operating in a dynamic context -

⁴⁶ *ibid* 3.

⁴⁷ *ibid* 17.

⁴⁸ *ibid* 25.

- a point made clearer in Chapter Three which provides an account of the RCEP as an institutional body: its origins; its relationship with government; the people appointed to its nature as a committee; its working practices; the reports it produced and its ultimate demise. Over its 40 years all these things evolved and changed and thus this is a dense 25 pages, although it felt more like a trailer than the main event.

It was after reading these first three chapters that I was really puzzled. Each chapter felt slightly thin. Each was criss-crossing the same landscape on different paths. And then I had that moment at Bletchley Park and realised that these chapters are not the prelude to some grand epic. There is no sweeping narrative. Rather Owens is charting and mapping out territory and trying to make sense of something that is not easy to make sense of. More significantly, the shifting nature of how expertise is understood, the RCEP operated, and the political environment it was operating in, also meant that how environmental problems were understood and how responses to them were crafted were also fluctuating.

These fluctuations are explored in the rest of the book. Chapter Four (written with Tim Rayner) is a study of how environmental problems were characterised in terms of risk paradigms and thus how these framed solutions. Chapter Five explores attempts by the RCEP to recommend integrated approaches to responding to environmental problems in their 5th and 23rd reports.⁴⁹ Chapter Six explores what Owens describes as ‘circumstances of influence’. Chapter Seven concludes and again there is no singular one line conclusion – a ‘take home’ message to use the jargon. Owens is cautious of drawing lessons from the experience of RCEP and all her conclusions are carefully measured. While it is dangerous to pick on one sentence to sum up her analysis, this sentence from the last page gives a feeling for her balanced approach: ‘The Commission...had a long and productive life, during which its ideas

⁴⁹ RCEP, *Air Pollution Control: An Integrated Approach* (Cmnd 63711976) and RCEP, *Environmental Planning* (Cm 5459 2002).

and advice were not always palatable to those in power but could ultimately nevertheless, be influential'.⁵⁰

The word 'nevertheless' is particularly striking here. The author Muriel Spark has written about the word in the context of its use in day to day speech in Edinburgh⁵¹ to highlight the way in which the 'ceremonious accumulation' of facts and forecasts can be immediately contradicted by the reality of the situation (weather being a prime example). Spark also points to the incongruity of the 'great primitive black crag' of Castle Rock rising between Edinburgh's New and Old Towns. Spark's 'nevertheless' idea is particularly apt for thinking about public expertise. As we saw above, British political life is based on a normative and practical commitment to pragmatic governance. *Nevertheless*, expert bodies such as RCEP are part of the reality of that life. Clapp has noted 'In Mrs Spark's fiction, 'the nevertheless idea' means that an elegant display of possibilities is undermined by jokes, grim twists, surprising conclusions'.⁵² There is no dark humour in Owens book (although the image of Commission members out on a trawler together did make me smile),⁵³ but there is a firm commitment to not merely indulge in the 'elegant display of possibilities'. This is important because there is a tendency for some literature on expertise to engage in such a

⁵⁰ Owens, *Knowledge, Policy and Expertise* (n 4) 172.

⁵¹ Muriel Spark 'Edinburgh-born', *New Statesman*, (10 Aug 1962).

⁵² Susannah Clapp, 'Pisseurs' (1988) 10 (11) LRB 16.

⁵³ Owens, *Knowledge, Policy and Expertise* (n 4) 58

display. Indeed, that is what the black boxing of expertise is all about as is the mantra ‘experts should be on tap not on top’.⁵⁴

3.And Why it Matters to Environmental Lawyers

And it is the fact that Owens confronts the many facets of the ‘nevertheless’ of public expertise that makes this book such a valuable read for environmental lawyers. Environmental lawyers and environmental legal scholars often refer to expertise – the need for it, the need to defer it, the need to not allow it to monopolise democracy – but we rarely deconstruct it as a concept. The same is true for the associated ideals of independence, accountability and effectiveness that she also explores. These concepts are inevitably tangled up in any discussion about public expertise but they are often promoted as conclusions or things to work to. Decision makers should be independent and accountable. Environmental regulation should be effective. To be blunt scholars often engage in the ‘elegant display of possibilities’ when we talk about these things. There is very little discussion about what these things mean in practice or what are the different facets of these concepts that need to be explored.

Owens’ book thus can serve as a basis for a more sophisticated discussion about environmental governance by environmental lawyers and environmental law scholars. It is useful to illustrate this by examining in a little more detail her discussion of expertise, accountability and influence. In all cases it is important to note that her ‘cognitive and co-productionist’ model underpins her approach. She is thus making clear that ‘the ways in

⁵⁴ Michael Brooks, ‘Scientists Should be on Tap, Not on Top’ New Scientist (17 February 2010 London), <<https://www.newscientist.com/blogs/thesword/2010/02/scientists-should-be-on-tap-no.html>> accessed 11 May 2016.

which know and represent the world (both nature and society) are inseparable from the ways in which we choose to live in it'.⁵⁵

In regards to expertise, what Owens makes clear is that it is a multi-faceted concept and more than just a black box. The members of RCEP consisted of a shifting groups of different members with a range of diverse skills and experience and drawn from different disciplines both inside and outside academia. It often saw itself as 'a committee of experts' not an 'expert committee'.⁵⁶ More significantly its expertise was understood as 'broadly based'⁵⁷ and there was an awareness of the 'limitations of environmental science'.⁵⁸ In other words, the RCEP understood itself in pragmatic terms – terms that were consistent with the more general understandings of administrative governance that predominated historically in the UK as seen above. While the RCEP did change as a body over time, it never understood itself in a narrow and technical way and there was often a scepticism of 'academics'.⁵⁹ This understanding shaped an understanding of who were desirable members of it (not the 'pig-

⁵⁵ Sheila Jasanoff, 'The Idiom of Co-Production' in Sheila Jasanoff (ed) *States of Knowledge: The Co-Production of Science and Social Order* (Routledge 2006) 2.

⁵⁶ Owens, *Knowledge, Policy and Expertise* (n 4) 55.

⁵⁷ *ibid.*

⁵⁸ *ibid* 101.

⁵⁹ *ibid* 56-7, 69

headed'),⁶⁰ how the Commission operated,⁶¹ and how its relationship with government pivoted around the 'creative' tension between autonomy and accountability.⁶²

At the same time, Owens, particularly in Chapter Four, shows how the RCEP often framed problems in different ways. Owens argues that there is quite a technocratic vision (albeit enlightened) in its earlier reports such as that on air pollution⁶³ moving to more constructivist perspectives on risk governance in later ones such as the report on environmental standards.⁶⁴ But as she rightly notes 'the Commission's thinking was neither linear nor straightforward'.⁶⁵ Different reports framed things in different ways.⁶⁶ Moreover, her chapter on the 5th and 23rd reports, shows just how challenging providing expert advice can be when what is being argued for is a more 'holistic' approach. Not only are 'prosaic' questions about institutions often central,⁶⁷ but RCEP was having to do a huge amount of work as a 'cognitive agent'⁶⁸ in changing the frame. It was often doing so in circumstances

⁶⁰ *ibid* 53.

⁶¹ *ibid* 63.

⁶² *ibid* 172.

⁶³ RCEP, *Air Pollution Control* (n 49) although note the opening quote from Henry James in this report.

⁶⁴ RCEP, *Setting Environmental Standards* (Cm 4053 1998).

⁶⁵ Owens, *Knowledge, Policy and Expertise* (n 4) 100.

⁶⁶ Also compare RCEP, *Managing Waste: The Duty of Care* (Cmnd 9675 1985) and RCEP, *Novel Materials in the Environment: The Case of Nanotechnology* (Cm 7468 2008).

⁶⁷ Owens, *Knowledge, Policy and Expertise* (n 4) 107

⁶⁸ *ibid* 123.

where there was a lack of interest. With beautiful understatement she notes in regards to the 23rd report that, ‘integrated spatial strategies did not make for compelling headlines’.⁶⁹

The overall point is that expertise emerges as a far more complex animating ideal and operational concept in Owens book than it does in much environmental law doctrine and environmental law scholarship. She shows how experts understand themselves, how they are understood by others, and how they make choices about how they frame problems and they operate. There is much here that can serve as a more robust basis for legal discussion about expertise and how it is defined and utilised in environmental law.

The same is true of her discussion about the RCEP as an independent and accountable body. RCEP had ‘formal autonomy’ due to its Royal Warrant, but for it to operate in any meaningful way it could not be ‘aloof’ from government.⁷⁰ Here we see the nevertheless idea emerging very clearly. The authority of the RCEP came from its independence, but its co-operative relationship with government was important to its success.⁷¹ It needed to be part of networks of governance and it needed to be seen as trustworthy.⁷² It was independent, but in her analysis Owens also shows the influence of financial accountability mechanisms in its last 15 years.⁷³ Moreover, she notes ‘[a]uthority, autonomy, and connectivity emerge as powerful assets, as do the capacities for frame reflection and sustained interdisciplinary

⁶⁹ *ibid* 118.

⁷⁰ *ibid* 151.

⁷¹ *ibid* 49.

⁷² *ibid* 50 and 150.

⁷³ *ibid* 51.

deliberation'.⁷⁴ That frame reflection could only occur through the Commission engaging in a form of 'practical public reasoning' that was focusing on producing 'serviceable truths'.⁷⁵ In all cases she is showing us that accountability and independence are important but they are not simple devices for ensuring better and more legitimate environmental governance.

This is reinforced by her discussion of what she described as 'the circumstances of influence'. Right from the start of this book she directly and explicitly engages with the issue of the 'impact' of the RCEP's work.² Questions of impact are often central in the policy realm (think of the Research Excellence Framework) but are often the elephants in the room when it comes to scholarly discussion of expertise. That impact is all important, but scholars do not directly talk about it. I suspect that is because there is often an assumption that expertise must have an impact. We presume that 'rule by the knowers' ousts democratic deliberation. Thus if the black box of expertise cranks out an answer it is expected that it will be followed. But Owens shows that this is not the case. Chapter Six is an exploration of the many different forms of influence, both long term and short term, that the Commission had. Some were 'direct hits', some were more about 'slowly changing the frame' and a lot of the Commission's success was when 'recommendations resonated with the political temper of the times'.⁷⁶ As she puts it there is no 'linear-rational' model of policy advice.⁷⁷ As such, we

⁷⁴ *ibid* 169.

⁷⁵ *ibid* 166 quoting from Weale and Jasanoff respectively.

² *ibid* 2, 19.

⁷⁶ *ibid* 129.

⁷⁷ *ibid* 144.

as lawyers and scholars need to understand these circumstances of influence in far more detail. This is particularly when such expert advice does have legal implications.⁷⁸

4. Conclusion

One of the things that I have not highlighted so far is that Owens was a RCEP member between 1998 and 2008. I haven't mentioned it because while Owens recognises that her membership does affect her method,⁷⁹ there is nothing in her analysis which feels like an insider's account of the RCEP. I never got the impression she was trying to defend or apologise for the RCEP (or even do the opposite). The only inkling I had of her insider status was that this book was clearly driven by a scholar's curiosity to understand and make sense of the context she found herself in. And that returns me to Bletchley Park. What struck me as I looked out across that pond at those green huts, was that Owens in her writing had captured the way in which expertise in British public life is not a black box. The RCEP was a 'committee of experts' shaped by, and shaping, UK administrative culture.

And here is the importance of what she has done. In reading the above you may think I did a little too much background research in preparing this essay. That is not the case. What I did was return to a set of copious notes (many books worth) from nearly twenty years ago that I had made from primary and secondary materials. It was part of a project in which I was attempting to chart the history of expertise in UK public administration, a project that bore a

⁷⁸ Consider for example the issues litigated in *Downs v Secretary of State for Environment Food and Rural Affairs* [2008] EWHC 2666 (Admin) and *Secretary of State for Environment, Food and Rural Affairs v Downs* [2009] EWCA Civ 664.

⁷⁹ Owens, *Knowledge, Policy and Expertise* (n 4) 20.

few meagre fruit⁸⁰ but in the main went nowhere because I couldn't quite make sense of it all. Reading Owens work it did. I realized I was too much trying to 'ceremoniously accumulate' facts rather than make sense of the enigma before me. For those looking for a simple narrative this book will frustrate. Nevertheless, for those looking for a template to make sense of the reality of expertise in UK public life this book will delight.

⁸⁰ Fisher (n 11) ch 3 which charts understandings of the Southwood Working Party and its recommendations in relation to the BSE crisis.