

Between Maxwell and Micawber: Plotting the failure of the Equitable Life

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Abstract

This paper offers reflections on the failure of The Equitable Life Assurance Society. Noting that the collapse of this financial institution precipitated a raft of official inquiries we provide a detailed analysis and ‘re-view’ of the public inquiry report that was produced by Lord Penrose. The paper observes that Lord Penrose’s text presents itself as a factual description of events. Yet we counter that this report remains, at root, a creative product which depends upon narrative strategies of characterization and emplotment. Analysing the narrative resources and the broader narratological choices that underpin Lord Penrose’s account of the Equitable affair we suggest that this report turns upon a Maxwellian rendering of the drama’s key protagonist. Questioning the assumptions, omissions and elisions which underpin this method of plotting the failure of the Equitable we propose another means of characterising the drama’s principal. Building upon a reading of *David Copperfield* we proffer a Micawberish alternative to the Maxwellian autocrat favoured by Lord Penrose’s text. Readers are invited to consider the relative merits of these contrasting narratives and are, furthermore, encouraged to reflect upon the manner in which the interplay between text, author and reader acts to shape public understanding of accounting, accountability and financial regulation more broadly.

Keywords: Equitable Life, Financial Regulation, Public Inquiry, Genre, Penrose Report, Narrative, Organizational Storytelling, Maxwell, Micawber

1. Introduction

On the 8th of December 2000 John Sclater, president of the Equitable Life – a pioneering, highly respected and, arguably, the world’s oldest, mutual, provider of life assurance policies¹ - announced that the Society would close to new business and would, furthermore, seek a buyer for its portfolio. This decision arose as the company’s board grappled with a series of reversals that would in short order rewrite the history of this once vaunted institution and the futures of its policy-holders.

¹ In a footnote Penrose (2004) observes that, although it is often suggested, The Equitable (founded in 1762) may not, in fact, be the world’s oldest mutual life assurance society. That title, he suggests, may belong to the Scottish Churches and Universities Widows’ and Orphans Fund which was established 19 years prior to the Equitable Life Assurance Society in 1743. In a more recent contribution, however, Roberts (2012) identifies three societies established before either of these pretenders: The Amicable (est. 1706); the London Assurance Society (est. 1720); and the Royal Exchange Assurance Society (est. 1720).

The first of these reversals occurred on the 20th of July 2000 when the Equitable Life failed in its attempt to persuade the House of Lords to over-turn the judgement of the Court of Appeal. In its appeal the Equitable had asked the House of Lords to reinstate the verdict of the High Court, which in its 1999 judgement on the *Hyman* case ruled that the company was within its rights to modify the bonus rates payable to its with-profits policy-holders. The Lords, however, chose to uphold the decision of the Court of Appeal, and so, decreed that the Equitable Life was obliged to honour its guarantees. Lacking the funds to honour these undertakings, the Society decided to put itself up for sale. None of those who had previously indicated a willingness to consider purchasing the Equitable Life², however, would entertain the £5 billion price tag attached to the company. A second reversal, therefore, was visited upon the Society and its members. In a third attempt to turnaround its fortunes the Equitable Life chose to offer itself to suitors for the sum of £1 on the understanding that the purchaser would accept the liabilities of the Society. Yet no one could be persuaded to accept even these terms. The board of the Equitable was obliged, therefore, to pursue an alternative approach.

With a new Chairman - Vanni Treves - at the helm the Society embarked upon a strategy designed to recoup some value for its members. In an attempt to reduce the asset shortfall, which by 2001 was measured at £4.4 billion (Brummer, 2010), Treves announced a 16% cut in the value of with-profits policies and the application of greater penalties upon those withdrawing their funds from the Society (Slater, 2003; Roberts 2012). Furthermore the Equitable sought to negotiate a settlement with those holding

² Slater (2003) suggests that there were three bidders initially.

bonus and annuity guarantees³. Treves, however, recognised that these changes, while drastic, would be insufficient to save the Equitable. In an attempt to raise capital, therefore, the Society elected to sell a number of its assets and subsidiary businesses (Slater, 2003; Brummer, 2010). Despite these sales the Equitable continued to hold 200 000 individual pensions policies and a further 300 000 group policies. Indeed in August 2008 the Society was estimated to be worth £7 billion (Brummer, 2010). Treves was optimistic, therefore, that the Equitable, operating as a closed insurance book, might still attract a buyer. Within just a few months, however, the global financial crisis had destroyed this optimism and the valuation previously applied to many financial assets. There would be no buyer for the Equitable Life and no fresh injections of capital to counter policy-holder losses (Roberts, 2012: 9). Rundown and, perhaps more significantly, redress would now be the focus of the Chairman's attention.

In this paper we reflect upon the collapse of the Equitable Life as we explore the narrative processes that have shaped public understanding of the Society's final years. We will argue that the failure of the Equitable Life is a very significant event, which because it has been extensively documented provides a distinctive opportunity to those with an interest in advancing narrative research in the domain of accounting (for an overview see Beattie, 2014). Following Brown (2000; 2003; 2005; Brown and Jones, 2000) and Rutherford (2005; 2013) we will argue that the Penrose report must be understood as a narrative product whose authority depends upon conformity to the requirements of the literary genre that is inquiry reportage. We will, therefore, offer an

³ In February 2002 the High Court approved a compromise scheme between the Society and its two classes of policy-holders.

account of this literary genre and in so doing we will explore the narrative processes that underpin Penrose's knowledge claims. We will suggest that Penrose finds himself between 'Maxwellian' and 'Micawberish' renderings of events yet settles the matter in favour of a narrative account that is Maxwellian in its arrangement of literary resources. We do not, however, propose to pass simple judgment on Lord Penrose's resolution of the Equitable affair. Indeed, for reasons that will soon become apparent, we do not consider it appropriate to portray reports such as that produced by Lord Penrose as, either, factually correct or wilfully misleading. Yet we do maintain that it is important to consider a) the fashion in which inquiries establish their authority and b) the manner in which a desire to establish 'the facts obtaining' (Penrose, 2003: i) tends to diminish alternative modes of narrative understanding (see Schön, 1979; 1983; George, 2009; Collins 2012). Noting the narrative tensions that remain *within* Lord Penrose's (2004) report and those that persist *between* the accounts developed by Penrose on the one hand and those published by Slater (2003), by Wallis (2007) and by Abraham (2008), on the other, we will examine the narrative strategies – the silences, omissions and elisions – which shape Lord Penrose's resolution of the Equitable affair.

Accordingly our analysis proceeds as follows: section two begins with a brief account of the official reports produced in the aftermath of the *Hyman* case. Here we will attempt to establish a) the importance of these events and b) the central significance of Lord Penrose's report on the Equitable affair. We will then offer a similarly brief comparison of the character archetypes that, we suggest, structure the Penrose report. Thus section two concludes by contrasting the characteristics of Robert Maxwell and Wilkins

Micawber. Section three will offer an outline of Lord Penrose's report and will examine, in turn, academic accounts of inquiry reportage; the nature of academic narrative conventions and our preferred methodological approach. Section four builds upon these observations, and so, proceeds to offer an analysis and 're-view' (Collins and Rainwater, 2005) of the Penrose Report. In this 're-view' we will probe the narrative strategies that underpin Lord Penrose's Maxwellian resolution of the Equitable affair. This reanalysis, we will suggest, makes space for a Micawberish rendering of the Equitable's collapse. Our paper then concludes with a summary of our argument and with a brief attempt to account for narratological choices that frame the Penrose report.

2. The Equitable affair

The difficulties experienced by the Equitable Life involve matters of law, accountancy and actuarial science which remain beyond the knowledge-base of most lay-observers. Despite this the collapse of the Society has been exceptionally well-documented and has, furthermore, enjoyed broad publicity. This broad base of interest in the Equitable Life reflects an understanding that the failure of the Society touched the lives of many ordinary individuals (see Brummer, 2010; 2011; Roberts, 2012) and in so doing raised serious questions about a) the quality of financial regulation b) the accountability of regulators and c) the adequacy of compensation available to those who suffer losses due to regulatory failure.

No fewer than seven reports (four 'official' reviews commissioned by the UK government plus one initiated by the European Parliament, another established by the

Faculty and Institute of Actuaries and an ‘Alternative Penrose Report’ produced by Colin Slater (2003) on behalf of the Equitable Members’ Action Group) have examined the collapse and failure of the Equitable Life. The first of these documents was published in October 2001 and is generally known as the Baird Report (2001). The Baird Report – produced by the Financial Services Authority or FSA – considered the role of the regulators in the collapse of the Equitable. The second report on the Equitable was also published in 2001. This text, prepared by the Faculty and Institute of Actuaries, and commonly referred to as the Corley Report (2001), reviewed the conduct of those actuarial professionals who had a) designed the financial products sold by the Equitable and b) reported on their performance, both, to policy-holders and to regulators.

The third report on the collapse of the Equitable was commissioned on August 31st 2001 when Lord Penrose was invited by the UK government to convene a broader, more general, inquiry ‘into the circumstances leading to the current situation of the Equitable Life Assurance Society’ (Penrose, 2004: i). Lord Penrose’s report, which was not published until 2004, drew upon the works of Baird (2001) and Corley (2001). It noted limitations in the regulatory regime and in the Society’s governance structures but concluded that the Equitable had failed, largely, due to the actions of its executives and directors. This account of what has come to be known as ‘the Equitable affair’ was, however, soon supplemented by a fourth report prepared by the Equitable Members’ Action Group (EMAG) (Slater, 2003); a fifth produced by the European Parliament (Wallis, 2007); a sixth prepared by Abraham (2008) the Parliamentary Ombudsman and a seventh produced by Sir John Chadwick (2010).

The 'Alternative Penrose Report' prepared by Colin Slater (2003) on behalf of EMAG was actually circulated prior to the publication of its namesake. It was, however, plainly intended as a critical response to the official inquiry. Anticipating the publication of Lord Penrose's official report, Slater asserted that the failure of the Equitable could not be attributed solely to the activities of its executive. Thus Slater argued that the Society had failed, in large measure, due to ineffective regulation.

The Wallis (2007) report had a broader remit than that of its predecessors. It couched its analysis of the Equitable affair within a larger pan-European analysis of financial regulation, and so, offered a review of the Third Life Directive and its transposition and implementation among member states. In common with Slater (2003), however, Wallis's analysis suggested that Penrose's primary finding – that 'the Society was the author of its own misfortunes' – was 'at odds' with the broad thrust of the official inquiry report which, in truth, suggested that broader failures in governance had created a weak regulatory context (Wallis, 2007: 201).

In her report as Parliamentary Ombudsman, Abraham (2008) focused more narrowly upon the UK context while returning to a theme which she had developed in an earlier review of occupational schemes (Abraham, 2006). Reflecting upon the conduct of those in the Department of Trade and Industry (DTI) and the Government Actuaries Department (GAD) who, in the 1990s, had been responsible for the regulation of the Equitable Life, Abraham (2008) argued that these agencies had been guilty of maladministration over a sustained period. Consequently she advised that the government

should establish a scheme to compensate those policy-holders who had suffered loss as a consequence of the regulatory failures which she had identified. The government, however, did not accept all of the Ombudsman's findings (HM Treasury, 2009a) and a lengthy exchange ensued between the Public Accounts Select Committee (PASC), HM Treasury and the Ombudsman (see HM Treasury, 2009b; PASC, 2009a, b, c; Parliamentary Ombudsman, 2009). In 2010, however, the new coalition government announced that it would accept, in full, the Ombudsman's findings (Hansard, 2010 26 May columns 1WS-2WS). Sir John Chadwick (2010) was, therefore, invited to investigate the extent of the losses endured by Equitable's policy-holders and, perhaps more importantly, to calculate the value of the compensation payable to the injured parties.

In addition to the seven inquiries discussed above the Equitable affair has generated a further series of debates (Hansard, 2000) and investigations. These include reviews on: the governance of life mutuals (Myners, 2004); the oversight and regulation of the actuarial profession (Morris, 2005); and on accounting for with-profits business (Accounting Standards Board, 2004; 2005).

In our 're-view' of the Equitable affair we recognise, both, the broad context and the continuing legacy of the Equitable affair. Yet we focus our attention upon the Penrose report. We choose this focal point for three reasons. Firstly, as the passages above demonstrate, the Penrose report sits at the very centre of a web of inquiries which have been commissioned to explain and to account for the collapse of the Equitable Life. We

focus upon Lord Penrose's text, therefore, because no one can hope to understand the failure of the Society without recourse to this document. Secondly it is clear that Lord Penrose's report – despite its detractors - has precipitated key changes in the regulation of the insurance sector (see Gray and Hamilton, 2006; Dewing and Russell, 2008). Indeed Roberts (2012) suggests that these regulatory changes acted to protect the insurance industry from the problems that led to the collapse of the banking sector in 2008. Thus our second reason for focusing upon the Penrose report extends our first claim and is based upon the understanding that no one may offer a qualified opinion on the nature and structure of past, present or future regulatory regimes unless they are fully conversant with Lord Penrose's inquiry. Our third reason for focusing upon the Penrose report is, perhaps, less positive than the first two and is based upon a recognition that this text has become the primary work of reference for all those – pensioners, politicians and policy-makers alike – who have an interest in the regulation of Britain's financial services industry. This, we acknowledge, does sound like a wholly positive endorsement of Lord Penrose's work. Yet the truth is that few people have actually read the Penrose report. Many, however, will feel that they are familiar with this document because summaries of its key findings have been reproduced in popular publications (see for example *The Economist*, 11/03/2004; *The Telegraph* 09/03/2004; Brummer, 2010; 2011). These readings of the Penrose report generally accept that the Equitable Life failed because of the Maxwellian excesses of its Actuary and Chief Executive – Roy Ranson. Consequently public understanding of the Equitable affair tends to downplay the presence of narrative alternatives within Lord Penrose's text. In later sections we will attempt to surface the narrative tensions that persist between what we have termed

Maxwellian and Micawberish renderings of the Equitable affair. But to facilitate this venture we must first pause to examine the characteristics of Robert Maxwell and Wilkins Micawber.

2.1 Robert Maxwell

Robert Maxwell was born into an orthodox Jewish family in 1923 in (what is now) Ukraine. His life and career have been documented by his wife (Maxwell, 1994), by an official biographer (Haines, 1988) and by a number of unofficial biographies produced during his life (Bower, 1988) and after his death (Bower, 1991; 1992; 2008; Thompson and Delano, 1991).

Mention of the name Robert Maxwell tends to excite and polarise opinion. Most commentators, however, would tend to agree that he lived a very full life and endured experiences that few of us could imagine let alone survive. Maxwell was born Ján Ludvík Hyman Binyamin Hoch and was just sixteen years of age when World War II was declared. Most of his family members, including his six siblings, were captured by the nazis and died in Auschwitz. In a portent of his future life and career, however, Maxwell – as Bettelheim (1960:10) puts it - refused to ‘subscribe to a business-as-usual philosophy’, escaped to France and in 1940 joined the Czechoslovak army in exile. Following the defeat of France, Maxwell retreated with the British Expeditionary Force to England and was – in the aftermath of a protest against the leadership of the Czech military – transferred, first, to the Pioneer Corps and then to the North Staffordshire Regiment. In 1945 he was promoted to the rank of Captain and was awarded the Military

Cross. At the end of hostilities Maxwell was attached to the Foreign Office and spent two years in Berlin with the 'press section'. Building upon his war-time connections Maxwell soon became a publisher of scientific texts and, over time, built Pergamon Press into a major publishing house. In 1964 he was elected as Labour MP for Buckingham and in 1966 was re-elected to the House of Commons. Three years later Maxwell tried and failed to gain control of the *News of the World*. He was, furthermore, expelled from the Board of Pergamon amid complaints that he had knowingly misrepresented the profitability of the company during takeover talks. A report into this matter by the Department of Trade and Industry concluded that Maxwell could not be trusted to oversee a public company⁴. But it was not for nothing that he was dubbed 'the bouncing Czech' (Thompson and Delano, 1991)⁵ and his business empire – if not his reputation – soon recovered from this setback. In 1981 he acquired the British Printing Corporation and in 1984, became the owner of the Mirror Group of newspapers. During this period of his life Maxwell became a very well known public figure thanks, in part, to tireless self-promotion. Some of this publicity was positive – he was, for example, Chairman of Oxford United when it won promotion to the top flight of English football in 1985; he also claimed to have saved the commonwealth games from financial ruin when it was

⁴ The full documentation on this case may be found under the heading: 'Panel Statements for 1969' at www.thetakeoverpanel.org.uk

⁵ During his life-time and after his death Maxwell became a very well known public figure and acquired many epithets. Bower (1988; 1991:540), for example, notes that President Gorbachov employed the term 'Maxwell syndrome' to describe the conduct of those 'western businessmen' who had promised to assist the *glasnost* process but failed to deliver on this undertaking. Both Bower and Maxwell's widow Elisabeth (Maxwell, 1994: 520) also draw attention to the 'Max Factor'. This term – more commonly associated with a major cosmetics corporation – was it seems coined by market-makers to express their tendency to discount the stock price of any floated corporation that allowed Robert Maxwell to exercise managerial discretion. Noting the operation of this 'Max Factor', Bower ([1988] 1991) tells us that in the immediate aftermath of Robert Maxwell's death Mirror Group shares 'rose from 77.5p to 106p in the expectation that the family would have to sell its controlling interest and without Maxwell the business would make better profits' (549). In a mocking reference to his war-time record and rank, *Private Eye* routinely referred to Maxwell as 'Cap'n Bob'. However his authorised biographer, Joe Haines (1988: 16) suggests that it was the author and (irregular) columnist, Keith Waterhouse, who first employed this term of address.

hosted by the city of Edinburgh in 1986 (see Bower, 1991 for a dissenting view) – but much more was negative. Mindful of his reputation Maxwell became well known as a litigious figure (see Bower, 1991: pp 1-6; 427).

Robert Maxwell died suddenly in 1991. In the aftermath of his death it quickly became apparent that Maxwell's business was in crisis and that he had, without the consent of the Trustees, used the pension funds of the Mirror Group to shore up his empire (Brummer, 2010).

Nowadays most people would regard the suggestion that they conduct their business dealings or, indeed, their private lives (see Maxwell, 1994⁶) in a manner similar to that which is associated with Robert Maxwell as a very grave insult (see for example Fry, 1993: 10; Lawson, 1992: 412). Bower, whose unauthorised biographies have done much to shape public understanding of Maxwell (see Bower, 1988; 1991; 1992; 2008), portrays him as a bullying, litigious, autocrat who deliberately 'compartmentalised' (1991: 295) his wide-ranging business empire to ensure that he, and he alone, would understand the complex, internal, interactions that typified his management style. Thompson and Delano (1991: 168) echo this opinion. They argue that Maxwell had a 'talent for complication and concealment', which made Board-level scrutiny and broader accountability alien concepts in his business empire. These complicating, compartmentalising and concealing forms of conduct – now deemed 'Maxwellian' - Bower asserts, allowed Robert Maxwell to engage in any number of unethical and, frankly, unlawful business practices.

⁶ Elisabeth Maxwell suggests that Robert was unfaithful as a husband and a bully to his children.

We contend that Lord Penrose's resolution of the Equitable affair builds and depends upon a Maxwellian characterisation of Roy Ranson. Thus we suggest that Lord Penrose's account of the Equitable affair hinges upon our acceptance that the Society's Actuary and Chief Executive worked to compartmentalise knowledge of business strategy and organizational risk in order to conceal the problems which his managerial approach generated. Yet we argue that there is another means of plotting the failure of the Equitable Life that does not depend upon this Maxwellian characterisation. Indeed we will demonstrate that there is, latent within the Penrose report, an alternative rendering of Roy Ranson, which is at odds with the Maxwellian autocrat prominent in the Penrose Report. Thus we will suggest that Ranson might, usefully, be re-cast in the guise of Wilkins Micawber (Dickens, [1850]; 1992).

2.2 *Wilkins Micawber*

Wilkins Micawber appears in the novel now commonly referred to as *David Copperfield* ([1850]; 1992)⁷. The character of Wilkins Micawber is thought to have been modelled on Dickens's own father (see Chesterton, [1906] 1913), yet Micawber is, unlike Robert Maxwell, a fictional creation. The characters of Maxwell and Micawber are similar, however, insofar as they are both troubled by ruinous liquidity issues. But where Maxwell is mendacious, self-serving and avaricious Micawber is, simply, a self-centred and self-indulgent individual; a man who 'subscribes to a business-as-usual philosophy' (Bettelheim, 1960:10), and so, allows his domestic whims and personal fancies to override, both, his better judgment and his future prospects. Thus Micawber understands and

⁷ When first published the novel had a rather longer title: *The Personal History, Adventures, Experience and Observation of David Copperfield the Younger of Blunderstone Rookery (Which He Never Meant to Publish on Any Account)*.

regularly proclaims that a happy and contented life is given to those who ensure that their expenditure does not exceed their income. Yet he finds himself in a debtors' prison (see chapters 11 and 12) because he remains unwilling to interrupt his domestic routine in order to honour this financial maxim⁸. Consequently Micawber must live his life in the hope that 'something will turn up' to deliver him from his self-imposed anguish. Those who live their lives 'Micawberishly', therefore, might be said to view their future prospects in a manner that blinds them to the material facts of their present existence. Thus for a 'Micawberish' character any mis-match between income and liabilities tends to be viewed as temporary; a setback on the road to a better tomorrow that will be provided by the timely intervention of providence.

Pursuing the implications of a Micawberish world-view we will suggest that, despite Lord Penrose's Maxwellian resolution of the Equitable affair, the official inquiry report actually contains narrative resources sufficient to sustain an alternative characterisation of Roy Ranson. Probing the narrative choices and the narratological resources (Collins and Rainwater, 2005) that underpin Lord Penrose's text we will argue that Ranson might have been cast, not as a selfish empire-builder, but as an isolated and somewhat bewildered individual who, like Wilkins Micawber, continued with 'business-as-usual', and so, failed to maintain the financial principles that he, himself, had instituted to secure the long-term future of the Equitable Life. This alternative, Micawberish, rendering of the Equitable's

⁸ Like Robert Maxwell, Wilkins Micawber is a character who lives vividly in the public imagination. Consequently his name has acquired the characteristics of shorthand form of expression. Mention of 'Micawber's maxim' or the 'Micawber Principle', therefore, draws attention to a section of *David Copperfield* in which our hero states: 'Annual income twenty pounds, annual expenditure nineteen pounds, nineteen and six, result happiness. Annual income twenty pounds, annual expenditure twenty pounds nought and six, result misery' (Dickens, 1992:164)

Chief Executive, we contend is productive insofar as it demonstrates the extent to which Lord Penrose's (2004) *description* of the facts and events that constitute the Equitable affair remains dependent upon authorial strategies of characterisation and emplotment. For the moment however we must turn our attention to the construction and constitution of Lord Penrose's inquiry narrative.

3. Inquiry Reportage

In Britain and elsewhere, commissions of inquiry are often established to investigate 'disasters' (Vaughan, 1999), or other 'extreme events' (Buchanan, 2011) which lead to loss of life, precipitate financial harm or question the soundness of organizational practices and institutional processes (see for example *The 9/11 Commission Report, 2004; Executive Remuneration in Australia, Report No. 49, 2009*)⁹. These commissions of inquiry – in Britain at least – may be constituted in a variety of ways. They may for example be 'judge-led' with witnesses giving their evidence 'under oath'. Alternatively they may be chaired by another qualified individual (a retired, senior, civil servant for example), who in the absence of 'the oath' will be obliged to pursue an inquisitorial as opposed to an adversarial approach (see Penrose, 2004: i)¹⁰. Despite these constitutional differences the reports produced by Britain's public inquiries are alike insofar as they

⁹ The Inquiries Act 2005 establishes a framework for the operation of public inquiries in the UK, and so, provides a degree of codification that was hitherto absent. Under s1 (1) the act grants to Ministers the power to establish an inquiry where it appears that 'particular events have caused, or are capable of causing public concern, or there is public concern that particular events may have occurred'. Public inquiries constituted under this act may not rule on civil or criminal liability. That right is referred to the civil and criminal courts. However the legislation makes it clear that the inquiry team should not be inhibited in the discharge of its duties by the likelihood of liability being inferred from its work. Amongst other notable provisions the act gives the inquiry the power to compel the attendance of witnesses. Furthermore the act allows inquiry teams to decide whether witness testimony should be given under oath.

¹⁰ The research undertaken by Toft and Reynolds (2005) however suggests that few of those who are called before public inquiries accept this as a meaningful distinction. Most, it seems, find the processes – however these are formally constituted – to be adversarial in nature.

represent themselves as objective statements of truth; neutral arbitrations of fact.

Commenting upon these inquiries, Brown (2000) observes that academia has accepted these protestations of factual neutrality, and so, has tended to treat inquiry reports 'as more or less true accounts of the events they describe' (49). Yet he counters that these texts represent, not objective statements of fact, but artful constructs which make claims upon the truth. For Brown (2000), therefore, the official inquiry report is 'an artefact that has resulted from authorial strategies of selection and omission of material' (49).

Reflecting upon these authorial strategies he asserts that official inquiries do more than establish the causes of 'disasters'. Official inquiries, he argues, act to advance the legitimacy of social institutions and are, he adds, more likely to secure this outcome when they conform to the expectations of the literary genre that defines this form of writing.

Rutherford (2013: 2) offers a useful overview of the literary conventions that shape narrative understanding. He highlights four key principles associated with 'genre theory'. He begins by observing that a 'genre is a category of texts marked out by the conventions employed in their production' (1). Yet Rutherford warns us that we should not think about genre in fixed or static terms because what can be thought, said and written tends to vary, both, temporally and geographically. Thus Rutherford's first principle: genres are rooted socially and historically. Teasing out these roots Rutherford adds his second principle: genres are owned by a 'discourse community'. This community is, he tells us, made up of readers and writers and while it is stratified to some degree it is clear that genre conventions, and so, authorial actions are circumscribed by the expectations of the audience. Rutherford's third principle reflects an understanding that since ideas,

understandings and expectations may change over time genres must be regarded as having dynamic and emergent qualities. This leads to Rutherford's fourth principle which suggests that while texts clearly embody genre rules they also act to bend; to stretch; or to challenge such conventions.

In his accounts of inquiry reportage Brown invokes a similar approach to genre.

Discussing methodological options in this arena Forman and Rymer (1999) contrast 'traditional' and 'modern' approaches to genre analysis. The 'traditional' approach, they argue focuses narrowly upon lexical and syntactical characteristics and is, therefore, defined by reference to 'codified textual forms and characteristic habits of argument' (Forman and Rymer, 1999: 105). In contrast the modern approach to genre focuses more upon 'the social actions that writers accomplish through a type of text' (Forman and Rymer, 1999: 105). In keeping with this 'modern' account of genre, Brown (2003) argues that inquiry reports should be regarded as attempts to repair public faith in, both, organizational practice and civic accountability. Commenting upon the fashion in which these outcomes are sought and pursued, he observes that the authority of inquiry reports 'results from an interplay between text, author and reader' (Brown, 2003: 97) that is beyond the control of any one party. Recognising the extent to which authors remain dependent upon the continuing consent of their readers Brown argues that inquiry reports acquire the ability to direct public understanding of events when they are drawn up in a fashion that reflects the needs and expectations of the discourse community. Discussing Lord Cullen's (1990) report on the Piper Alpha disaster, for example, Brown (2003) suggests that this inquiry report attempts to secure control over, both, text and reader by:

- making ‘a number of authority claims that characterize this form of official discourse’ (100)
- producing a memorable, vicarious experience of events
- providing explanations for organizational failure that reflect the orientations of the intended discourse community.

On the first of these factors: Brown (2003) suggests that inquiry reports are typically prefaced by sections of text that outline the provenance of the findings. Thus the texts produced in response to ‘extreme events’ (Buchanan, 2011) routinely commence by providing information that details the commissioning authority; the terms of reference; the status and qualifications of the personnel involved and their duties and obligations, both, in practice and under law. As a part of this process, report authors will – as a matter of course – take steps to demonstrate the thoroughness of their research and the comprehensiveness of their findings. Accordingly written testimony may be tabulated and/ or measured in order to establish the weighty nature of the findings (see for example The Bullock Report, 1977).

On the second of the factors outlined above: Brown’s work (2000; 2003; 2005) suggests that inquiry narratives need more than a *curriculum vitae* and an address book to establish their truth claims. Thus Brown (2003) argues that inquiry reports need to provide readers with an engaging narrative if they are to be accepted as faithful accounts. Indeed he observes that inquiry reports draw upon ‘micro-situational details’ and ‘large amounts of

fine contextual detail' to construct accounts that are 'graphic', and so, 'memorable' (101).

Discussing the third factor noted above: Brown (2003) argues that inquiry reports tend to draw upon a standard plot-line. Thus inquiry reports, typically, suggest that the events precipitating the work of commissions – whether this be harm to children (Brown, 2000; Laming, 2003; 2009; Care Quality Commission, 2009); a banking collapse (Brown, 2005; Turner, 2011); or an industrial accident (Brown, 2003; Rail Safety and Standards Board, 2006; Rail Accident Investigation Branch, 2006) – were 'incubated' (see Toft and Reynolds, 2005) because the actors involved failed to recognise the manner in which their everyday routines and assumptions prevented them from appreciating that the events happening around them were symptomatic of organizational failings and/ or organized wrong-doing. In short inquiry narratives generally present the 'extreme event' (Buchanan, 2011) under review as a problem which might have been averted *if only* small clues had been noticed. This method of plotting when combined with a micro-situational account of everyday practice, Brown (2003: 100) tells us, promotes a narrative understanding which in resolution reflects and reinforces 'myths of control'. Thus Brown, in common with Rutherford (2013), asserts that inquiry reports reflect the orientations of their intended discourse community, and so, reproduce commonly held understandings of organizational life which project the understanding that 'failure' is exceptional and avoidable (Burrell, 1997).

Having examined the constitution of inquiry reports we will now examine the conventions that shape academic narratives. When we have considered the manner in which Brown constructs and accounts for his methodological preferences we will then move on to review the ways in which Penrose's texts secures its meaning and its effect. Thus section 4 takes its cue from Brown's (2003) analysis of the Piper Alpha disaster, and will examine a) Lord Penrose's claims to authority b) his construction of a micro-situational narrative and c) his preferred resolution of the Equitable affair before embarking upon d) a 're-view' of the Equitable affair.

Brown's (2000; 2003; 2005) analyses of the narrative conventions that shape inquiry reportage have been moulded by the need to conform to the requirements of the literary genre that is termed 'academic writing' (see Schön, 1979; Shotter, 2002). In keeping with these conventions Brown (2005) is obliged to describe and to justify the methods that licence his re-reading of, for example, The Board of Banking Supervision's report (1995) on the collapse of Barings Bank. Commenting upon his preferred analytical approach Brown tells us that he rejects the quantitative analysis of inquiry reportage in favour of a qualitative approach. This latter method of research, which Merkl-Davies and Brennan (2011) label 'critical', is preferable Brown tells us because it recognises that language needs to be understood *as it is used* and in relation to other terms and texts. Brown in common with Rutherford (2013), therefore, would tend to argue that quantitative approaches to textual analysis represent the pointless transformation of words into integers!

Acknowledging the manner in which this ‘critical’ appreciation of the nature of language impacts upon his own truth claims Brown tells us that his texts, unlike the inquiry reports he has reviewed, do not set out to show *what really happened* as Piper Alpha burned (Brown, 2003) or what *really caused* Barings Bank to fail (Brown, 2005). Instead Brown insists that his analyses of inquiry sensemaking should be read as attempts to show the authorial strategies and, indeed, the narrative sleights of hand that allow commissions of inquiry to claim authority, and other agencies to claim mastery, over the organized world.

Discussing the methodology that underpins these concerns Brown confides that his research combines rigor *and* idiosyncrasy. His research is, he tells us, rigorous insofar as it has been based upon the careful analysis of inquiry reports. Indeed Brown insists that his research into inquiry reporting has progressed methodically through stages that have allowed key elements of the text in question to be extracted, coded, compared and refined in line with the techniques and heuristics developed by Glaser and Strauss (1967) and by Culler (1982). In common with the report authors whose endeavours he reviews, therefore, Brown is obliged to demonstrate that his work has been thorough and his review comprehensive. Yet in refusing to provide the final word on the Allitt case (Brown, 2000) or the definitive account of the Piper Alpha disaster (Brown, 2003), Brown is at liberty to say that his work has been shaped by ‘the interests and prejudices of the researcher’ (Brown, 2003: 98). There are times, however, when Brown seems to find it difficult to juggle the wider truths and the alternative perspectives, which his own research suggests remain submerged within the textual practices of inquiry reportage. Indeed in his analysis of the Barings Bank collapse, Brown (2005) seems to hold a fairly

clear idea of *what really happened*. Furthermore he is of the opinion that the Bank of England's report on these events constitutes a straightforward attempt to avoid the painful truth of the matter at hand. Accounting for this assertion Brown claims that the report into the collapse of Barings bank was written by a group of individuals implicated in the bank's failure. Characterising this as an abuse of privilege Brown protests that there is a need to expose *what actually happened* within Barings because the official inquiry process has been subverted. For Brown (2005: 1597), therefore, the Barings Report constitutes 'a smokescreen, distracting readers, leading them down blind alleys to what are (arguably) peripheral considerations, rather than contextual details which shed light on the incompetence and wrong-doings of others'. This discontent with the Bank of England, however, creates tensions in Brown's approach insofar as his analysis of the Barings collapse seems to proffer, not a different, but a better and more accurate account of this financial scandal. And yet – despite this attempt to get the Barings story straight (see Buchanan, 2003) – Brown's over-arching desire to reveal the authorial strategies which constitute public understanding of extreme events continues to offer a useful, if delicate, framework for academic analysis.

Recognising the productive space that Brown's analysis of inquiry sensemaking provides *and* the distinctive challenges, which this form of academic writing poses we offer an analytical 're-view' (see Collins and Rainwater, 2005; Collins et al., 2009) of Lord Penrose's (2004) report on the Equitable Life. Our attempt to reconsider the processes and, indeed, the outcomes of the Penrose Report is, like those produced by Brown (2000; 2003; 2005), rigorous insofar as it has been based upon a careful and iterative analysis of

the Equitable Report that has been designed to identify Lord Penrose's (2004) generic, textual, claims to authority while exploring areas of narratological vulnerability within this text. To this latter end we examine the poetic choices; the assumptions, silences and omissions that underpin Lord Penrose's rendering of the Equitable affair.

4. The Penrose Report

Lord Penrose is a senior Scottish judge. Well respected among his contemporaries he is, however, unusual among his peers insofar as his legal qualifications and experience are complemented by his membership of the Institute of Chartered Accountants of Scotland. Plainly Lord Penrose man was well qualified to report on the events which had brought the Equitable Life 'with assets over £30 billion, to a position where it had to close to new business, put itself up for sale, apply significant market value adjustments, and reduce the apparent value of its in-force policies by just under £5 billion' (Penrose, 2004: viii).

The public inquiry into the collapse of the Equitable Life was launched on August 31st 2001 by the Economic Secretary to the Treasury, Ruth Kelly (MP). Commenting upon the brief outlined by the Minister, Lord Penrose observes that his 'terms of reference were broad' (Penrose, 2004: i) yet circumscribed by key constraints. Reflecting upon these constraints he begins by stating that his inquiry had no formal powers. He was, he tells us, unable to compel witnesses to attend and, furthermore, often found it difficult to secure the full co-operation of those who did attend. In addition he reminds his readers that it was not his role to judge liability or to adjudicate on the discharge of formal responsibilities. Such matters, he tells us, are properly reserved to the courts and to those

bodies empowered to consider professional conduct. Yet while Lord Penrose has no desire to adjudicate on the claims of policy-holders he is supportive of their desire to know why the Society failed. To fulfil this aim, however, he must first establish his authority as the Equitable's chronicler. Recognising this section 4.1 builds upon Brown's (2003) analysis of the inquiry report genre, and so, considers Lord Penrose's attempts to establish his authority as an objective *rapporteur*. In section 4.2, however, we discuss the limits of Penrose's descriptive ambition. Thus section 4.2 will suggest that Lord Penrose is obliged to go beyond mere description. Indeed we will argue that Penrose constructs a vicarious, and so, memorable account of events as he attempts to structure the reader's understanding of the Equitable affair. Tracing the contours of this narrative section 4.3 will probe Lord Penrose's attempts to provide an explanation for the Equitable's collapse that is acceptable within his discourse community. Noting key omissions and silences in this explanation section 4.4 will offer an alternative rendering of the Equitable affair which 're-views' the Society's collapse in Micawberish terms.

4.1 *Establishing Authority and Objectivity*

Lord Penrose's (2004) report on the Equitable Life unfolds over twenty chapters (plus a foreword, glossary and technical appendices) and runs to some 829 pages. In keeping with standard practice the foreword and each of the chapters is sub-divided into numbered paragraphs. Chapters 1 and 2 deal with annuity guarantees and the company's legal travails. Chapters 3, 4 and 5 consider the Equitable's approach to bonus allocation while chapters 6, 7 and 8 address the manner in which this allocation impacted upon the Society's financial position. Chapters 9, 10, 11 and 12 deal with matters in relation to

governance and audit, while chapters 13 and 14 reflect upon ‘policy-holders’ reasonable expectations’ or PRE. The four chapters following these consider the regulation of the Equitable Life as entrusted to the Department of Trade and Industry (DTI) and the Personal Investment Authority (PIA); then to the Treasury and ultimately to the Financial Services Authority (FSA). Finally the main body of the report concludes with two chapters – 19 and 20 – which provide, both, an overview of the inquiry and an account of the key lessons, which Lord Penrose suggests we should learn from these events.

Given the constraints that shaped the conduct of the inquiry team it is, perhaps, not surprising that Lord Penrose chooses not to trade in the most obvious proxies for authority. Thus he declines to list the documentation surveyed (although this is plainly extensive). Furthermore we should note that he offers no listing of those who co-operated fully in the inquiry nor does he name, directly, those who refused to participate in the proceedings. Given these choices and limitations Penrose is obliged to establish his objectivity and his competence by more oblique means. For reasons of economy (and doubtless idiosyncrasy) we draw attention to four narrative movements which, as we see it, act to establish the authority of the Equitable Inquiry.

Penrose’s initial attempt to establish the objectivity of his text is time-honoured. It is simplicity itself: It is a footnote¹¹. In the second paragraph of his report – and a mere 12 lines into the foreword that prefaces this text – Lord Penrose confronts his reader with an annotation that usurps the Equitable’s claim to be the oldest mutual insurance society.

The meaning and effect of this footnote, however, reaches beyond that which is

¹¹ You will note that we, too, have employed this device (see footnote 1).

immediately obvious. Indeed this annotation is, despite its placement, anything but marginal in its effect. Thus we argue that this footnote represents a crucial component of Lord Penrose's report insofar as it acts – at the very outset - to establish the author as a serious and scholarly commentator on the insurance industry; the very dividing line between the facts and the fictions which circulate when 'extreme events' are subjected to scrutiny.

Lord Penrose's second move in his attempt to establish objectivity is built upon a willingness to discuss the nature and the limitations of his approach, while the third movement deals with his deferral to the courts of law and those bodies concerned with professional conduct. In his second move, therefore, Lord Penrose tells us that the Equitable Inquiry deals, narrowly, in facts and events. Its task is, he tells us, *merely* to outline the circumstances pertaining in autumn 2001. In his third move Lord Penrose warns that those who would know of liability must be patient and must defer to the courts. This deferral, however, has an importance beyond the procedural because in voicing the claim that there exists a method, which can reveal culpability, Lord Penrose is able to justify his own more modest claim to be able to describe, fluidly and objectively, the events that shaped the history of the Equitable Life and the crucial final years that now define it as a financial institution.

Penrose's fourth narrative movement offers a small concession. He acknowledges that debate may persist as to the veracity of his reading of the Equitable affair. Reflecting upon his role as arbiter of fact, therefore, Lord Penrose is keen to point out that he is no

arbitrary judge of conduct. Indeed he draws our attention to the processes of ‘maxwellisation’¹² – always rendered without a capital – which have afforded those involved in the inquiry with an opportunity to respond to draft segments of the report that might be construed as voicing criticism.

Taken together these four narrative movements licence Lord Penrose’s attempts to establish his text as a competent commentary; a fair and factual description of events. Yet a railway timetable could be discussed in much the same way! To raise his text above the level of the railway schedule, therefore, Lord Penrose is obliged to construct a narrative that places the intended reader within the text and at the core of the key events that are germane to his inquiry process.

4.2 *Memorability and the Limits of Description*

As he pursues the events leading up to the collapse of the Equitable Life Lord Penrose draws upon Board Minutes, written correspondence and first-hand testimony. Chapter 9 of the Penrose Report, for example, deals with corporate governance. It draws on Board

¹² The term ‘maxwellisation’ seems to have entered the vocabulary of financial regulation in the early 1990s when it was used in connection with the investigation of the collapse of Robert Maxwell’s *Mirror Group*. In this context maxwellisation refers to the processes whereby those who participate in and are named by inquiries are given the right to make representations to the commission prior to the publication of the final report. Before the 1990s those subject to maxwellisation would have been said to have been issued with ‘Salmon Letters’ in accordance with the recommendations of Lord Justice Salmon’s 1966 Royal Commission on Tribunals of Inquiry. The translation of ‘Salmon Letters’ into ‘maxwellisation’ may be a reflection of the controversy that arose in connection with the publication of the DTI’s preliminary report on the *Leasco Data Processing Company’s* takeover of Robert Maxwell’s *Pergamon* publishing house. Thompson and Delano (1991) among others (see Bower, 1988; 1991; 2008; Maxwell, 1994 for contrasting accounts) observe that Maxwell sought a judicial review of the DTI inquiry and complained that his right to ‘natural justice’ had been breached by those conducting the process. Thompson and Delano (1991) comment, however, that, despite very strenuous efforts, Maxwell failed to establish that his right to natural justice had, in fact, been breached. Yet they add ‘that the Department of Trade modified the procedures following the Pergamon case to ensure that anyone criticised was given an opportunity of rebuttal before the findings were published’ (180).

minutes; on the minutes of the company's audit committee; and on the record of meetings held between the DTI and the GAD on no fewer than 23 occasions. These minutes, we should note, draw the reader's attention to an exchange between the regulators and the Institute of Actuaries which signals the pivotal position occupied by the Appointed Actuary (Penrose, 2004: 294).

Having established the central importance of the Appointed Actuary, Penrose spends some time discussing the controversy surrounding Ranson's dual role as Chief Executive and Appointed Actuary. This discussion reviews a lengthy correspondence that took place between the society; the Government Actuaries Department (GAD); the DTI and the Secretary of State during the spring and summer of 1991. It also details a telephone conversation between Ranson and the DTI and it recounts a discussion that occurred at an 'Institute of Actuaries function' (554) in early June. These interactions are documented in a key segment of text which we reproduce below. These paragraphs, as we shall see, are significant because they afford Penrose an opportunity to produce, for his readers, a memorable and dramatic account of the political complexities of financial regulation:

'35. On 28 March 1991 the Secretary to the Society, Roger Bowley, intimated that Sherlock was to retire from office as chief executive on 30 June and that Ranson, appointed actuary since 1982, was to take his place. GAD was consulted. The Government Actuary, Christopher Daykin, advised on 17 April 1991 that he wished to discourage Ranson from holding positions, other than on a very temporary basis, and would speak to Ranson if there were difficulties...

36. Ranson telephoned DTI on 30 April. He said that the Society's 'in-house' actuaries needed a further 12 months or so of senior management experience before assuming the role of appointed actuary. It was preferred that he should remain the appointed actuary for 12-18 months until an in-house replacement was appointed. The DTI replied to the Society on 16 May with the formal confirmation that:

“The Secretary of State has no objection to the proposed appointment subject to the understanding that Mr Ranson will only retain the Appointed Actuary role for a further 12 to 18 months as indicated in your letter.”

37. This letter provoked a response from the Society on 31 May protesting that a condition appeared to have been imposed on Ranson's appointment as chief executive. It was argued that if Ranson was 'fit and proper' to be appointed chief executive, that assessment would not be altered if for any unforeseen reason he could not cease to be appointed actuary within the time specified. This was presented as a point of principle for the Society.

38. Pickford became involved in the internal discussions that followed. He had spoken to Ranson at an Institute of Actuaries function on 6 June 1991, and wanted the situation defused. He “took Ranson's point” that a point of principle was involved. A point of principle was indeed involved. In a paper presented to the Institute of Actuaries on 28 November 1988 the then Government Actuary, Sir Edward Johnston, had discussed the undesirability of combining the positions of chief executive and appointed actuary in the light of the actuary's whistle-blowing

duties. He recognised that there were points that could be taken against his views, but felt that the arguments against the combination were strong.

39. However, Pickford prevailed, and the condition was removed by DTI on 17 June 1991....the DTI had lost the opportunity to impose effective discipline on the Society in this matter, and never thereafter had the authority required to bring about a change' (554-555).

Reviewing Britain's 'pensions crisis', Brummer (2010; 2011) has complained that Lord Penrose failed to get to the heart of the Equitable affair. Penrose, Brummer asserts, became bogged down in the intricacies of bonus calculations and reserve ratios and, in so doing, lost sight of the key concerns that caused his inquiry to be commissioned. There may be some truth in Brummer's assertion. After all the inquiry report was published much later than either its author or Parliament had intended (Penrose, 2004: i). But we should not overlook the fact that – as the extract above demonstrates - Lord Penrose successfully draws upon micro-situational details to sketch the *terra incognita* of the insurance business in a very memorable fashion. Yet Penrose does not just place us in the middle of these dramatic events. In seeking to produce an account of the Equitable's failure that is acceptable to its discourse community, Lord Penrose is, as we shall, see obliged to construct a standard plot-line that reflects and projects deeply-rooted and commonly held assumptions about organizational failure.

4.3 *Expectations of the discourse community and the explanation of failure*

At the outset of his report Lord Penrose makes it clear that the *Hyman* case which introduced our paper did not, in fact, cause the Equitable to fail. Indeed Penrose makes it plain that the 5% shift in liabilities consequent upon the loss of the *Hyman* case should not have been sufficient to bring down a well-managed financial institution. Yet in seeking to account for the collapse of the Society Lord Penrose fails to produce the neutral and purely descriptive account of the Equitable Life that is promised in his prefacing remarks. In fairness, however, we should note that Penrose was never likely to produce the unadorned factual history he promised because, as Brown (2000; 2003) demonstrates, events acquire meaning and significance only when arranged causally and in the context of an interplay between character and plot; reader and author. As a lawyer and advocate Lord Penrose surely understands this interplay clearly. Consequently his report on the Equitable Life offers a dramatic account of events refracted through the lenses of characterisation and plot. We should note, however, that in constructing this narrative Lord Penrose remains – outwardly at least - measured and dispassionate in his approach. As he reflects upon the history of the Society, for example, he is keen to acknowledge the positive ways in which the Equitable Life has influenced the mutual insurance business. Thus Penrose reminds us that the Society successfully pioneered new products and new methods of calculation which placed it at the very leading edge of financial services in Britain (see also Roberts, 2012). Maurice Ogborn who was, until 1972, the company's Chief Actuary is one of a small number of individuals highlighted as playing leading roles in the Society's strategic management. Yet as he discusses Ogborn's career, Penrose seems keen to tell us something about this man's character.

Lord Penrose makes frequent mention of professional characteristics. Perhaps unsurprisingly given his heritage and training, he seems to place a high valuation on diligence and competence. Yet Lord Penrose seldom makes mention of character *per se*. Indeed only two actors have their characters scrutinised. They are Maurice Ogborn and Roy Ranson. Ogborn is, Penrose (2004) tells us, ‘an actuary in the historic mould, highly regarded and innovative’ (684). Sampson (1966), however, offers an interesting comment on the mould that turned out actuaries in Ogborn’s time. This comment, as we shall see suggests that, on its own, Penrose’s sketch is just too terse to act as a useful testament to Ogborn’s mettle:

‘It is an odd profession, both highly commercial and highly academic, and the Institute of Actuaries are “at the same time a learned society and a professional organisation”...they are very highly paid...But in spite of this long-established affluence, these powerful decision-makers emerge from a training which is narrow and bleak; most of it is done by correspondence, with a few lectures and classes, and there is a large proportion of failures. Life insurance draws its meritocracy from a self-made, specialised world’ (459-460).

When we place Lord Penrose’s sketch of Ogborn in its broader context, however, it becomes clear that this pen portrait is not so much ambivalent as incomplete in the absence of a useful comparator. This comparator appears on page 703 when (in an often quoted passage) Ranson's conduct and crisis are laid bare:

‘At interview I found Ranson to be highly intelligent and articulate, but manipulative. I was not persuaded that his memory was as inconsistent as he

asserted, nor that he had put the Society's affairs so completely behind him at retirement that he could not comment on some of the matters that were put to him...I cannot form any concluded view on the reliability of his evidence relating to his relationship with the Board [members of the Board had suggested that Ranson 'dominated' in this arena]. But I note his own assessment of his approach, in discussion with regulators as "autocratic". That coincides with other information available to me' (703).

This is not to suggest, of course, that Lord Penrose achieves nothing in the 20 pages that constitute the world of difference between Ogborn and Ranson. On the contrary Penrose utilises this pause in the process of character formation to establish 1972 as a watershed year for the Society and, in so doing, lays the groundwork that will be required to substantiate his preferred Maxwellian resolution of the Equitable affair. Thus the foundations of Penrose's Maxwellian narrative are, we suggest, laid through a discussion of the 'three-call' system of financial management that Ranson, in concert with Barry Sherlock, instituted when Ogborn retired in 1972. This system, we should note, meets with Penrose's (2004) approval. It was, he avers, 'rational' and 'inherently prudent' (688) because it appropriated unrealised capital appreciation in a fashion which provided for:

- 'i. Support of declared bonus from capital appreciation up to the benchmark rate of the redemption yield to maturity on gilts
- ii. Reserves sufficient to support future reversionary bonus over the period when equity yields were expected to remain below the gilt yield reference; and

iii. Distribution of any surplus capital appreciation to supplement bonus as the Board thought appropriate, and in particular by terminal bonus' (688).

Spelling out the operational consequences of this three-call system, Penrose (2004) tells us that 'the volatile, third element of the three-call system would be managed within 'a context in which the second call provided ample reserves for future reversionary bonus, and more generally, a cushion against later adverse experience' (688). Yet Lord Penrose observes that this prudent and rational approach to bonus allocation was undone by Ranson's desire to maintain the Equitable's position in the market. Outlining the competitive context that shaped Ranson's actions, Penrose asserts that the 'generation of surplus was critical to the Society's marketing position and success' (689) during the 1970s and 1980s. Despite this he suggests that Ranson actually drained Equitable's resources between 1973 and 1977. Thus Penrose observes that between 1977 and 1982 the 'three-call system was elided by an *ad hoc* bonus policy' (688) as the Society struggled to recover its free asset position. Penrose concludes, therefore, that as the 1970s progressed the Society's strategic orientation became increasingly driven by the pursuit of growth such that the 'second call was first reduced and then abandoned' (689). Consequently the Equitable had by 1987 'over-allocated bonus so that its aggregate policy values on a realistic basis exceeded available assets' (689). And perhaps more importantly Penrose argues that neither the Board nor the regulators were aware of this crucial fact because Ranson had abused his privileged position as Chief Executive and Actuary to construct a picture of the Equitable Life that was, by any reasonable calculation, at odds with reality. In short Lord Penrose's resolution of the Equitable affair

turns upon our acceptance of a Maxwellian vision of the Society's former Chief Executive. In proper Maxwellian fashion, therefore, Ranson is portrayed as competent yet compartmentalising; professionally proficient yet pathological. Thus Penrose asserts that Ranson acted to evade the governance structures placed upon executive decision-making. He managed over the heads of his Supervisory Board and around the obstacles set by the regulatory authorities. Furthermore Ranson's professional conduct is contrary to the interests of his policy-holders because first as Actuary and then as combined Actuary and Chief Executive he :

- Misrepresented the 'overall financial position of the society' (Penrose, 2004: 703) when preparing information for the Board.
- Exploited deficiencies in reporting in order to persuade the Board to implement an approach to bonus allocation (and to the management of claims more generally) which eroded the asset position of the society (Penrose, 2004: 703).
- Adopted an actuarial approach which he knew to be 'inappropriate' in the context of the Society's 'recurrent single premium' (704) business.
- Contravened the Society's articles by seeking, acquiring and exercising discretionary power *vis-à-vis* 'marketing adjustments' (705) to policy values.
- Produced regulatory returns which, while they failed to excite either comment or rebuke on the part of the regulatory authorities, were 'opaque and uncommunicative' (705) and in clear breach of the guidance then in force.
- Adopted a policy for managing the liabilities associated with guaranteed annuities – the crux of the *Hyman* case – by reducing terminal bonus payments in 1983 but failed to communicate this fact to either the Board or the regulators for a

decade. Furthermore Lord Penrose (2004: 705) charges that this key policy change was kept from policy-holders until 1995!

Lord Penrose may have set out to describe the events leading up to, and the circumstances obtaining, as of autumn 2001 but his text makes it plain that actors, actions and characters matter. Arranging the available narrative resources to establish his authority over the relevant events, therefore, Penrose constructs a micro-situational narrative that draws upon the tools of characterisation and emplotment to present a resolution of the Equitable affair that is acceptable within his discourse community. Newspaper reports (see *The Telegraph*, 09/03/2003; 16/04/2004; *The Economist*, 11/03/2004), popular renderings of the pensions crisis (Brummer, 2010; 2011) and more scholarly accounts of the Equitable affair (Roberts, 2012) have generally adopted this Maxwellian account of events. Yet, in adopting this narrative, commentators have tended to overlook the omissions and elisions required to sustain it. Thus we suggest that there is a problem with Penrose's preferred explanation of the Equitable's collapse insofar as it fails to demonstrate the existence of any inducements – fiscal or otherwise – that might explain Ranson's conduct. This is not a trivial matter. The motivations of others at the very heart of corporate scandals have been well documented. History records, for example, that the 'corporate raider', Bobby Vesco (see Eisenhamer et al, 1976; *The Guardian*, 21/05/2008; *The Economist* 29/05/2008) swindled for money, sex and fame. Robert Maxwell's motivations were, it seems, very much the same (see Bower, 1991; Thompson and Delano, 1991; Maxwell, 1994). Yet Lord Penrose does not consider Ranson's motives. Indeed in the official inquiry there is no suggestion that the Chief

Executive benefited financially from the bonus policy. Nor is there any suggestion that Ranson acquired other non-pecuniary benefits from his strategic choices. Overall, therefore, it seems that Lord Penrose would have us believe that the Equitable's Chief Executive secretly devised and implemented an organizational policy that gambled the future of the Society *and* risked his own wealth, pension, social standing and professional reputation for nothing much in particular!

In the light of this omission we offer another means of plotting the demise of the Equitable Life that builds upon a Micawberish rendering of Roy Ranson. This alternative rendering of events does not claim to represent *what actually happened* to the Equitable Life but it does claim to offer *an* alternative realisation of the Equitable affair, which in recognising the constructed quality of Penrose's truth claims, fills the silences and extends the contractions which are central to the official account.

4.4 *Re-viewing the collapse of the Equitable*

Writing in *The Herald* (09/03/2004), Alf Young offers a review of the Penrose report which, despite its journalistic origins, offers insights on the character and conduct of Roy Ranson that are important to our analytical 're-view'. Reflecting upon the conduct of Roy Ranson, Young commences by repeating the Maxwellian indictment that comes down to us from Lord Penrose. Ranson is, he tells us, 'highly intelligent and articulate, but manipulative'. Yet as Young continues his review of the Penrose Report he appears to shift his ground such that a more Micawberish rendering of Ranson hoves into view.

Young notes that the actuarial profession had witnessed but failed, properly, to respond to three key movements in markets and demography, namely: on-going improvements in life expectancy; the persistence of low inflation and ‘the most savage stock market correction in living memory’. Building upon this observation he adds that ‘Roy Ranson emerges from the Penrose report as one actuary who just could not see what was heading his way, a combination of trends and circumstances that would smash his expectations...to smithereens’. Departing from Lord Penrose’s Maxwellian, rendering of Roy Ranson, therefore, Young seems to invite us to view the Equitable’s Chief Executive as an unfortunate individual; a man out of his time and out of his depth. And Alf Young is not alone in suggesting this representation of Ranson. A Micawberish rendering of the Equitable’s Actuary and Chief Executive is, as we shall see, latent within the official inquiry and, what is more, remained a narrative possibility until the concluding commentary resolved the affair in favour of a Maxwellian narrative.

That Ranson's bonus policy was prejudicial to the long-term interests of the Society and its members is not now in doubt. What is at issue is the question of motive and culpability. Should Ranson’s conduct be constructed in Maxwellian or Micawberish terms? Do his actions reflect a base cupidity or a more basic failure of capacity?

Penrose (2004), of course, prefers the Maxwellian narrative: Commenting upon the Society’s approach to bonus allocation he observes that despite the ‘fall’ (688) in equity markets in 1973 and the ‘collapse’ (688) in equity market valuation that ‘continued into 1974’ (688) Ranson continued to declare interim bonus figures that were more in keeping

with a bull market. Yet Penrose adds that from 1977 the Equitable worked hard to recover its 'free assets position'. This re-building strategy we should note was highly effective. 'By 1982, when assets had to be disclosed on the balance sheet at market value for the first time, the Society's accumulated reserves, representing capital appreciation, had recovered and were at a high level' (688-9). It is this run-down and rapid recovery of the free assets position we suggest, which provides both a meaningful context for Ranson's approach to bonus allocation throughout the 1980s and 1990s and a useful guide to his motive. Thus we propose that Ranson's bonus policy needs to be recognised as being thoroughly Micawberish in approach insofar as it was predicated on the belief that something would 'turn up' to reverse the developing asset-shortfall. We might add, too, that in the context of Ranson's previous experience this expectation seems not unreasonable: The free assets position of the Society had, after all, been run-down and re-built within a decade. Overall, therefore, it seems sensible to suggest that Roy Ranson continued with 'business-as-usual' because he regarded the mis-match between bonus allocation and capital appreciation that re-surfaced from the mid-1980s as a short-term issue which would be eroded by a rise in inflation and/ or an improvement in stock prices. It is also worth observing that, at this crucial stage, there was no one at hand to question Ranson's steady-as-she-goes approach. Indeed Penrose (2004) himself notes that the DTI concurred with Ranson's judgement that, among the staff retained by the Society, he and he alone was qualified to make decisions about the Company's financial future. Furthermore Lord Penrose makes it plain that the Board was in no position to challenge Ranson's sensemaking: 'so far as the Board was concerned, control over policy drafting and development was delegated to the actuary with occasional reference to the

president' (Penrose, 2004:697). Thus we would do well to note that not one 'of the non-executive members of the Board had relevant skills or experience of actuarial principles or methodologies' (697). They were variously:

- i. Ill-equipped to manage a life office by training or experience;
- ii. Totally dependent on actuarial advice;
- iii. Ill prepared to take the necessary decisions...because of the fractured approach to instructing them;
- iv. Incompetent to assess the advice objectively and challenge the actuaries even if they had questions about the material supplied' (Penrose, 2004: 697-8).

Finally we should acknowledge that the regulatory authorities (at least until the formation of the FSA) fully indulged Ranson's decision-making and policy formulation. Indeed the regulators seem to have assumed Ranson's sensemaking as their own insofar as they considered the company to be 'too venerable to be of real concern' (Penrose, 2004: 551). Discussing this insouciance and the problems which this approach incubated, Penrose (2004: 550) notes that, at crucial points, the regulatory authorities *might* have developed greater misgivings about the performance and potential of the Society. Yet he observes that such endeavours were stymied, not by Ranson's Maxwellian excess, but by an institutional focus upon solvency, which seems to have prevented the regulators from recognising the Society's alteration of its bonus policy; by organizational failures which barred the DTI and the GAD from pooling knowledge and expertise; and by changes in staffing within each sub-division of the regulatory authority, which prevented the

concerns articulated by key personnel from becoming become part of the regulator's sensemaking.

Taken as a whole, therefore, our 're-view' of the report of the Equitable Life Inquiry undermines Lord Penrose's *description* of the facts obtaining as of August 31st 2001. Challenging the descriptive claims of the official inquiry report we have argued that Lord Penrose's text outlines a changing situation which, as it becomes a predicament, calls forth action and reflection from the key protagonists implicated in the events. Thus we argue that Penrose's 'report' is, in truth, a story inasmuch as it offers a creative rendering of events refracted through the prisms of character and plot (see Booker, 2004). Yet like all stories this drama remains fragile and prone to revision (Collins and Rainwater, 2005; Collins, 2007). Reviewing the narrative devices – the assumptions, omissions and elisions - that shape this tale, we have sought to make space for an alternative rendering of the Equitable affair. Taking issue with the Maxwellian characterisation of Roy Ranson, preferred by Penrose, we have suggested that a Micawberish account of Ranson's conduct and capabilities provides a qualitatively different, but nonetheless plausible, rendering of the Equitable affair insofar as it addresses the issue of motive that our analysis suggests is under-developed in Penrose's text. Thus our 're-view' of the narratological resources, which underpin Lord Penrose's preferred resolution of events acts to surface the narrative tensions present in the official inquiry and in so doing confronts the possibility that the Equitable collapsed and failed, not because Ranson chose to operate in a Maxwellian fashion, but because he - together with a host of actors and agencies - acted

Micawberishly, and so, failed to imagine, or failed to take seriously, the existence of an altered fiscal present and the spectre of a quite different financial future.

5. Concluding Comments

This paper has offered critical reflections on the collapse and failure of the Equitable Life. The Equitable affair, we have argued, represents not just a key moment in accounting history but a significant movement in financial regulation that has had, and continues to have, important ramifications. Building upon the works of Brown (2000; 2003; 2005; Brown and Jones, 2000) we have examined the narrative tools and processes that shape Lord Penrose's (2004) account of the collapse of the Equitable Life. We have suggested that Lord Penrose's text sits at the very centre of the web of inquiries convened to consider the collapse of the Equitable and has, consequently, shaped public understanding of these events.

Reflecting upon the contents of this report, however, we argue that the reality of the Equitable's failure emerges, not through the simple retrieval of facts, but through the distillation of narratological choices that are enfolded between author, text and reader in a fashion that conforms to established literary conventions. Reviewing the operation of the narrative devices that sustain Penrose's inquiry we have argued that the Equitable Report offers, not a simple, factual, description of events but a creative rendering of the machinations of the pensions industry, which asserts that the Equitable failed due to the Maxwellian excesses of its Actuary and Chief Executive, Roy Ranson. Yet we have also suggested that this official resolution of the Equitable affair, in common with all other

poetic tales, is constructed around key choices and assumptions - manifest as silences and elisions in the text - which must be indulged if the narrative is to reach the conclusion preferred by Lord Penrose. Probing the omissions and contractions that sustain Penrose's narrative we have signalled another means of rendering the Society's collapse. Observing the absence of a satisfactory motive to explain Ranson's business dealings we have argued that this individual's conduct and track-record might be understood in Micawberish terms as a failure of capacity. Questioning the narrative processes which have allowed Lord Penrose to portray Ranson as a knowing, manipulative and self-serving individual, therefore, we have suggested that this man's conduct represents not so much a departure from accepted practice as the continuation of established patterns of sensemaking which were, variously, indulged or tacitly endorsed by others who had specific responsibilities for corporate governance in this industry. In constructing this alternative reading of the Equitable affair, however, we do not claim to provide the final, truthful or definitive account of the collapse of the Equitable Life. Instead our intention has been, merely, to demonstrate a) the narrative choices that shape Lord Penrose's text and b) the subsistence of credible narrative alternatives within and beyond this report. And yet one final question remains: why, when Lord Penrose (2004) was clearly aware of broader failings in governance and regulation (see Wallis, 2007; Abraham, 2008), did he choose to resolve the Equitable affair in favour of a Maxwellian rendering of events? There are, of course, many ways of addressing this issue. Some would, doubtless, suggest that this issue may be addressed using tropes built around concepts such as conspiracy and competency (see McKnight, 2005; Cook, 2007). We choose, however, to address this question through a consideration of the narrative practices that shape inquiry reportage.

Operating with a ‘modern’ account of genre, Brown (2000; 2003) and Rutherford (2005; 2013) remind us that literary conventions do things, both, to readers and to authors. Genres, these contributors tell us, constitute a web of expectations and social obligations. In the context of inquiry reportage, Brown argues that these tacit undertakings reflect and project prevailing assumptions in relation to control, accountability and managerial competence. Given this we suggest that Penrose’s (2004) preference for a Maxwellian rendering of the Equitable affair and his failure, fully, to realise the explanatory potential of the Micawberish alternative, latent within his text, is an outcome that has its roots in the conventions of inquiry reportage. Thus we suggest that Lord Penrose preferred a Maxwellian rendering of the Equitable affair because this arrangement of the available narratological resources preserves the integrity of the pensions industry (and sustains the ideal of a secure and comfortable retirement) insofar as it provides its discourse community (politicians, policy-holders, fund managers and regulators) with an acceptably emollient narrative, which asserts that the Equitable’s collapse and failure is explicable in terms that are pathologic and individualistic rather than systemic. Given the looming ‘pensions crisis’ future research may well wish to reflect upon the extent to which key members of this discourse community (such as policy-holders) will continue to indulge this narrative construction.

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