



R P Meagher and the idea of a university

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This article discusses Meagher's commitment to Cardinal Newman's idea of a university, and suggests that this commitment sheds light on Meagher's approach to a range of topics, as well as his decision to gift his art collection to the University of Sydney.

In between a vignette of the African chiefs unruffling their plumages and polishing their nosebones to hear Michael Kirby lecture them on breast feeding, and a warning of the danger posed by lesser academics in the chattering classes, who try to seduce recent graduates into becoming proactive prairie fairies, Roddy Meagher offered his fellow graduands the following advice:

Whatever you do, it is important to maintain high standards of intellectual rigour. Cardinal Newman, whose work, *The Idea of a University*, is still the best work on that subject, stated that the chief value of a University is the disinterested pursuit of knowledge for its own sake.¹

He was speaking in the Great Hall of the University of Sydney, on the occasion of a ceremony at which the Chancellor had, only moments earlier, conferred upon him the degree of Doctor of Laws *honoris causa*. The passing reference to Newman was probably forgotten in the public brouhaha that the more controversial aspects of the speech attracted. However, Newman's idea of a university is central to Meagher's conception of the role of a university in a civilized society, and, indeed, to the place of the University of Sydney in his own life.

Fame may be ephemeral, but it is not so fleeting that R P Meagher QC could be forgotten within 6 months of his death. He was famous both as a lawyer and as an art lover, and may remain so for some time yet. He was also a famously complex person, a fact which might sooner be forgotten. Some will be content to acknowledge his complexity without trying to engage with it, content to see his achievements, witticisms, and scandals, but not his complexity; as if they thought that, like Moses, they should station themselves in a cleft of the rock and see His back, but never dare to look upon the divine countenance. But it behoves those of us who glimpsed Meagher's genius to engage with his complexity in order to understand better the life of this remarkable man. Indeed, it is the biographer's task to facilitate such engagement when writing the life of a complex subject.

In my forthcoming biography of Meagher, to be published early next year by Connor Court Publishing, I endeavour to do this through examining his relationship with various public institutions. In this article, I seek to demonstrate how we can make sense of some of his complexity by studying

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¹ R P Meagher, 'Law and Free Speech', *Quadrant*, September 2000, p 27.

his relationship with the University of Sydney, and the value that this institution held for him as a university. Meagher's commitment to Newman's idea of a university, I suggest, makes sense of a number of his utterances on topics ranging from teaching and education, to the threat posed by political correctness, and, ultimately, even his decision to gift his famous art collection to the university.²

Newman's *Idea of a University*

For Newman, a university, even a Catholic university which offers a liberal education, is merely a human institution that aims to produce gentlemen: it is concerned with cultivating intellect and not with virtue, as the Church is. The liberal educated gentleman is a person of refined intellect, but he cannot rise above the fallen condition of natural man. Moral development is only possible through the teachings, faith, and practise of the Roman Catholic Church. In other words, it is not the role of a university, as Newman understands it, to effect fundamental change in individuals (or society). That is the role of the Church.

That universities might advance the material prosperity of their graduates and the broader community is of no consequence to Meagher when compared with their capacity to produce gentlemen. There can be no doubt that Meagher always valued extremely highly the qualities of the gentleman, and that he aspired to be one. So it is hardly surprising that he would value an institution, such as Newman's university, that is devoted to cultivating gentlemen. But what are the qualities of the gentleman? Newman believes that the university cultivates gentlemen through offering a liberal education: 'Certainly a liberal education does manifest itself in a courtesy, propriety, and polish of word and action, which is beautiful in itself, and acceptable to others; but it does much more. It brings the mind into form, — for the mind is like the body.'³ The mind is brought into form by training the intellect. Such intellectual training is important both as an end in itself, and also for its utility in preparing the gentleman for professional service.⁴ The intellect is trained initially through discipline and application to detail in specific activities, so that it can then be applied more generally.⁵ All of this is intended to produce 'intellectuals', persons of refined intellectual capacity. Such an intellectual is not necessarily someone who holds views on all manner of intellectual subjects, but one who is able to scrutinise views on all manner of subjects.⁶

Meagher remained committed to Newman's analysis. In a speech that he gave at the Lawasia conference in Manila, in 1971, he argued that these are the proper concerns of education, and that they have largely been abandoned by educational institutions. Having claimed that education as such was dead, he proceeded to identify four fallacies in contemporary educational theory which need to be buried:

2 The material in this article is dealt with more fully in Ch 9 of my forthcoming biography of R P Meagher.

3 J H Newman, *The Idea of a University*, F M Turner (Ed), Yale University Press, New Haven, 1996, p 7.

4 Ibid, pp 8–9.

5 Ibid, pp 9–10.

6 Ibid, p 10.

The first is that education should be life-balancing, radiant, happiness-producing and improving the material quality of life. In this view education is a sort of valium. It is nothing of the sort . . . Its function is to incite an interest in truth as a condition of culture, of nationship, of technical competence and of social and intellectual judgement . . .

The second fallacy is that education has something to do with professing ideas: the elimination of racism, aiding the underprivileged, championing the emancipation of women. It is nothing of the kind. To imagine the opposite is to enhance the views of Hitler and Stalin. The essence of education is the cultivation of criticism, not just ordinary criticism, but criticism found in the thinking of the past and a concentrated concern for the facts . . . with a total indifference to any use to which they may be put . . .

The third fallacy is what I might call Intellectual Egalitarianism, the notion that there is no hierarchical system of values. Thus it is said that all subjects are of equal value; mathematics is no better than knitting; to study Greco-Roman civilization has no more value than to study Arumia tribal law . . .

The fourth fallacy is the dread of being thought elitist, the opposite of being motivated, informed, committed and meaningful. What is wrong with being elitist? To be elitist is to seek excellence, and excellence is all that matters. . . And if it means sounding snobbish as well, so much the better. One should be snobbish, in the sense of constantly seeking the company of one's intellectual superiors. It was, I suppose, snobbish of Plato to venerate Socrates. But that is how he came to be well-educated.⁷

We can see a direct relationship between Newman's idea of a university and Meagher's remarks about education. The first fallacy, that education can be morally or socially improving, fails to understand Newman's argument that a university's liberal education can refine the intellect, but it cannot reform man in any fundamental way: it is the role of the Church to effect fundamental changes to man and society through its teaching, faith, and practice, not the role of the universities to do so through education. The second fallacy, that education has to do with professing ideas, fails to understand Newman's argument that the university-educated intellectual is not one who is full of 'views' on all subjects, but one who is able to criticise views on all manner of subjects. The third fallacy is concerned with the *educational* value of different subjects: the intellectual egalitarianism that Meagher rejects fails to appreciate, as Newman does, that the study of some subjects is better suited than the study of other subjects (such as classical grammar, mathematics, and Roman law taxonomy) to developing the student's 'idea of science, method, order, principle, and system; of rule and exception, of richness and harmony'. The fourth fallacy is a dread not of elitism, but of intellectual elitism: there can be no doubt that elitism is positively encouraged in contemporary Australia when it comes to the Olympics and pursuing physical excellence in all forms of sport. The fallacy fails to appreciate that, for Newman, education is a matter of cultivating intellectual excellence in students, and that seeking the company of one's intellectual superiors assists one to refine one's intellect. Pierre Ryckmans suggests that the sensational nature of Meagher's expression has often led people to misunderstand what ought to be unremarkable claims:

⁷ R P Meagher, manuscript of notes for a speech about education at the Lawasia conference, 18–22 January, 1971, Manila.

When you train people for the Olympic Games, you want to have the best . . . it should be the same logic that applies to running and learning philosophy . . . Roddy is very clear about these things and I think he is right. But the methods he uses are provocative. People do not understand.⁸

This much is not intended to provide a thorough analysis, let alone evaluation, of Newman's ideas. Nor is it intended to vindicate Meagher's position on the theory of education. It is, however, intended to demonstrate that Meagher's is a principled position, and that it has its origin in Newman's thinking. For better or worse, this idea of a university has been central to Meagher's relationship to the University of Sydney, and we do well to be mindful of the sense in which his views on education are thoughtful and principled, rather than simply being the expression of a mindless reactionary.

University studies

Appealing though the manners and habits of gentlemen must have seemed to Meagher when he first went up to the university, and interested as he no doubt was in acquiring them, his foremost priority was in equipping himself with the force, the steadiness, the comprehensiveness and the versatility of intellect, the command over his own powers, the instinctive just estimate of things as they passed before him, which Newman had extolled. In his case, this was a natural gift, but it made uncommon gains from much effort and the exercise of years. Seven years, in fact, were passed in this way at the University of Sydney: the first four studying classics; the remaining three, law.

What is notable about his study of Latin and Greek is not his mastery of the languages, exceptional though it was. The opening sentence of an undergraduate essay that he wrote for Latin I, on 'The Character and Extent of the Spread of Roman Civilization in Britain', speaks volumes:

Dr Johnson maintained that the only way of ascertaining the extent of Roman influence on Britain was by a careful study of the ancient authors concerned, which has always seemed to me a remarkably narrow view from so wise a pundit; for it neglects, for example, the influence of Rome in spreading Christianity, the influence of Roman law on the British legal system, the rather unhappy influence of Roman pseudo-Greek art, as it does indeed neglect all indirect influence, which are often of paramount importance; not to say, since Johnson himself wielded a thoroughly Latinized style, the touch of irony in his omitting Latin influences in literary style and language in general.

In his first sentence, the freshman demonstrates his elegant — yet measured — literary style, his breadth of learning, his analytical capacity, his wit, and his discriminating estimation of the value of things. It is utterly confident. It exudes pleasure in the disinterested pursuit of knowledge for its own sake.

The focus of his work in classics turned out not to be found in language or in intellectual history, as one might have expected, but in archaeology and history of art. His work culminated in a thesis, written in 1953, on 'The Heracles-Hesperides Legend as Represented in Greek Pottery from the Earliest Times to the End of Southern Italian'. In retrospect, this is hardly surprising, given his abiding passion for art. It seems, however, that the more

⁸ Pierre Ryckmans in conversation with the author, 22 May 2010.

important influence in his choice of topics is likely to have been that of his lecturer, Dale Trendall. Trendall ‘belonged to a generation of scholars now almost extinct, who valued the truth above show. His standards were old-fashioned — he always answered letters, courteously and at length.’⁹ He was the consummate university gentleman, and his combination of intellectual and personal qualities would, quite inadvertently, have stolen the admiration of the young Meagher.

Meagher sent Trendall a typescript of his thesis, which the latter read and commented on from the Vatican, where he was working.¹⁰ The thesis involved a study of some 50 vases from 4 periods (Attic vases of the Sixth Century BC, Attic vases of the Fifth Century, Mainland vases of the Fourth Century, and vases from South Italy). Trendall ‘found the interpretation and discussion of material quite creditable’ although he noted many criticisms of detail.¹¹ The examiners were sufficiently impressed for them to award him the Medal: a glorious conclusion to his formal study of the arts.

The pattern established in the Faculty of Arts continued when his studies transferred to the Law School. Although he enjoyed equal success in the study of all legal subjects, and, having regularly come first in his examinations, it was hardly surprising that he should have been awarded that medal too, he does not appear to have formed the same bonds at the Law School that he did in the Faculty of Arts. Over 30 years later, he still admired the lectures of Professor Morrison in torts and Professor Stone in jurisprudence, but beyond that, his memory of the time there is not warm: ‘I think my companions were dreary and my teachers even drearier.’¹² That he should have been willing to apply himself equally to the study of Roman influences on British culture, the development of Greek pottery, criminal and tortious liability, and jurisprudential theories, irrespective of the dreariness of the situation, is hardly surprising: for him, each was a matter of the disinterested pursuit of knowledge for its own sake, and valuable as such.

University life

Though he applied himself to his studies assiduously, still he adhered to the ‘university ideals’ of Evelyn Waugh, as extolled to him by his old schoolmaster, Fr J P Kenny SJ:

So pleasant to hear from you again. Not so pleasant to read that you are ‘*frantically busy*’. You shouldn’t be, no matter what examinations bulk on your horizon. Driving yourself at a frantic pace injures your well-being. A scholastic career, such as is yours, should be scholastic in the literal sense of the Greek: *skholazo*. I remember reading a complaint of E Waugh that young men at Oxford no longer had University ideals, because they worked too hard! For Arts, you must have leisure, time to yarn

9 J Boardman, ‘Obituary: Professor A D Trendall’, *The Independent*, 25 November, 1995, at <<http://www.independent.co.uk/opinion/obituary-professor-a-d-trendall-1583587.html>> (accessed 28 May 2010).

10 Typescript of Meagher’s thesis with Trendall’s annotations survives in RPM’s papers.

11 A D Trendall to RPM, 29 November 1953.

12 ‘Justice Meagher: The Man and his Magnimity’, *Blackacre: Journal of the Sydney Law Society*, 1990, p 30.

and smoke pipes, to read serenely, to hear music and see fine pictures and so on. I'm sure you realise this and practise it — but don't let yourself become frantically busy.¹³

He did indeed realise this, and, although he did not smoke pipes, he did take snuff and found time to read widely beyond his academic syllabus, hear music, and begin acquiring fine pictures.

There were ample informal opportunities for yarning: in college, over the university's recently established fine wine and food society's dinners, and at bridge parties. There were also more formal environments, such as the debating chamber. Such formal debates had been an important part of the Oxbridge University experience since at least 1815, when the Cambridge Union was established as a student debating society. In the 1950s, activities of this kind were valued by undergraduates at the University of Sydney as much for their traditional associations as for the conviviality that they afforded. Marie Bashir remembers that Meagher embodied all that students of the day valued about their life at the university:

[As a university, Sydney] was recognised in those days as having prestige: the oldest in Australia, being an offshoot of the Northern European universities and so forth. And Roddy was the epitome of all of that. We had enormous respect for him, but he also had a great sense of humour. So to be in his company was great fun, it really was . . . [his humour was] witty, sardonic, sophisticated.¹⁴

If Meagher was the epitome of all that his colleagues valued about university life, St John's College was, for him, the epitome of all that he valued about university life. However, the broader cultural experience offered by the university was, by no means, limited to life within the College. As a freshman, in 1950, Meagher played Heracles in the 'Alcestis' of Euripides, which was produced in Greek by the Classical Society in conjunction with the Greek Department in the garden of the School of Tropical Medicine, its first play since 1946.¹⁵ This was followed the next year by the Classical Society's production of the 'Frogs' of Aristophanes on 7 July, 1951, with Meagher playing the role of Dionysus.

Life continued beyond the confines of the university. Sport was never a great feature of it, although race meetings, such as the Picnic Races at Yass, had appeal when they involved a convivial house party. However, of greater appeal outside the university were the arts. Meagher had already begun collecting paintings. Collecting might involve a degree of adventure; the *Sydney Morning Herald* reporting on one occasion in 1953, for instance:

Hopeful purchasers, arriving in a stream of taxis and hired cars to join the 'Dawn Patrol' (so called by the three or four regulars who join it every year), reached the steps of the Macquarie Galleries at 6 am yesterday morning to find two 'absolute certainties' ensconced comfortably on a stool and cushion on the bottom step. (The cleaner wouldn't open the doors then because he claimed the worried would-be purchasers of last year had littered his clean steps with cigarette butts.)

13 J P Kenny SJ to RPM, undated.

14 Marie Bashir in conversation with the author, 10 March 2010.

15 *The Union Recorder*, 2 November 1950, Vol XXX, No 28, p 233.

No 1 in the 'Dawn Queue', Arts student Roddie Meagher, didn't go to bed at all after a party at the university on Tuesday night. Instead, he went straight on to make certain of his choice in the 'Show of Sixes' (44 paintings by contemporary artists all priced at six guineas).

His choice — a small oil called 'Trojan Theme,' by Jean Bellette — forced at least six other people in the queue regretfully to change their plans.¹⁶

All of these activities contributed to the education of a gentleman. His university years were a time of repose rather than a time of action; the frenetic repose in which gentlemen take form.

Gentleman graduate

Upon graduating with two university medals, Meagher was as keen to retain his association with the university, as it was to retain him. He was appointed tutor in law at St Paul's College upon graduation, and served as such for a number of years. Even after that association had ended, he was still being welcomed back there as guest of honour at the St Paul's College Union Annual Dinner in 1978, and even a further 20 years later, when he was again invited to speak after dinner (the precise date is uncertain, but we can place it by the fact that his speech reveals that the members of Women's Electoral Lobby were now 'hairy-legged Stalinists' rather than 'bearded Stalinists', but had not yet come out as 'hairy-legged lesbians').

He continued to participate in the life of his own college, as a member of the Council of St John's College for decades, for which he was awarded the medallion of the St John's Council Award. The medallion was indeed deserved because he had not regarded the college fellowship merely as a seat at high table. He had seen it as an opportunity to make a contribution to Catholic education; and to this end had applied himself to the council's business in all its tedium: from the writing of financial reports, to the drafting of amendments to the college by-laws.

In 1962, he served as the Fellow of the Senate of the University elected by the students. The students of the university had been given the right to elect one graduate of the university each year to be a Fellow of the Senate. At this time, no student was entitled to attend meetings of the senate. The President of the Student Representative Council took the view that a Fellow of Senate elected by the students was elected by them for the purpose of representing their interests in the senate. The president happened to be Michael Kirby, who recalls:

We had a battle royal at the university in my days as I tried to replace him as student Senator. I was upset that he wouldn't come along to SRC meetings and submit himself to our questioning. He, no doubt, had more important things to do, like preparing the brief for the next day. But, ultimately, he left and then my campaign went awry . . .¹⁷

Kirby had attempted to persuade Meagher to attend SRC meetings on a regular basis, or, failing that, to file written reports of Senate meetings which

¹⁶ *Sydney Morning Herald*, Women's Section, 5 February 1953, p 8.

¹⁷ M D Kirby in conversation with the author, 7 April, 2010.

could be tabled at SRC meetings. The failure of such negotiations led Kirby to publicise the predicament in the student newspaper, *Honi Soit*:

On at least four occasions in the past year the Student Senator has failed in his duty to represent on the Senate the interests of the undergraduates of this university.

It is the embarrassing and regrettable but nevertheless necessary duty of the SRC to draw attention to the fact that the present incumbent of the office, Mr R P Meagher, has attended only one meeting of the SRC in the past 12 months.

It is precisely because of his isolation from the views and interests of students that there has arisen unprecedented lack of liaison between the Senate and the students

...

On all of these, and in other matters, the students of the university through the SRC had a vital interest, but Mr Meagher took absolutely no steps to apprise himself of student feelings or interests.

Possibly he considers himself to be not answerable or even responsible to the students. If this is his view, it is erroneous and he should be quickly made to realise it.¹⁸

This was the first of many occasions on which the two would see things in a fundamentally different way. To Kirby, a Fellow of the Senate was elected by the undergraduates so that he would be accountable to them. As such, Meagher was guilty of dereliction of duty. However, Fellows of Senate appointed by the Minister or the Senate itself, and those elected by the graduates of the university, are not necessarily meant to represent the interests of those who appoint or elect them, or make themselves accountable to their appointers or electors. These people are given the right to select fellows because they have an interest in the good management of the university, and they select fellows in whose capacity to contribute effectively to the business of the senate they have confidence. Meagher, no doubt, felt the undergraduates had elected him because they believed that he had the necessary abilities to contribute to the business of the senate, and so he did (although they were possibly deceived in this, as a cheeky campaign saw him pose as a radical). Kirby believed the 'Student Senator' was elected to represent the students, and to liaise with them (and when he was elected a few years later as a fellow, he attended SRC meetings as he had argued Meagher should have done). That Meagher should have felt that student politics was not relevant to the business of the senate is hardly surprising if he felt that the role of the senate was to ensure that the university continued to be an institution dedicated to the disinterested pursuit of knowledge for its own sake.

Challis Lectureship

In 1960, Meagher began lecturing in the Law School, initially in Roman law, and subsequently also in equity, and would continue to do so for some 30 years. It was the primary contribution he was to make to the university in a formal capacity. Sir Laurence Street, who himself lectured in procedure and bankruptcy from 1960 as a Challis Lecturer, recalls that 'in those days, one didn't apply for lectureships at the Sydney Law School. They were prized

¹⁸ *Honi Soit*, 24 July 1962; reproduced in *Justinian*, June 1995, p 4.

things to have as a mark of eminence.’¹⁹ However, for Meagher, the reward of teaching is to be found in the maxim, *qui docet discit*: ‘In general, there is no way to learn a subject except by teaching. Also, I find the students, who . . . are of a high standard, very critical and refreshingly so.’²⁰ He lectured on the principles of equity with two colleagues, Bill Gummow and John Lehane, and their lectures formed the basis for their celebrated book, *Equity: Doctrines and Remedies*. His style as a lecturer did not enjoy universal appeal:

He may be known as an opponent of minority group rights, but when he lectured at Sydney University law school, Roddy Meagher was an equal opportunity intimidator of students.

One of three authors of a classic text on equity law, Meagher was colloquially referred to as a member of the ‘Holy Trinity’. Certainly, his lecturing style suggested someone handing down a message on stone tablets from a divine height.

Meagher’s pompous manner may have been a source of quiet amusement to the one or four of us who weren’t paid-up members of the H R Nicholls Society, but he certainly gave the class a fine introduction to the high-handedness with which so many barristers and judges view people further down the social ladder.²¹

Certainly, it seems that the lectures were not of an introductory nature, as his predecessor’s lectures on the subject had been, and the difficulty of his lectures was exacerbated by the vicissitudes of students who were required to serve articles of clerkship while still studying fulltime, as Arthur Emmett recalls:

In those days, equity was always regarded as a very difficult topic because there was no textbook. There was a book on trusts, *Jacobs*, but no book on equity. There were Law School notes on equity, but no one had revised them and brought them up to date. . . Roddy succeeded Tony Mason. Mason had an extraordinarily high reputation for being able to explain the principles of equity — anyone who had Tony Mason still speaks very highly of him. I had Roddy in his earlier years. There is no doubt about his erudition and understanding . . .

Roddy had a bit of a reputation in those days for waffling unless you really listened to what he was saying. He’s the sort of speaker who requires attention; he doesn’t attract attention in the way some people do. It’s as if he would say, ‘This is what I’m going to say, if you listen it’ll be worth your while,’ but he’s not going to try and talk you into doing it, . . . That’s certainly my recollection of Roddy’s lectures. When I went back, and read my notes, it was all there, but it wasn’t because it was all clear when I was listening to it. It was only because I was scribbling madly to get down as much as possible of what he said in my notes.²²

What Meagher’s lectures and his book lacked was a strong sense of taxonomy, an attempt to classify all the principles and remedies under discussion in an organised way. It is an important feature of Meagher’s jurisprudence of equity that the principles of equity lack any inherent taxonomy and that, as such, the appropriate way to understand the principles is primarily through historical analysis. The merits of such an approach to equity’s jurisprudence may well be debated. However, it cannot be denied that a strong taxonomy is a valuable teaching aid for introductory students. As

¹⁹ Sir Laurence Street in conversation with the author, 23 February 2010.

²⁰ ‘Justice Meagher: The Man and his Magnanimity’, *Blackacre: Journal of the Sydney University Law Society*, 1990, p 30.

²¹ C Lumby, ‘Wink, wink, judge, judge’, *The Bulletin*, 3 July 2001, p 41.

²² A R Emmett in conversation with the author, 31 March 2010.

Emmett explains of his experience as a student and teacher:

The taxonomy is important in a teaching sense because it enables one to keep on top of the thing. That's one criticism I had of the equity course that I studied. I didn't know where we were going. We'd deal with one topic, then another topic, then another topic. Eventually you got through all of them and you had a composition of all the topics which ended up in the textbook. But one doesn't know how they all fit together. Once you've got the practice and you've got the big picture, you don't need a taxonomy. But in terms of teaching, I think it's a very useful tool to have, if you can write one. It may not be possible.²³

Emmett succeeded Meagher as lecturer in Roman law. He maintains that part of the value of studying Roman law is the introduction that it offers into legal taxonomy, an approach that might subsequently be applied to other bodies of law. However, in this respect, Meagher's knowledge of Roman law did not influence his teaching of equity: for Meagher, equity by its very nature lacks the taxonomy of Roman law, and it would be a mistake to pretend otherwise; students must come to terms with this.

Meagher's knowledge of Roman law was self-taught:

Looking back, I think I taught myself. I thought it was worth knowing, so I taught myself. I certainly never did it in arts. In law I did it nominally, but it was just a joke. So I bought a few books and taught myself. There are lots of very good books on Roman law. Anybody can teach himself very easily. [I went on to teach students at Sydney University] and enjoyed it very much.²⁴

While it may be true that he taught himself Roman law, it does not follow that *anybody* can teach himself the subject. It is likely that his inability to appreciate the gap between his own intellectual capacities and those of others may well have posed obstacles for him as a teacher. Still, the Roman law classes were rather different from the equity lectures. Roman law had ceased to be compulsory and the numbers had dropped considerably. Emmett recalls that, in 1964, he was one of only two or three in the class which was held amongst the clutter in Meagher's chambers on the Eighth Floor of Selborne Chambers, across the road from the Law School. The set text was Lee's *Elements of Roman Law*, and there were no notes of any sort, and no outline of the lectures. It was more of a fireside chat about the constitutional structure against which law developed, the history of its development, private law, and criminal procedure, in the manner of the Oxford tutorial style. Meagher continued teaching until the pressure of his professional responsibilities caused him to handover to Emmett.

As a teacher in the university, no less than as a student, Meagher's efforts were faithful to his belief that the role of a university was to promote the disinterested pursuit of knowledge for its own sake. No doubt, some of his students had different ideas about why they had enrolled in the university. However worthy their intentions might have been, they would find little succour in Meagher's teaching.

²³ Ibid.

²⁴ J Gleeson, 'Justice R. P. Meagher: An interview by Justin Gleeson SC', *Bar News: The Journal of the NSW Bar Association*, Summer 2002/2003, 68-71, p 68.

University education and professional training

In 1983, Meagher was invited to speak to the Seventh Commonwealth Law Conference, held in Hong Kong, about academic institutions and professional training. Articles of clerkship — on-the-job training for solicitors — had started to be abolished and replaced by colleges of law which offered professional training for solicitors. Barristers were still receiving their traditional on-the-job training in the form of pupillage, however, questions were being asked about whether to ‘reform’ their training too. The gist of what Meagher said to the conference was reported by the *Australian Financial Review*’s correspondent in Hong Kong.²⁵ Meagher asserted that, in departing from the old system, in which students served articles of clerkship in order to acquire practical training, Australia had moved a long way ‘into the realms of lunacy’; that practical courses offered as part of the programme of professional training at colleges of law are irremediably dull, even though in practice the subjects are fascinating; that university law schools lack academics capable of teaching core subjects, but possess ‘multitudes of academic homunculi who scribble and prattle relentlessly about such non-subjects as criminology, bail, poverty, consumerism, computers and racism’; that the best teachers of law are practitioners, not academics; and that inadequate teaching in the university law schools had resulted in ‘incompetence of recent recruits’ to the Bar, ‘a subject of which judges never tire of lamenting’.²⁶

A week later, the *Financial Review* dedicated half a page of letters to the Editor in reply to the views initially reported. Predictably, there were letters from Mahla Pearlman, Chairman Board of Governors of the College of Law, and Alan Loxton, immediate past Chairman, who were primarily concerned about factual inaccuracies regarding the College of Law. The report also attracted the attention of that most influential of jurists, Julius Stone, who wrote the following reply:

SIR, The themes attributed to Rod Meagher, QC that ‘the best lawyers’ and ‘the best teachers’ are solicitors or barristers, are beyond either proof or disproof. While they are not necessarily nonsense, their truth or falsity is, in Karl Popper’s terms, beyond the ambit of proof either way. They stir, however, the following comments.

First, supposing the themes were proved, we should all of us (including Mr Meagher) be lamenting that all ‘the best lawyers’ who are also ‘the best teachers’ should so cleave to the ‘greater rewards’ of practice that they feel neither the dedication nor call to the vital tasks of teaching law to oncoming generations.

Second, we cannot even guess how credible these themes are. Most of the terms of Mr Meagher’s invective are such as to conceal rather than reveal. The prime question he sets out to answer — ‘can you learn practice in theory?’ — is not meaningful until he distinguishes ‘practice’ and ‘theory’ from each other. If what he calls ‘practice’ refers to the ‘practical courses’, which he denounces as ‘an absurdity and futile’ and ‘irremediably dull’, then it is little wonder that ‘the best teachers’ of

25 D Solomon, ‘Meagher blasts law teachers, courses’, *Australian Financial Review*, 21 September 1983.

26 R P Meagher, ‘The Scope and Limitations of Legal Practice Courses: Should they replace articles and pupillage?’, Proceedings and papers of the 7th Commonwealth Law Conference, Hong Kong, 18–23 September 1983, pp 173–5.

them should not be in the University Law Schools. My own view, anyhow, would be that courses involving no 'theory' should not be taught in universities.

Third, if Mr Meagher is asserting that solicitors and barristers are 'the best teachers' of 'practice', this might seem commonsense, but it would certainly not warrant your sensational headline, 'Meagher blasts ...!' As for these same practitioners being the 'best teachers' of 'legal theory' or 'doctrine,' no evidence or even argument is offered.

Fourth, it is difficult in any case to see what evidence could possibly be offered that solicitors and practitioners were the best teachers in either 'practice' or 'theory'. For, according to Mr Meagher, practitioners 'do not teach at academic institutions' because of the greater monetary rewards of practice. How, if they do not teach, can they be 'the best teachers?'

Fifth, to my own knowledge, judges were already being heard in the 1950s, lamenting the incompetence of then recent graduates of Sydney Law School as compared with that School under Sir John Peden in the thirties. (Perhaps any judge so lamenting would have allowed exceptions to this generalisation, since Mr Meagher graduated in that decade!)

After 40 years of observation of Australian law schools and practitioners, I would certainly wish to dissociate myself from the charges, in your report from Hong Kong, that the Colleges of Law established by the profession for inducting young lawyers into practical tasks are manned by 'failed practitioners'; that law graduates are unemployed because they are badly taught; or that law schools 'encourage ignorance' among graduates. I regret the apparent recklessness of such assertions, and cling to the hope that those who make them are being misrepresented.²⁷

It is not so much Stone's five substantive comments, as much as his preliminary remark about the 'the themes' attributed to Meagher, that is most insightful: 'They stir'. The apparently reckless and sensational nature of Meagher's invective was indeed intended to stir. The remainder of Stone's letter is significant for what the invective stirred up: rigorous analysis of invective, which might give some hope for robust discussion. Even if Meagher would wish to dissociate himself from Stone's comments as much as Stone would wish to dissociate himself from Meagher's charges, Meagher would at least have respected the careful scrutiny of ideas, which was what he hoped to stir up. Seventeen years later, Stone's successors at the Sydney Law School would engage not in rigorous analysis, but in 'heated debates' about their emotional responses to what they too perceived to be the apparently reckless and sensational nature of Meagher's invective at a ceremony to confer upon him the degree of Doctor of Laws.

It cannot be denied that in principle Meagher was not well disposed to any change. However, is it his innate conservatism that motivated his remarks about education and professional training? Perhaps, it has more to do with his conception of the idea of a university. Universities are places of education. In the case of law, it is the disinterested study of legal concepts for their own sake. Given this conception, a university has no place in attempting to train professionals, nor should the professional bodies charged with such responsibilities have recourse to educational techniques that may be appropriate to the disinterested study of legal concepts, but inappropriate to the entirely distinct business of professional training. Universities, it seems, have started to perform functions they were not — in Meagher's eyes —

²⁷ *Australian Financial Review*, 27 September 1983, p 11.

intended to perform, and training institutions have been established on the inappropriate model of educational institutions.

Disdaining compulsory orthodoxy

On 19 May, 2000, the Chancellor of the University of Sydney conferred the degree of Doctor of Laws on Meagher. There could have been little dissent within the legal fraternity that his scholarship was deserving of the degree. However, the impetus for awarding it came from an unexpected source.

On Christmas Eve of 1998, Michael Kirby sent Dame Leonie Kramer a letter proposing that Meagher be awarded an honorary degree. It had widely been thought that Kirby and Meagher had maintained a rather cool relationship during their time together on the court. They had certainly not enjoyed any sort of friendship before they were thrown together, and their attitudes to legal and social issues diverged so greatly that it would be reasonable to assume that they could find no common ground. This, however, was not the case, as Kirby explained to Kramer:

Although I not infrequently disagreed with him about particular cases, we retained the most amicable of relationships. He was a real joy to work with and his brilliance of mind and adherence to principle as he saw it gained and reinforced my admiration for him.²⁸

He continued on to encourage the Senate to make the award on the grounds that even those who disagree with Meagher would approve of giving him recognition:

This is undoubtedly a famous, distinguished and learned graduate of the University of Sydney. I believe that he deserves recognition by an Honorary Degree, not for his seniority as a judge but for his postgraduate dedication to scholarship, teaching and the furtherance of knowledge. He is a graduate of which the Sydney Law School can be truly proud. Even those who do not agree with all of his views (and that would sometimes be difficult) would welcome the recognition by the university of such a distinguished *alumnus*.²⁹

In the event, he was accorded recognition, but this was far from welcomed by those who disagreed with the views that he expressed on the day.

It had been arranged that Meagher's great friend, Margaret Olley, would receive her Doctor of Visual Arts *honoris causa* at the same ceremony, and architectural artist, Simon Fieldhouse, was on hand outside the Great Hall to make preliminary sketches for a picture of the academic procession formed in front of the university's main quadrangle. The procession entered the hall to the strains of the organ processional, and the Vice-Chancellor and Fellows, honorary graduands, and the Chancellor, took their places on the dais, after which the Vice-Chancellor proceeded to invite the Chancellor to confer the degrees on Olley and Meagher.

In inviting the Chancellor to confer each honorary degree, the Vice-Chancellor read out a citation recording the contribution for which the graduand was being honoured. It was all rather cosy. Michael had asked

28 M D Kirby to Dame Leonie Kramer, 24 December 1998.

29 Ibid.

Leonie to give Roddy a degree, and Leonie had asked Roddy to write a citation for Margaret.³⁰ His own citation recited his scholarly achievement, his service to the university, and his judicial career, which merited the award of the degree. But it concluded on another note: 'He is a living illustration of the way this university disdains compulsory orthodoxy and encourages those who stand against the tide, even when the tide reaches tsunami proportions.'

Meagher was then invited to address the graduating law students. His 10 paragraph address contained two themes: one, dealing with intellectual integrity and the threat posed by political correctness; the other, concerning the unhealthy effect that the contemporary 'obsession with causes' was having on practising lawyers. First, in keeping with Cardinal Newman, Meagher argued that legal scholarship is a matter of employing intellectual rigour to analyse legal concepts. Political correctness, he suggested, provides an alternative approach: rather than encouraging us to analyse concepts, it stipulates which concepts we may and may not use. In stipulating which concepts we may use, Meagher maintains that political correctness also dictates what we may and may not believe. Second, he argued that legal practice is a matter of looking after one's clients' problems, and that the practitioner's own views must evaporate in the client's favour. He suggested that 'today's obsession with causes' threatens to reduce a lawyer's ability to serve his clients' interests:

You will find that you simply won't have the time to worry about your clients if your mind is concentrating on where the next march should be held. But that is only half of it. What is worse is that you miss out on your duty to look after your clients if you devote yourself to some narrower fanaticism, you will not be able to think clearly about whatever matter is in hand, if you are ideologically committed.³¹

The *Sydney Morning Herald* reported that the gathering had 'listened in stunned silence' and that 'the Law School is now embroiled in a series of heated arguments about who recommended awarding the doctorate, and why the 68-year-old judge was asked to speak'. The Law Faculty's Chris Cunneen was reported as telling the *Herald* that 'he was "appalled" that his students had been given such an anti-intellectual speech as their final message from law school'.³² The 'heated arguments' centred around an email message sent by Cunneen to all members of the Law School staff, on 25 May 2000, which included the following assertions:

Many people found the speech highly offensive. Among other topics it referred to 'niggers' and advised people that to join the Reconciliation march³³ this Sunday would be bowing to 'political correctness'.

Criminology graduates and their families complained to both Julie Stubbs and myself . . .

30 R P Meagher, *Portraits on Yellow Paper*, illust S. Fieldhouse, Central Queensland University Press, Rockhampton, 2004, p 67.

31 Meagher, above n 1, p 28.

32 The report is reproduced in Meagher, *ibid*, p 28.

33 On Sunday, 28 May 2000, over 200,000 people participated in the People's Walk for Reconciliation by walking across the Sydney Harbour Bridge.

I'm appalled that the final message the students I have taught had from this Law School was that anti-intellectual bigotry is okay (and indeed rewarded).³⁴

It was a fair call to say that something was being held out as being okay and indeed being rewarded. According to the Vice-Chancellor, this individualist was being rewarded for being 'a living illustration of the way this university disdains compulsory orthodoxy and encourages those who stand against the tide, even when the tide reaches tsunami proportions'.

Those who were offended by the reference to 'nigger' in the speech were simply being oversensitive. The speech did not commend the use of the term 'nigger'. It simply asserted that authors who had once used that word are now blackballed: 'Ronald Firbank cannot be reprinted because his most famous novel is called *Prancing Nigger*.'³⁵ The assertion that Meagher offered advice about joining the forthcoming People's Walk for Reconciliation was incorrect: the passing reference was concerned with marches generally, rather than with any particular one. However, the most serious matter is the accusation of 'anti-intellectual bigotry'. Perhaps Meagher's stance against political correctness justifies calling him a bigot, insofar as he is certainly obstinate in his opposition to it, and, perhaps, intolerant of those who subscribe to it.³⁶ But surely not 'anti-intellectual'. His commitment to Newman's conception of university education as promoting intellectual rigour surely establishes his credentials as an intellectual. If his opposition to political correctness makes him a bigot, he is an intellectual bigot, not an anti-intellectual bigot.

Meagher wrote to the Dean of the Faculty of Law, Jeremy Webber, telling him that Cunneen's email message was 'saturated with falsehood', commenting that '[i]t is ironic that Professor Cunneen's letter furnishes an example of the very phenomenon about which I was complaining: political correctness is an enemy of freedom of thought', and asking him to take some disciplinary action against Cunneen, or at least to procure an apology from him.³⁷ The Dean acknowledged that Cunneen had not accurately reported Meagher's remarks about 'niggers' and protest marches. However, he concluded that despite the inaccuracies, the tone of address had invited such a response.³⁸

The Dean was right to point out that recourse to robust use of language in criticising a position is likely to elicit equally robust language in defence of the position. He did not, however, really understand the problem that Meagher has with political correctness. The fundamental problem of political correctness is not merely that it prevents 'robust discussion', in the sense that it prevents the expression of alternative views. The serious objection is that political correctness dissuades rigorous analysis of concepts by its preoccupation with stipulating which concepts may or may not be used. Cunneen did not initiate 'robust discussion' about Meagher's speech. Rather than submitting Meagher's arguments to rigorous scrutiny, and offering an

34 The email message is reproduced in Meagher, above n 1, p 28.

35 Ibid, p 28.

36 The *Australian Concise Oxford English Dictionary* defines 'bigot' as 'an obstinate and intolerant believer in a religion'. Presumably it can apply to an unbeliever as to a believer, and political correctness, for these purposes, can count as a religion of sorts.

37 RPM to Jeremy Webber, 31 May 2000.

38 Jeremy Webber to RPM, 8 June 2000.

analysis of why the arguments are wrong, Cunneen condemns Meagher's use of an inappropriate term. The Dean did express his great regret that the focus of an occasion that was intended to honour Meagher's immense contributions to the law had shifted away from that.³⁹

The shift in focus is deeply telling. The university held Meagher up as a living illustration of 'the way this university disdains compulsory orthodoxy and encourages those who stand against the tide, even when the tide reaches tsunami proportions'. And then the focus shifted, and it turned out that the university was not so unanimous in encouraging those who stood against this particular tide. Perhaps, its disdain for compulsory orthodoxy is, in fact, promoted in theory but not in practice.

Collecting passions and the education of university gentlemen

As Meagher's retirement from the Court of Appeal drew near, it was natural that he should start to consider what he would do with the significant — and ever expanding — collection of paintings and other *object d'art* that had been housed in his chambers and the corridors of the court for over a decade. The immediate issue was finding somewhere to store, and preferably display, the collection from his chambers. The longer-term issue concerned what would happen to the collection at Darling Point and Bowral, as well as in chambers, after he died. It had become not only a very valuable collection, but a very large collection.

His initial idea was to lend the collection to the University of Sydney on a long-term loan. He had already lent the university pictures, and to give it a long-term loan would solve the problem of what to do with the chambers collection when he was forced to vacate his chambers upon retirement in 2004. A representative of the university was invited to inspect the collection and the offer made in about 2001. However, the university, it seems, was not prepared to accept the collection on the proposed terms. It would only agree to house the collection if a number of artworks were given to the university as an outright donation, rather than on long-term loan. The donor was mindful that once a long-term loan is made, such arrangements have a habit of developing into outright gifts in the fullness of time, and it was his intention that this would happen in the case of the gift to the university. However, this response was perceived by the donor as ungratefulness on the donee's part, and the affronted donor withdrew the offer.

He subsequently approached the Australian National University with a similar offer. In this case, the offer was very well received. The university was only too keen to accept a long-term loan, perhaps appreciating the likely outcome of such an arrangement. However, Meagher never followed this up, perhaps out of a feeling that Sydney was his first love, and, ultimately, where he really wanted his collection to rest. When he retired, wall space was

³⁹ Interest in this episode endured for some time: 4 years later, Webber was writing to the *Australian* from Victoria, Canada (J Webber, 'Roddy runs to the boss', letter to the Editor of *The Australian*, 12 May 2004, p 24), protesting Christopher Pearson's representation of the events of 2000 and the players' respective attitudes to political correctness in Pearson's article in the *Inquirer* of 8–9 May, 2004.

mysteriously found at Darling Point and Bowral. The pictures from chambers were hung on their walls, and their rooms came to have a homely over-furnished feel, as the extra furniture was distributed amongst them. Additional space was created at Bowral by converting the garage into a book room. This accommodated a few rugs, sculptures, and pieces of *object d'art*, however its primary purpose was to provide additional bookshelves for the rare and valuable books that came from chambers. (All his law reports were sold at this time other than his beloved set of 'nominates' with which he could not part.)

The question of the fate of the entire collection, upon its collector's death, still remained. Dame Leonie Kramer visited Meagher at his home in Darling Point and, for the first time, saw the extent and quality of the collection. She, in turn, arranged for the university's professors of the history of art to visit Meagher and view the collection. They formed a highly favourable impression of the collection. People within the university who appreciated art had become aware of the collection. It was now apparent that the university was not being asked to provide cheap storage for an alumnus, but rather that it had the opportunity to acquire some important works of art. Negotiations commenced again, and this time it was agreed that Meagher would leave his entire art collection — paintings, drawings, sculptures, carpets, ceramics, furniture, and archaeological artefacts — to the university. In giving the collection to the university, he stipulated that it was his wish that, so far as possible, the collection should be kept together as a collection; that any interested persons be given access to its contents on request; and that the university make appropriate arrangements to lend any artwork to his daughter and heiress on appropriate terms, should she wish to hang any of the pictures in her home. There was a gallery at the university: the university art gallery, which was located in the War Memorial Arch connecting the Macleay Building to the Main Quadrangle. It was widely accepted within university circles that this modest gallery was inadequate for displaying the university's existing collections, and it was hoped that this major gift might provide the impetus for creating a suitable purpose-built space for the permanent exhibition of the university's art collection.

After a false-start, the university now appreciated what it stood to gain, and was keen to express its gratitude for this, and indeed to gloat about it! Dr Ann Stephen had been appointed as the Curator of the university's art collection, and made it a priority to ensure that as much of the collection as possible was exhibited regularly to the public. She conceived of the idea of holding a 'taster' exhibition. This would draw attention to the fact of the gift, and give people an opportunity to see a substantial selection of the collection through an exhibition, 'Collecting Passions: A century of Modernism from the home of Justice Roddy Meagher', which was hung in the university art gallery from 26 July until 27 September, 2009. The gallery was opened 6 days a week and admission was free. The exhibition attracted a record attendance at the gallery, with some 5000 visitors viewing it over the 2 month period.

The exhibition contained 104 works, hung salon-style from floor to ceiling as in Meagher's homes. The *Sydney Morning Herald's* reviewer, John McDonald, pointed out that many of the works on exhibition were in fact small in scale, although they were often 'absolutely characteristic' of the

major artists. McDonald identified in the exhibition an important feature of the collection — lack of systematic ambition:

There is a distinct difference in the way we view private and public collections. For instance when the National Gallery of Australia tries to tell the story of modern art by including diminutive prints and drawings amid large paintings, it feels like an admission that we do not have a major work by artists such as Kandinsky or Klee. By contrast, with Meagher's collection we admire his perseverance in tracking down even the smallest works by the most celebrated artists. Nobody expects private collections to be tidy and systematic. When one encounters such a phenomenon it is vaguely disturbing, as if the collector set out to imitate the museums.⁴⁰

What will be the value of the collection for the university? Many of the works in the collection are of great intrinsic value, and this will only increase over time. However, a large part of the value of the collection, as a collection, is located in the intimacy and personal touch that McDonald identifies. It is this that Meagher, no doubt, valued about his collection and wished to preserve. But, as Edmund Capon explains, this value can only survive as long as the memory of the collector survives:

Is it the value for him, or is it the value for the collection? I know the two are inseparable and the reality is that a collection like that is only meaningful with the name of Meagher attached to it, that's the point. If you take that away, then it becomes an accumulation of dissociated objects. So, if you're going to keep it together at all, it's got to be kept together under the aura of the person who put it together, because it has no kind of scholastic knowledge to it at all . . . It's probably got a certain life. We face this quite a lot. Collectors have collections. If they form that art collection with a clear art historical definition to it, fine, you can keep it together. In a sense you can do that with James Fairfax's; you can do that with John Kaldor's. With Roddy's, the only logic is his personality. Take that away, and the collection's meaningless. It goes to the university as a collection with his name attached, and therefore it has some meaning. With the passage of time, what is that going to mean in 50 years' time? I don't know. Whilst the memory of Roddy is around, it means something.⁴¹

So why did Meagher decide to leave the collection to the university? Was it in the vain hope that his name would be remembered? That seems unlikely, given his innate humility (which means loans for public exhibitions were always made anonymously), and, as Capon points out, that the enduring value of the collection will depend on the enduring memory of the name: as the name fades, so too will the value of the collection as a collection. Was it because it seemed like the best way to dispose of an extremely valuable asset? That seems unlikely, given that it was his firm intention to leave his assets to his daughter. Was it because the university was the best institution to look after and display the works of art? This also seems unlikely: the university did not have a particularly extensive collection, and there would have been other public institutions with existing facilities better equipped to care for, and display, the works.

It seems that the decision might, in fact, have had much to do with the idea

40 J McDonald, 'Doing justice to a modernist passion', *Sydney Morning Herald*, 12–13 September 2009, The Critics section, pp 14–15.

41 Edmund Capon in conversation with the author, 6 May 2010.

of a university, and the value that the University of Sydney had for Meagher as a university. For the education of gentlemen, 'you must have leisure, time to yarn and smoke pipes, to read serenely, to hear music and see fine pictures and so on. I'm sure you realise this and practise it . . .' wrote Fr Kenny to the young Roddy. The university gave him such opportunities, and more. It set him on his way in life as a university gentleman, one who would disinterestedly pursue knowledge his life long. In his case, that disinterested pursuit happened to have the collateral benefit of providing him with a significant income. A collateral benefit of having a significant income was that he was able to transform some of his assets into things of beauty. At the end of his life, just as his assets would ensure that his daughter and her family enjoyed financial security, his gift of the art collection to the university would ensure that subsequent generations of gentlemen would have the opportunity to spend their leisure seeing fine pictures as part of an education in the disinterested pursuit of knowledge for its own sake.