

# COMMENTS ON THE EIGHTH REPORT OF SESSION 2009-10 OF THE UK PARLIAMENT'S HOUSE OF COMMONS SELECT COMMITTEE ON SCIENCE AND TECHNOLOGY

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SPPI ORIGINAL PAPER



April 9, 2010

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# COMMENTS ON THE EIGHTH REPORT OF SESSION 2009-10 OF THE UK PARLIAMENT'S HOUSE OF COMMONS SELECT COMMITTEE ON SCIENCE AND TECHNOLOGY

by Richard S Courtney | April 6, 2010

## SYNOPSIS

The Climategate affair originated in November 2009 when files were hacked or leaked from the Climate Research Unit (CRU) of the University of East Anglia (UEA) and were published on the internet at various places. These files – especially the emails they contained – provide *prima facie* evidence of scientific malpractice by climate scientists who call themselves the 'Team'. Several investigations of the affair have been initiated and two of these are concluded. The concluded investigations were by Penn State University (PSU) and the UK Parliament's House of Commons Select Committee on Science and Technology. Both these investigations have mostly exonerated the Team. But the findings of these investigations have been widely excoriated as being a 'whitewash'.

These comments reject assertion of 'whitewash' and argue that both the completed investigations used the same flawed method to assess the affair. The problem is that the method used by the enquiries inevitably provides findings that seem to exonerate the Team. So, this method of enquiry inevitably provides a particular outcome, and it is not that the enquiries were a whitewash with a pre-determined outcome.

These comments concern the report of an investigation by the UK Parliament's House of Commons Select Committee on Science and Technology, and they argue that a different form of enquiry than those of the PSU and the Select Committee is needed. This different form of enquiry is needed because the method adopted by the Select Committee induces a particular outcome that inevitably results in accusations of a whitewash. Therefore, no such enquiry can exonerate the Team.

Suspensions will remain concerning members of the Team and their actions until a different form of enquiry is completed. Hence, whatever the 'truth' of the Climategate affair, such a different form of enquiry is needed if that 'truth' is to be divined and is to be generally accepted.

## INTRODUCTION

In November 2009 a set of files were hacked or leaked from the Climate Research Unit (CRU) of the University of East Anglia (UEA) and were published on the internet at various places. The files consisted of more than a thousand emails together with sections of computer code. The emails were from a period of more than a decade, and the most recent of them was from 10 days before their publication on the internet. The UEA confirmed that

the files were genuine and that each of the published emails is complete but that many more emails were received by, and emitted from, the CRU over the decade prior to November 2009.

The British police are investigating how the files came to be released and published on the internet.

The released files and what they reveal has generally become known as ‘Climategate’.

All of the released emails can be read at several places and Bishop Hill provides all of them (with email addresses deleted) in a convenient compilation together with a search facility at <http://www.eastangliaemails.com/index.php>.

Several analysts have assessed the released emails and files of computer code.

Perhaps the best analysis of the emails is by John P Costella and it has been widely accepted as being correct by both ‘sides’ of the Climategate affair. It can be read at [http://scienceandpublicpolicy.org/images/stories/papers/reprint/climategate\\_analysis.pdf](http://scienceandpublicpolicy.org/images/stories/papers/reprint/climategate_analysis.pdf).

Bishop Hill provides another good analysis that can be read at <http://bishophill.squarespace.com/blog/2009/11/20/climate-cuttings-33.html>.

And Mohib Ebrahim provides a ‘timeline’ for the development of a ‘mindset’ by the CRU scientists and their colleagues (i.e. the self-titled ‘Team’) as indicated by the released emails. It can be accessed at and downloaded from [http://jonova.s3.amazonaws.com/climategate/history/climategate\\_timeline\\_banner\\_2000.gif](http://jonova.s3.amazonaws.com/climategate/history/climategate_timeline_banner_2000.gif).

In summation, all the various analyses of the released emails observe that the ‘Team’:

- 1) Usurped the peer review process by conspiring to review (and approve) the papers of each other,
- 2) Usurped the peer review process by concerted effort to use the peer review process to prevent publication of papers which did not support their agenda,
- 3) Attacked journals that published papers which did not support their agenda,
- 4) Attempted to remove a journal Editor who would not reject all papers that did not support their view (soon after he did leave the job),
- 5) Wrote to the University that employed another journal’s Editor in an attempt to discredit her because she refused to reject for publication a paper which did not support their view,

- 6) Attempted to redefine peer review as a method to excuse refusal to mention a paper in the most recent IPCC Report (it was not mentioned in the Report but several not-reviewed papers were),
- 7) Misrepresented scientific findings (e.g. of paleoclimate data obtained from tree-ring studies) when publishing results of scientific studies.

These points are clearly and unambiguously spelled-out in their own words by the 'Team' in the released emails.

Several official investigations have been initiated in response to Climategate. Four are worthy of note and two have concluded.

Conduct of three of these investigations of the Climategate issue is in the UK. Two of these are commissioned by the University of East Anglia and the other has been conducted by the UK Parliament's House of Commons Select Committee on Science and Technology.

Another notable investigation has been conducted by Penn State University (PSU) in the USA. It considered the scientific activities of Dr Michael Mann who is a member of the 'Team' and is on the faculty of that University. The investigation considered four allegations against Dr Mann that arise from the Climategate emails. It concluded that only one of these allegations had merit and that allegation will be the subject of a further investigation.

The following excerpts from the concluded (PSU) investigation are pertinent when considering other investigations of Climategate. They say:

*"It is clear to those who have followed the media and blogs over the last two months that there are two distinct and deeply polarized points of view that have emerged on this matter. One side views the emails as evidence of a clear cut violation of the public trust and seeks severe penalties for Dr. Mann and his colleagues. The other side sees these as nothing more than the private discussions of scientists engaged in a hotly debated topic of enormous social impact.*

*We are aware that some may seek to use the debate over Dr. Mann's research conduct and that of his colleagues as a proxy for the larger and more substantive debate over the science of anthropogenic global warming and its societal (political and economic) ramifications. We have kept the two debates separate by only considering Dr. Mann's conduct."*

This seems eminently sensible because the two debates may be related but they are completely separate issues.

However, the exoneration of Dr Mann on three of the four allegations has not been universally accepted. Indeed, on 12 February 2010 a rally of Penn State students was held to object to this exoneration. The rally was jointly sponsored by 'PSU Young Americans for

Freedom' and 'The 9-12 Project of Central PA'. Reasons for the rally are stated by its organizers at <http://psu.campusreform.org/group/events/2010-02-08/rally-for-academic-integrity>.

They say there:

*“Penn State's internal inquiry into Michael Mann's alleged scientific misconduct concluded with the virtual exoneration of his behavior, and ignored key evidence in the Climategate scandal. As feared, this inquiry was little more than a whitewash—an assault on academic integrity.*

*First, the university's internal review consisted of three Penn State employees who have strong incentives to protect the school's reputation and the millions of dollars it receives from global warming research grants. There was no external oversight.*

*Second, the review consisted of looking at a mere 47 emails (out of thousands in question), interviewing Mann, analyzing materials he submitted, and asking only two biased sources about his credibility. Penn State hardly conducted a "thorough investigation" of alleged wrongdoing by Mann.*

Consider the following extract:

- “• He [Mann] explained that he had never falsified any data, nor had he had ever manipulated data to serve a given predetermined outcome;*
- He explained that he never used inappropriate influence in reviewing papers by other scientists who disagreed with the conclusions of his science;*
- He explained that he never deleted emails at the behest of any other scientist, specifically including Dr. Phil Jones, and that he never withheld data with the intention of obstructing science; and*
- He explained that he never engaged in activities or behaviors that were inconsistent with accepted academic practices.”*

*In short, Mann's own claim of innocence is taken as proof of his innocence. Moreover, parts of the report are almost fawning in their description of Mann (e.g. “All were impressed by Dr. Mann's composure and his forthright responses”). “This type of language would be more appropriate in a letter of recommendation than in a serious investigation,” commented Penn State sophomore, and YAF chair, Samuel Settle.*

*Third, Penn State's internal review ignored key passages in the emails under scrutiny. While the committee examined the use of the word "trick" in correspondence between Mann and colleague Phil Jones, it failed to explore the purpose of Mann's "trick" to "hide the decline [in global temperatures]," which clearly suggests a manipulation of the data.*

*Penn State's internal review of a few emails by vested interests inspires no confidence that Mann did not engage in scientific misconduct—which is precisely why an independent and external investigation of Michael Mann and Climategate is essential in order to reach a credible conclusion.”*

The above comments of the PSU students are interesting because they are an assertion of a “whitewash” of Climategate in so far as it pertains to Dr Mann. And they state the reasons for this assertion.

The UK Parliament’s House of Commons Select Committee on Science and Technology has also published the results of its enquiry. It conducted a similar enquiry to that of PSU and has published it as ‘the Eighth Report of Session 2009-10 of the UK Parliament’s House of Commons Select Committee on Science and Technology’. The Summary of the report of that enquiry is HC387-1 and it can be read at <http://wattsupwiththat.files.wordpress.com/2010/03/hc-387-i-uea-final-embargoed-v2.pdf>.

That Select Committee report exonerates the Team on almost all counts. And it, too, has been accused of being a whitewash; see e.g. comments at <http://wattsupwiththat.com/2010/03/30/results-of-the-climategate-parliamentary-inquiry-in-the-uk/>.

However, these comments argue that the report from the Select Committee is not a whitewash, a cover-up or anything like that. The ‘findings’ of the Select Committee result from the methodology of the enquiry (that was similar to the methodology adopted by the PSU enquiry) and that flawed methodology can only provide exoneration of the Team whatever the merits of any allegation against the Team.

However, an investigation that uses a method that can only provide one outcome – whatever the facts of the matter – is an investigation that has no merit. The certainty of the one outcome inevitably induces accusations that the findings are wrong and a “whitewash”.

Hence, these comments argue that a different form of enquiry is needed into Climategate. Suspicions will remain concerning members of the Team and their actions until such a different enquiry is completed.

## **THE SELECT COMMITTEE ENQUIRY**

### **THE TIME OF THE ENQUIRY**

The Climategate affair began with the release of the CRU files (see INTRODUCTION) in November 2009. And the affair gained prominence with interest in it growing over the following weeks.

The UK Parliament’s House of Commons Select Committee on Science and Technology took note of Climategate and decided to investigate the matter soon after the importance of the affair became apparent.

The Select Committee announced its intention to investigate Climategate on 23 December 2009 and called for submissions to it to be before 10 January 2010. This was a very short consultation period especially when it included the Christmas recess.

The Committee heard oral submissions and questioned them on one afternoon. This was a minimal oral investigation and it contained only two sceptics of anthropogenic (i.e. man made) global warming (AGW); viz Dr ‘Benny’ Pieser and Lord Lawson. This was a very minimal investigation when considering that Climategate seemed to suggest that the Team had exaggerated the scientific case for AGW and had conspired to prevent publication of information that provided doubt to AGW and any catastrophic effects that could result from AGW. However, the contents of the files and the meaning of those contents were the subject of the enquiry; AGW scepticism was not a subject for investigation by the Select Committee.

The final report of the Select Committee was published on Wednesday 31 March 2010. This represented a complete period of 79 days (i.e. from 10 January to 31 March) including weekends for the investigation, assessment of evidence and reporting.

There was reason for the Committee to reach a prompt conclusion. It was widely assumed that a General Election was to be held on 6 May 2010, and this assumption proved to be correct: the Prime Minister (PM) called for the dissolution of Parliament – and the Queen agreed – on Tuesday 6 April 2010. Parliament was dissolved the following week (on Monday 13 April). So, the Committee would have not been able to complete its investigation if it had not reached a prompt conclusion. In the event, the Committee published its report less than a week before the Queen announced the dissolution of Parliament.

Several commentators have claimed this assessment period was too short and so is indicative that the Committee rushed its investigation. However, such a claim is clearly biased. Several people had conducted investigations of the leaked CRU files and had published their assessments on the internet within days of the release of the CRU files. There is no reason to suppose that the Select Committee would need more time than from 10 January to 31 March to conduct its enquiry.

#### **THE PURPOSE OF THE ENQUIRY**

The Select Committee called for submissions in a press release on 23 December 2009. That press release said the Committee “*announces an inquiry into the unauthorised publication of data, emails and documents relating to the work of the Climatic Research Unit (CRU) at the University of East Anglia (UEA).*”

And that press release also said:

*“The Committee has agreed to examine and invite written submissions on three questions:*

- What are the implications of the disclosures for the integrity of scientific research?*
- Are the terms of reference and scope of the Independent Review announced on 3 December 2009 by UEA adequate (see below)?*
- How independent are the other two international data sets?”*



The Select Committee then:

- (a) Obtained written submissions, and
- (b) Heard oral submissions on the afternoon of 1 March 2010.

All these submissions can be read at: <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmsctech/387/387ii.pdf>.

Subsequently, the Committee assessed the evidence it had received and then published its findings on 31 March 2010.

#### THE COMPOSITION OF THE SELECT COMMITTEE

The important factor is **how** the Committee assessed the evidence it had obtained as a method to address its three questions. In this context, the expertise of the Committee's Members is salient. And, on face value, the Committee contained a good and sufficient variety of expertise to evaluate Climategate. The Committee had 13 members. They and their pertinent background are as follows.

<b>Mr Phil Willis</b> ( <i>Liberal Democrat, Harrogate and Knaresborough</i> ) ( <i>Chair</i> )	is a graduate of music and was a teacher
<b>Dr Roberta Blackman-Woods</b> ( <i>Labour, City of Durham</i> )	has a PhD in social science
<b>Mr Tim Boswell</b> ( <i>Conservative, Daventry</i> )	was President of the Perry Foundation, a national charity specialising in agricultural research and education
<b>Mr Ian Cawsey</b> ( <i>Labour, Brigg &amp; Goole</i> )	was a computer programmer
<b>Mrs Nadine Dorries</b> ( <i>Conservative, Mid Bedfordshire</i> )	was a nurse
<b>Dr Evan Harris</b> ( <i>Liberal Democrat, Oxford West &amp; Abingdon</i> )	was a medical practitioner
<b>Dr Brian Iddon</b> ( <i>Labour, Bolton South East</i> )	has a PhD in organic chemistry
<b>Mr Gordon Marsden</b> ( <i>Labour, Blackpool South</i> )	was an Open University lecturer on history
<b>Dr Doug Naysmith</b> ( <i>Labour, Bristol North West</i> )	has a PhD in Immunology
<b>Dr Bob Spink</b> ( <i>Independent, Castle Point</i> )	has an MSc in Industrial Engineering and Administration, and a PhD in Economics and Management, both from Cranfield
<b>Mr Ian Stewart</b> ( <i>Labour, Eccles</i> )	was a chemical plant operator
<b>Mr Graham Stringer</b> ( <i>Labour, Manchester, Blackley</i> )	was an analytical chemist

<b>Dr Desmond Turner</b> (Labour, Brighton Kemptown)	has a PhD in research chemistry
<b>Mr Rob Wilson</b> (Conservative, Reading East)	a businessman who has built several businesses in the health and telecommunications sectors

So, on face value the Select Committee is a good selection of people with pertinent expertise. Indeed, on face value, it would be hard to bring together a more capable group of people to make an independent assessment of Climategate than those listed above. They include three people with PhDs in a scientific discipline, a PhD in ‘money and management’, a medical PhD, a graduate in analytical chemistry, a computer programmer, a university lecturer, a businessman who interacts with academics, a nurse and a chemical plant operator.

However, appearances can be deceptive. And study of the report from the Select Committee paints a very different picture. The entire Committee agreed the report, but only five of the Committee’s members seem to have had much involvement in the work to produce the report. These were the Chairman of the Select Committee, Mr Phil Willis, together with Mr Tim Boswell, Mr Ian Stewart, Dr Evan Harris, Mr Graham Stringer and Dr Doug Naysmith. These were the only members who attended the oral investigation held on 1 March 2010.

Importantly, very importantly, the Formal Minutes of the Meeting on 24 March 2010 record that only five of the members of the Select Committee were present. These were Mr Phil Willis (in the Chair), Mr Tim Boswell, Dr Evan Harris, Dr Brian Iddon and Mr Graham Stringer. And that meeting assessed the evidence and decided what would be in the report of the Select Committee.

So, Mr Ian Stewart attended the presentation of oral evidence but not the meeting to assess the evidence and to decide what would be in the report of the Select Committee. And Dr Brian Iddon did not attend the presentation of oral evidence but attended the meeting to assess the evidence and decide what would be in the report of the Select Committee.

In other words, only six members of the Select Committee are recorded as having had any involvement in the preparation of the report and only five of them decided what would be in the report.

Of those five, the Chairman is an expert in music, one was a charity organiser, one was a medical practitioner, one has a PhD in organic chemistry (but did not attend the hearing of oral evidence), and one was an analytical chemist.

Hence, the competence to assess evidence according to scientific principles was limited to Mr Graham Stringer (the analytical chemist), Dr Brian Iddon (who did not attend the hearing of oral evidence), and possibly Dr Evan Harris (because he had been a medical practitioner).

The Chairman of the enquiry had no such competence (but is probably competent to assess a musical score) and the other member had no such competence, either.

### **THE MANNER OF THE ENQUIRY'S CONSIDERATION OF 'EVIDENCE'**

The Minutes of the Formal Meeting on 24 March 2010 record that Mr Stringer did attempt to get the Select Committee to conduct an assessment of Climategate according to scientific principles of evidence. Those minutes can be read at <http://wattsupwiththat.files.wordpress.com/2010/03/hc-387-i-uea-final-embargoed-v2.pdf> and they record that on nine separate occasions Mr Stringer called for the committee to vote a decision according to the scientific understanding of 'evidence'. The Chairman abstained from each vote and Mr Stringer lost each vote being in a minority of one because the other three members at the Meeting opposed him in each vote.

It seems that the Committee assessed the information presented to it as being the kind of 'evidence' that Law Courts assess.

Legal 'evidence' is completely different from scientific evidence.

Scientific 'evidence' is information obtained from observation of the real world. Law Courts assess the credibility of opinions because they do not have the technical expertise to assess scientific arguments.

Clearly, Mr Willis who was Chairman of the Select Committee had a similar dilemma to a Judge when presented with a variety of scientific information. He does not have the technical expertise to assess scientific arguments. Clearly, his guidance to the Select Committee would have to had to be similar to the guidance that a Judge gives to a jury in a legal case when provided with a variety of 'evidence' from 'experts'.

Law Courts assess the apparent credibility of witnesses and decide which witness to believe.

Governments have appointed AGW-advocates to positions of authority, and a Law Court will always agree that such witnesses present the 'science' that should be accepted.

For example, Dr James Hansen is head of NASA GISS. He attended a criminal trial in the UK where a group of people were being tried for deliberately damaging a coal-fired power station. Dr Hansen said the CO<sub>2</sub> emissions from the power station were doing much more harm than stopping the power station could do.

UK law says that it is lawful to damage personal property as a method to prevent greater harm. For example, a person is entitled to smash a door that is preventing rescue of a child from a burning building and – according to UK law – the owner of the door has no right to object to the door being smashed.

Dr Hansen's testimony is not sustainable by scientific argument: there is no possibility that the power station is making (or could make) significant contribution to AGW even if the 'worst case' scenario for AGW were correct.

But Law Courts do not consider the merit of scientific argument. They only consider which expert they will agree is 'right'.

And Dr Hansen's authority as an expert on AGW is proclaimed by the fact that the US Government has appointed him as head of NASA GISS. So, the Court decided – as it must – that Dr Hansen's evidence was the most credible 'science'. And there is no AGW sceptic in a similar position of authority whose testimony could dispute that (governments have removed all similar experts from their jobs for disputing AGW; e.g. Henk Tennekes).

So, on the basis of Dr Hansen's testimony, the Court decided to acquit the people who had damaged the power station.

Indeed, another case in the UK was won by AGW skeptics, but they only won because they understood that Law Courts only consider which expert the Court will agree is 'right': Law Courts do not assess scientific evidence.

The winning of that case prevented Mr Al Gore's science fiction horror movie (titled 'An Inconvenient Truth') from being shown in schools in England and Wales without explanation to the children that the movie is political propaganda. The UK government wanted to distribute the movie in schools as being a presentation of the scientific facts of AGW. But a UK High Court ruled that the government could not do that because the movie exaggerated at least eleven statements by the UN Intergovernmental Panel on Climate Change (IPCC).

In this case the Court accepted that the IPCC is the expert authority that should be believed and, therefore, that Mr Gore was a lesser expert so his presentation in his movie should not be believed.

Simply, scientific evidence only consists of empirical facts but legal evidence only consists of opinions. The legal decision is of which opinion is to be believed. And the opinion to be believed is that from the greatest authority in a technical field.

It is clear that the findings in 'the Eighth Report of Session 2009-10 of the UK Parliament's House of Commons Select Committee on Science and Technology' were determined by adoption of a legal understanding – and not a scientific understanding – of what constitutes 'evidence'.

So, the 'evidence' examined by the Select Committee was the written and spoken information provided to it. And the Select Committee assessed (or weighted, if you prefer) that information on the basis of the assumed credibility of its suppliers: i.e. they assessed the 'evidence' as a Law Court would.

This assumption of ‘credibility’ was very apparent in the cross-examination of witnesses. Dr Benny Pieser and Lord Lawson were the only AGW sceptics whom the Select Committee interviewed. They were given a ‘rough time’ (especially Lord Lawson) and they were queried as to their motivation and funding. But the Government’s Chief Scientific Advisor, the Met Office representatives and the CRU representatives were treated very differently and they were not questioned concerning their motivations and funding. And this despite the fact that the Select Committee was investigating the released Climategate emails that provide *prima facie* evidence that impugns the motivations and funding of Met Office CRU scientists.

Hence, the result of the Select Committee report was a forgone conclusion. Like the PSU investigation, it took the words of the greatest authorities as being the facts (i.e. the most credible ‘evidence’) and the greatest authorities are the Team whose files were released.

## **FINDINGS OF THE SELECT COMMITTEE**

The Summary of ‘the Eighth Report of Session 2009-10 of the UK Parliament’s House of Commons Select Committee on Science and Technology’ says (in full):

*“The disclosure of climate data from the Climatic Research Unit (CRU) at the University of East Anglia (UEA) in November 2009 had the potential to damage the reputation of the climate science and the scientists involved.*

*We believe that the focus on CRU and Professor Phil Jones, Director of CRU, in particular, has largely been misplaced. Whilst we are concerned that the disclosed e-mails suggest a blunt refusal to share scientific data and methodologies with others, we can sympathise with Professor Jones, who must have found it frustrating to handle requests for data that he knew—or perceived—were motivated by a desire simply to undermine his work.*

*In the context of the sharing of data and methodologies, we consider that Professor Jones’s actions were in line with common practice in the climate science community. It is not standard practice in climate science to publish the raw data and the computer code in academic papers. However, climate science is a matter of great importance and the quality of the science should be irreproachable. We therefore consider that climate scientists should take steps to make available all the data that support their work (including raw data) and full methodological workings (including the computer codes). Had both been available, many of the problems at UEA could have been avoided.*

*We are content that the phrases such as “trick” or “hiding the decline” were colloquial terms used in private e-mails and the balance of evidence is that they were not part of a systematic attempt to mislead. Likewise the evidence that we have seen does not suggest that Professor Jones was trying to subvert the peer review process. Academics should not be criticised for making informal comments on academic papers.*

*In the context of Freedom of Information (FOIA), much of the responsibility should lie with UEA. The disclosed e-mails appear to show a culture of non-disclosure at CRU and instances where information may have been deleted, to avoid disclosure. We found prima facie evidence to suggest that the UEA found ways to support the culture at CRU of resisting disclosure of information to climate change sceptics. The failure of UEA to grasp fully the potential damage to CRU and UEA by the non-disclosure of FOIA requests was regrettable. UEA needs to review its policy towards FOIA and re-assess how it can support academics whose expertise in this area is limited.*

*The Deputy Information Commissioner has given a clear indication that a breach of the Freedom of Information Act 2000 may have occurred but that a prosecution was time-barred; however no investigation has been carried out. In our view it is unsatisfactory to leave the matter unresolved. We conclude that the matter needs to be resolved conclusively—either by the Independent Climate Change Email Review or by the Information Commissioner.*

*We accept the independence of the Climate Change E-mail Review and recommend that the Review be open and transparent, taking oral evidence and conducting interviews in public wherever possible.*

*On 22 March UEA announced the Scientific Appraisal Panel to be chaired by Lord Oxburgh. This Panel should determine whether the work of CRU has been soundly built and it would be premature for us to pre-judge its work.”*

These findings could be thought surprising in the light of the contents of the emails that were released from CRU and resulted in the Climategate affair.

The findings exonerate Prof Jones and the CRU by saying the failure to disclose data and methodology were “*in line with common practice in the climate science community*”. But this assertion is likely to enflame much of the wider scientific community who consider such behaviour to be an attack on the scientific method that requires replication and falsifiability of scientific work. The stated reason for exonerating Prof Jones and the CRU is similar to a claim that the behaviour of a burglar is acceptable because some other people are burglars, too.

Indeed, the Select Committee states that:

*“We therefore consider that climate scientists should take steps to make available all the data that support their work (including raw data) and full methodological workings (including the computer codes). Had both been available, many of the problems at UEA could have been avoided.”*

Quite!

The Committee agrees that there seems to have been a breach of the Freedom of Information (FOI) Act that “*needs to be resolved conclusively*” but by others. This, of course,

fails to consider the reasons for the breach that are clearly stated in the leaked emails; i.e. the Team knew that their work was substandard and wanted to prevent investigation of their work by others. The Committee's failure to investigate this inevitably induces accusations of a 'Nelsonian eye', but such accusations are probably incorrect. The CRU representatives said they made a mistake about how to respond to FOI requests and said they would not make a similar mistake in future. So, according to the legal-type assessment of 'evidence' used by the Select Committee (see Section 2.4) there had been a trivial error that needs investigation but there is no scandal. Indeed, the error is accepted as being a fault of the UEA and not really a fault of the CRU staff who seem to have committed the breach of the FOI Act.

And in its concluding paragraph the report of the Select Committee confirms that it thinks it is not an appropriate body to assess the scientific behaviour which is the scandal of Climategate. It says:

*“On 22 March UEA announced the Scientific Appraisal Panel to be chaired by Lord Oxburgh. This Panel should determine whether the work of CRU has been soundly built and it would be premature for us to pre-judge its work.”*

It is very hard to equate this statement with the stated reason for the Select Committee Enquiry which – according to the press release – was:

*“The Committee has agreed to examine and invite written submissions on three questions:*

- What are the implications of the disclosures for the integrity of scientific research?*
- Are the terms of reference and scope of the Independent Review announced on 3 December 2009 by UEA adequate (see below)?*
- How independent are the other two international data sets?”*

Simply, the report of the Select Committee says it has decided to leave others all the scientific considerations it had established its enquiry to consider. And this decision became inevitable once the Select Committee decided to adopt a legal – and not a scientific – understanding of how it would consider 'evidence' presented to it.

This is not satisfactory. The Climategate affair has impugned several climate scientists. Either their names and reputations need to be cleared or their malpractice needs to be addressed. But the Select Committee has adopted a similar method of enquiry to that of the PSU (see Section 1). Hence, both enquiries have failed to determine the 'truth' of Climategate and have resulted in greater suspicion of the involved scientists by providing an impression of a whitewash.

## **CONCLUSIONS**

The Climategate affair originated in November 2009 when files were hacked or leaked from the Climate Research Unit (CRU) of the University of East Anglia (UEA) and were published

on the internet at various places. These files – especially the emails they contained – provide *prima facie* evidence of scientific malpractice by climate scientists who call themselves the ‘Team’. Several investigations of the affair have been initiated and two of these have concluded. The concluded investigations were by Penn State University (PSU) and the UK Parliament’s House of Commons Select Committee on Science and Technology. Both these investigations have mostly exonerated the Team. But the findings of these investigations have been widely excoriated as being a ‘whitewash’.

These comments conclude that there was no ‘whitewash’ but that both the completed investigations used the same flawed method to assess the affair, and this method inevitably provides findings that seem to exonerate the Team. The used method was to adopt a legal definition of ‘evidence’, and this has resulted in the enquiries saying those under suspicion are exonerated because the suspected persons said they had done nothing wrong.

Hence, the two completed enquiries have resulted in greater suspicion of the involved scientists by providing an impression of a whitewash.

Importantly, neither of the completed enquiries provides a proper assessment of the fact that the released emails indicate that the ‘Team’:

- (1) Usurped the peer review process by conspiring to review (and approve) the papers of each other,
- (2) Usurped the peer review process by concerted effort to use the peer review process to prevent publication of papers which did not support their agenda,
- (3) Attacked journals that published papers which did not support their agenda,
- (4) Attempted to remove a journal Editor who would not reject all papers that did not support their view (soon after he did leave the job),
- (5) Wrote to the University that employed another journal’s Editor in an attempt to discredit her because she refused to reject for publication a paper which did not support their view,
- (6) Attempted to redefine peer review as a method to excuse refusal to mention a paper in the most recent IPCC Report (it was not mentioned in the Report but several not-reviewed papers were),
- (7) Misrepresented scientific findings (e.g. of paleoclimate data obtained from tree-ring studies) when publishing results of scientific studies.

These points seem to be clearly and unambiguously spelled-out in their own words by the ‘Team’ in the released emails.



So, any enquiry must provide a specific explanation of each of these points if it is to be generally accepted. The PSU and UK Parliamentary Select Committee Enquiries failed to provide specific explanations of each of these points any one of which would be damning of the Team if it were true.

Suspensions will remain concerning members of the Team and their actions until a different form of enquiry is completed. Hence, whatever the 'truth' of the Climategate affair, such a different form of enquiry is needed if that 'truth' is to be divined and is to be generally accepted. That different form of enquiry needs to assess the information in the emails and the computer code by using a scientific definition – not a legal definition – of 'evidence'.

It is to be hoped that the investigations of Climategate that are now being conducted will be such a different form of enquiry. Failure to conduct such a different form of enquiry would result in continued suspicion of the affected climate scientists and could damage the reputation of science as a whole.



Cover photo of the UK Parliament's House of Commons from [alovelyworld.com](http://alovelyworld.com).



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