

Dear Andrew Gowers,

I am writing you in response to the information below which was posted on the email list of the Association of Recorded Sound Collections.

As an archivist, head of a record company (Pierian Records), composer, musician and music researcher, I would like to recommend that as you consider any changes to the current copyrights in your country, that you read the following publications:

<http://www.clib.org/pubs/reports/pub135/pub135.pdf>

<http://www.clib.org/pubs/reports/pub133/pub133.pdf>

If you have not already consulted these publications, I would urge you to do so. As a publisher and creative musician I want my rights protected, yet as a researcher, I want access.

Music is not simply entertainment. It can be the amongst the best and most profound expressions of human thought. If copyright extension is seen as appropriate, it is of equal importance to address the rights of individuals to access that information. I believe that any law should make the public's right to access of equal value to the rights of those who create information. I sincerely hope that your work will give equal weight to these considerations and avoid the countless years of time and effort which are being wasted in this country, on the attempt to reconcile these two considerations, ownership versus the right to access.

Faithfully,

Karl F. Miller, DMA

> > Dear Friends

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> > May I draw your attention to this matter. If you feel strongly about it  
> > please email Andrew Gowers before 21 April. His email address is at the  
> > bottom of this email along with some links to relevant websites. Or you  
> > could leave your views on the bottom of the websites listed below.

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> > THE PROPOSAL

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> > There is a proposal to extend mechanical copyright to 95 years (i e the  
> > copyright in recordings would remain with the company who made the  
> > original recording for 95 years, rather than the current 50 years. This  
> > currently applies retrospectively, i e at the moment recordings made 50  
> > years or less ago can only be issued by the "parent company."

Recordings

> > over 50 years old can be reissued by anyone. That 50 would change to 95  
> > if this goes through!

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> > THE PROPOSED EXTENSION OF MECHANICAL COPYRIGHT TO 95  
YEARS

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> > What follows are my ramblings on the subject, which I include as they  
> > may help highlight some of the relevant issues. I am struggling to hone  
> > these down to an acceptable length to send in! It was only while writing  
> > these that some of the awful consequences came clear to me - eg that 95  
> > years would put all but the first 12 years of commercial recordings back  
> > behind the copyright barrier. It will affect all reissues of  
> > minority-interest music, and as a collector of blues, country, jazz,  
> > etc, I dread the consequences. If your collection contains only issues  
> > by EMI and the majors, you have nothing to worry about -so long as you  
> > trust them to reissue the music you love!

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> > I do feel strongly about this, as you will see. I dare say you do too -  
> > if so, make sure you email your views to Andrew Gowers before 21 April.  
> > The debate will apparently be "evidence led" so include any facts or  
> > figures you have.

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> > THE PROBLEM

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> > You, like me, probably care little about the main thrust of this  
> > proposal (i e big modern companies & artistes seeing their copyright  
> > nearing its end, and looking to protect their interests for longer). But  
> > here's the rub-off. If the 95 years copyright extension becomes law, and  
> > is applied retrospectively, the only people allowed to reissued  
> > recordings made in the past 95 years, ie after 1910, will be the  
> > companies who recorded them. Due to takeovers these "parent  
companies"  
> > are now Polygram (for Decca, Winner) and EMI (HMV, Zonophone,  
Columbis,  
> > Regal, possibly Homochord, etc.). What chance do we have that they will  
> > ever reissue music hall recordings? Their collective track record of  
> > reissuing archive music hall recordings in the last 30 years is between  
> > nil and negligible.

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> > WHAT CHANCE MUSIC HALL REISSUES BY THE MAJORS?

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> > Polygram and EMI are the companies who would be responsible for any  
> > reissue of music hall records less than 95 years old in the future.  
> > Reissue of these historical historically important recordings (and I  
> > believe of opera, jazz, blues etc) has not fared well in these hands.  
> > What do you think the chances are of them doing better in the future?

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#### >> POLYGRAM'S TRACK RECORD

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>> No music hall reissues for over 30 years. Polygram (who took over Decca, who had taken over Edison Bell & Winner) in fact hold NONE of the masters, or indeed copies of any of their pre-1948 recordings AT ALL - NOT ONE. Of the nigh-on 4,000 Edison Bell Winners they technically control - You guessed it! They have NONE! This is a result of thinking so little of what they did have that they sold it off to private collectors years ago. This action alone shows their attitude to reissuing archive / vintage recordings - their recordings only now exist in the hands of private collectors! They DO NOT HAVE any of the music hall recordings THEY ALONE, under any new retrospective extension, would

>> be able to reissue or suppress for 95 years from their recording date.

>> Fortunately, most Winners and Deccas exist in various private

>> collections - but these collectors are not young (I include myself!)

>> and, without reissue, the future fate of these recordings is precarious.

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#### >> EMI'S TRACK RECORD

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>> Since closing their World Records section over 30 years ago, there have been no music hall reissues from EMI. EMI do have an archive of many of

>> their HMV 78 issues, but certainly not all of them. They have not kept

>> any/ most of their own cheap label Zonophones, on which most of their

>> music hall recordings were issued. Myself and others have tried for

>> decades to encourage them to reissue what they have, or to make it

>> available for reissue by others, all to no avail. And here's another

>> thing! Their archive is even more remarkable in its incompleteness! When

>> they merged with Columbia (&Regal) in 1931 they continued to consider

>> them the enemy, & chose not to hold any archive of Columbia Records,

>> even though they were now their property. Fred Gaisberg was amazed to

>> find they didn't have the Columbia 78s of the great classical pianist

>> Busoni in the EMI archive - and that was post-merger! Opera collectors

>> in charge of the ongoing Historic Masters reissue project have found

>> only one acoustic Columbia 78 in the EMI Archive so far. Pre-merger,

>> Columbia had issued over 5,000 records, Regal had issued about 4, 000.

>> Through Lindstrom, they technically own 1,600 Jumbos and a few thousand

>> more Bekas, Scalas and Coliseums, not one of which is held at EMI.

These

>> should all be in EMI's Archive, but they have NONE OF THEM! Again,

THEY

>> ALONE, under any new retrospective extension, would be able to reissue

>> or suppress these for 95 years from their recording date.

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#### >> INDEPENDENT REISSUERS

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>> Most original music hall recordings only exist today due to the efforts  
>> of dedicated enthusiasts - enthusiasts not interested in financial  
>> considerations, but in the preservation of these artefacts of a valuable  
>> part of our cultural heritage. Myself & a number of other enthusiasts  
>> have spent the best part of our lives running to ground early  
>> recordings, in my case of music hall artistes, in others of opera,  
>> classical, jazz, blues, folk, country, speech, etc. The vast majority of  
>> these recordings (probably 75%) are not held in any company archive,  
>> existing only in private collections built up over forty-odd years  
>> devoted to saving them from the junk-heap. Some collectors choose to  
>> keep their finds to themselves. Others wish to spread knowledge and  
>> appreciation of this historical subject by reissuing them. If it were  
>> not for the activities of independent reissuers, whose CD reissues  
>> mostly sell in quantities less than 100, music hall reissues just would  
>> not exist.

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#### >> WHY IS REISSUING ON CD IMPORTANT

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>> We are in an ongoing project to piece together what remains of this  
>> country's early recording history. From 1898 to 1945 thousands of music  
>> hall recordings were issued on fragile 78s, & even more fragile  
>> cylinders. Many of these recordings now exist in small quantities, some  
>> in a sole copy, while some have not survived at all. There are huge  
>> gaps. The point of reissuing these 78s and cylinders on CD is to  
>> increase the recording's chance of future survival - and to enable  
>> current and future appreciation and study of these great music hall  
>> performers, and of their repertoire, much of which is of great social  
>> significance. Some recordings have been reissued from the sole copies  
>> remaining anywhere. The CD reissues bring together / focus the results  
>> of various private collectors' life-long efforts to save vintage  
>> recordings from the scrap-heap. Prompted by these CD reissues, other  
>> collectors are coming forward with records from their own collections,  
>> in many cases unique copies - these now exist in multiple copies on CD  
>> reissues, no longer at risk of being entirely lost to damage and decay.  
>> This means that music hall enthusiasts and students of this and future  
>> generations will, through these CD reissues, be able to hear extremely  
>> rare music hall recordings which will otherwise be lost. Part of the  
>> process is to reissue these old recordings, thus making them accessible  
>> to more people, spreading interest in the project, and encouraging  
>> collectors to participate. This is not a "stuffy museum" project. Music  
>> hall recordings are great entertainment, a fact not generally  
>> appreciated due to a dearth of media coverage. The historical importance  
>> of early sound recordings has yet to be fully appreciated. The aim is to

> > preserve these rare recordings in a more permanent format, the  
> > professional restoration being paid for by sales of the CDs.

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> > WHO WILL REISSUE THIS MATERIAL

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> > We are not talking Elvis Presley and The Beatles here. These recordings  
> > have little or no monetary value as reissue projects. They have value as  
> > important artefacts to people who care about our cultural heritage. My  
> > reissue of six 1948 ITMA shows no longer held by the BBC sold 26 copies  
> > each and did not cover costs - that is not the point. They are now  
> > available to enthusiasts, and saved for future students, who might want  
> > to hear what made it such a landmark in entertainment history, and for  
> > historians seeking fascinating contemporary comment on life in post-war  
> > Britain.

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> > LICENSING

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> > The additional cost of paying licence fee for these recordings would not  
> > be feasible. Most of the CD reissues have covered production costs at  
> > best. Some have not yet done so. Sales if anything are decreasing. The  
> > added burden of licensing would almost certainly end the project,  
> > depending on the fee. In the past we have asked EMI if we could licence  
> > some of the rarer masters they do have, of records that have never  
> > turned up in the collecting field, but the fee has been prohibitive. It  
> > also seems wrong to us that a licence fee could be demanded for an item  
> > - and there are thousands of them - that the company do not have copies  
> > of, through their conscious decision not to keep copies.

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> > NON-SUFFERING ARTISTE'S RELATIVES

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> > One of the arguments put forward in favour of the 95-year extension is  
> > that artistes and their families suffer from a shorter copyright period.  
> > This is quite the opposite with historic music hall recordings.  
> > Relatives of music hall artistes Dorothy Ward, Phil Ray, Will Johnson  
> > and Daisy Dormer have expressed their delight at hearing their  
> > forebear's recordings through my reissue of them on CD. The companies  
> > who recorded these Regals and Winners originally (ie now EMI and  
> > Polygram) have no archive copies of these recordings. The same relatives  
> > are eagerly awaiting my reissue of their later (1915) recordings planned  
> > for next year. A 95-year retrospective ruling would scupper that - who  
> > would be the loser? They would not have heard the voices of their  
> > forebears if it were not for the efforts of dedicated enthusiasts like  
> > myself. My Western Brothers CD has (so far) delighted 5 of their  
> > relatives who have searched for their recordings in vain. Some of the

> > Western's Columbia records may well exist in the EMI archive, but EMI  
> > have made no attempt to reissue them, and show no interest in ever doing  
> > so. Under the new retrospective 95-year extension, those relatives would  
> > have had to wait till 2029 to hear the first of the Western's Columbias,  
> > and till 2036 to hear the last, unless EMI or Decca had a change of  
> > heart in the meantime. Don't hold your breath for that!

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> > CAN WE AFFORD TO WAIT?

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> > This is work which must be done now - WHILE WE STILL CAN - for future  
> > generations as well as ourselves. Music hall, although currently rather  
> > unfashionable, is an important part of our culture - future students  
> > will hopefully have more consideration of its cultural worth. It is  
> > important to keep what interest there still is in the great music hall  
> > artistes of Britain's past alive for as long as possible. The collecting  
> > world is not made up of young people, and when we go our 78 collections  
> > may well disappear with us. There have been too many horror stories of  
> > lost collections. What would be the result of a 95-year effective freeze  
> > on reissues of music hall? It would mean, as an example, that 1935  
> > recordings will not be reissuable until 2030 - I'm sure we all hope  
> > we'll still be around then, but we're not a young lot and if this  
> > extension is applied retrospectively, it will probably deal a killer  
> > blow to our life-long efforts to preserve what little is left of this  
> > country's early recording history. This is our country's collective  
> > heritage. This decision will determine whether future generations will  
> > thank us for our efforts to preserve a disappearing part of our  
> > country's culture, or curse a short-sighted decision which will deprive  
> > them of that valuable resource.

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> > A RIGHT OR A RESPONSIBILITY

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> > Let the majors have anything they will ACTUALLY reissue (and not just  
> > SAY they will reissue). If they do not actually reissue it, they should  
> > not have the right to repress or restrict our right to enjoy the music  
> > we love. They should not be able to effectively repress issue by  
> > demanding licence fees for records they do not even own. If they do have  
> > copies of historic recordings not otherwise in existence, they could  
> > maybe be obliged to reissue them or let others do so in the interests of  
> > academic study. The only reason we enthusiasts have reissued these  
> > recordings is because the majors won't! It is not for any financial gain  
> > - that is why the majors will never reissue them.

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> > While modern large interests will no doubt prevail in this matter, any  
> > retrospective ruling should be considered carefully. These reissues sell  
> > in tiny quantities. There are no artists deprived by their reissue -  
> > they have all been dead for many years. Their relatives, who are

> > thrilled to hear the now extremely rare recordings their famous  
> > forebears made, are among those who would be deprived by a 95-year  
> > retrospective ruling. Ultimately, the major loser would be our nation's  
> > heritage. 78s are fragile things. All us collectors have broken some.  
> > It's inevitable. Some exist in single copies. Some don't exist at all  
> > anymore. With the best will in the world, it is inevitable that with  
> > deaths, damage, and the wear and tear of the years, more will inevitably  
> > disappear. The reissue programme must be done sooner than later if we  
> > want to preserve what we have left. Future historians and students of  
> > music hall and contemporary history, deprived of valuable source  
> > material, would surely not look favourably on any short-sighted decision  
> > taken now.

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#### > > HISTORICAL DOCUMENTS

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> > Max Beerbohm wrote, "Let me know a nation's songs, and I shall know its  
> > history." Old records are historical documents, no less so than early  
> > political and royal speeches (which could also be suppressed under a 95  
> > year retrospective). Aside from their wonderful entertainment value,  
> > music hall recordings are documentation of the star performers of their  
> > day, the Cliff Richards of the past if you want. They are also  
> > remarkably vivid and immediate social history records, and as near as we  
> > will get to contemporary comment. No, they ARE contemporary social  
> > comment! George D'Albert's recording re riding early trams in the  
> > Elephant and Castle is brimming with contemporary social and sexual  
> > attitudes, and as close as we will ever get to hearing the views of the  
> > "man in the street" on anything pre-1930. This wonderful recording  
> > existed in just one original copy. We have reissued it, and it now  
> > exists on over 50 copies of the CD. Future students of the period will  
> > now be able to actually hear this incredible slice of contemporary  
> > social history, not look at a catalogue entry and wonder just what that  
> > recording might have told them. The "dole" songs of the 1920s are  
> > valuable social comment on the 1929 Depression, and will increasingly be  
> > seen as important documentation. Sold at a time of hardship for their  
> > potential working class audience, some are extremely rare. Will we be  
> > allowed to reissue them? We collectors - historical archaeologists -  
> > have worked hard to save what we can of such historical treasures. We  
> > would like the opportunity to share and collate the fruits of all our  
> > efforts with fellow collectors, make them accessible in modern formats  
> > to anyone interested, and to thus do our best to preserve these  
> > documents for future generations.

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#### > > HINDRANCE TO HISTORICAL RESEARCH

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> > To leave responsibility for the reissue of historical important  
> > recordings in the hands of concerns with solely commercial interests

> > will be fatal. Their track record speaks volumes. We have reissued well  
> > over 600 professionally remastered recordings so far, the tip of the  
> > iceberg, but already far more recordings than the majors have between  
> > them reissued in the past 60 years. They have sold in tiny quantities of  
> > typically under 100, just about covering costs, but we will continue to  
> > reissue them if allowed to. My aim is to preserve every important  
> > surviving music hall recording on CD, no matter how small the demand.  
> > The current 50-year cut-off date is of no concern to us. But our efforts  
> > to ascertain just what does survive, professionally restore and preserve  
> > it will be severely compromised by a 95-year retrospective ruling. The  
> > last major event covered by music hall song is the Second World War. So  
> > any retrospective cut-off should consider the academic value of Second  
> > World War recordings, and how desirable it is to have them available for  
> > study. To lock them up behind a copyright wall until 2041 is surely an  
> > unthinkable act, reprehensible to the general public and academicians  
> > alike.

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> > No-one questions the importance of archaeological work. Early record  
> > collectors have, possibly unwittingly, undertaken archaeological work in  
> > their pursuit of recordings often scarcer than findings at ancient  
> > sites. It would be easy to be fooled into thinking such relatively  
> > recent artefacts are not under threat. They are. This will become  
> > obvious with the passing of another century. It is obvious now to  
> > long-term early record collectors. It is also obvious that most of the  
> > many recordings not already found now never will be, and that those we  
> > have managed to rescue so far are themselves in danger.

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> > COMPROMISE

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> > The only people to gain from a retrospective copyright extension are the  
> > major record companies and living artistes. The major record companies  
> > are only interested in preserving their copyright in a chosen few  
> > high-selling artistes. Their interest in "poor sellers" is nil. Living  
> > artistes fear losing copyright in their 1950's recordings. Maybe a  
> > compromise would be to add "or artiste's lifetime plus 25 years" to the  
> > current 50-year copyright period. This would surely placate Charles  
> > Aznavour's and Cliff Richard's fears, although admittedly not satisfying  
> > EMI's fears re their Elvis Presley back catalogue. But haven't they made  
> > enough profits from them over the past 50 years. 95 years is a long  
> > time, and, if artistes think their 1950s recordings will be anything  
> > other than museum pieces by 2046 they should look to history. The stars  
> > are the exception, and may still be reissued to some degree, as are  
> > 1930's stars George Formby, Stanley Holloway and Gracie Fields now.

But

> > other less famous artistes should take care - they, their followers, and  
> > their descendents, will be left wishing that the recording company they  
> > recorded for would either reissue their forebear's recordings - or that,  
> > as they probably won't, an independent outfit could be allowed to do so.

> > No artist who recorded before 1920 is still alive. The last one, Zona  
> > Vevey, died a few years ago aged over 100. If she were alive today, and  
> > the proposed copyright extension were in place, she would have no  
> > opportunity to hear the recordings she made 90 years ago and no longer  
> > possessed unless collectors like myself were allowed to reissue them. (I  
> > have them all, accumulated over 40 years of searching - HMV, who  
> > recorded them, almost certainly don't)

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> > 95 YEARS IS FAR TOO LONG

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> > The proposed 95 years is way too long. To show how ridiculous this is,  
> > it would mean that we could not reissue any of the many World War One  
> > recordings until 2010-2014. Only EMI would be allowed to reissue World  
> > War One Regals, Jumbos, Scalas, Coliseums and Columbias - and they  
> > don't have any of them. Only Decca would be allowed to reissue World  
War

> > One Winners - and they don't have any of them. We collectors do have  
> > them, but we would NOT be allowed to reissue them. A mere handful of  
the

> > young men who went to fight in World War One are still with us. That is  
> > how long 95 years is! It is a ludicrously long period to tie up our  
> > history for.

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> > World War Two - Well, we'd only have to wait till 2035-2041 to start a  
> > reissue programme of our accumulated Second World War recordings.

Oh,

> > that's a shame - I probably won't be here then! And who knows where my  
> > records will be - many collections have wound up in skips, smashed to  
> > smithereens.

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> > A RETROSPECTIVE 95 YEARS - NO!

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> > This should not just be about the interests of a few big companies and a  
> > few big stars. They are business concerns, and have no interest in  
> > reissuing loss-making old recordings just because they are of historical  
> > and social significance. This should be about our heritage and our  
> > ability to keep it alive and maintain access to it. It should be about  
> > taking a responsible attitude to preserving important historical  
> > recordings. With that as a consideration, there can be no doubt at all  
> > that a retrospective 95 years (effectively 96 years, as recordings would  
> > not come out of copyright until the end of the 95th year, i.e. the start  
> > of the 96th year) is far, far too long.

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> > 95 years retrospectively take us perilously close to the start of  
> > commercial recording around 1898. As most pre-1904 recordings remain  
> > undiscovered, it effectively means that we will be able to reissue just

> > what we have rescued from the 6 years of recordings issued between  
> > 1904-1910, and a smattering from the years before. The rest will  
> > disappear behind the copyright barrier. Records were expensive, often  
> > poorly distributed and were extremely fragile. They have been through  
> > two World Wars, home removals, one hundred years of turmoil. We have  
a  
> > precarious hold on what has survived. There must be a point where these  
> > recordings pass from merchandise to historical documents. Our work is  
> > akin to that of archaeologists, unearthing the world portrayed in these  
> > early recordings. Surely their finds would not be suppressed for  
> > decades, with further chance of damage and even loss. 95 years would  
> > severely shackle our efforts. It is far too long.

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> > MAKE YOUR VIEWS KNOWN

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> > If you feel this is important, please email Andrew Gowers before April  
> > 21 and make your feelings known. Future generations of students, social  
> > historians and artiste's relatives, will be the losers if a  
> > retrospective 95 year

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> > Our right, maybe even our duty, to preserve the past for future  
> > generations is at stake here.

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> > Yours truly,

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> > Tony Barker