

Larger than Life: Roddy Meagher QC

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Ladies and Gentlemen:

When Dr Henderson kindly extended an invitation to speak to you today, he proposed that my topic should be “Larger than Life: Roddy Meagher QC”. What, you might ask, is the connexion between “Larger than Life” and “Roddy Meagher QC”? Having completed a biography of Roddy Meagher, I too was intrigued by what Dr Henderson had in mind.

Perhaps, Dr Henderson took his lead from Tony Abbott. In launching *Roddy’s Folly*, my biography of R. P. Meagher QC, Mr Abbott, after quoting from my subject’s lists of Nice Things and Nasty Things that Have Vanished in My Lifetime, summed the man up:

“In short, he liked everything that was larger than life”.

That is to suggest that what was larger than life were the things that appealed to Meagher, rather than the man himself. Of course, his very physical stature was large, and his personality was even larger than that.

Sometimes, this larger-than-life personality was referred to as a wonderful character. There is the *Financial Review’s* Roddy the kimono-wearing QC, stretched out on his bed conducting a conference in his hotel room and showing a significant amount of leg to his colleagues. There is *Art & Australia’s* Roddy-the-redhead collector’s eccentricities, “Not the least of these is his penchant for dyeing his hair, albeit a subtle shade of auburn, and for wearing gem-encrusted rings, and strings of beads and necklaces hidden beneath his judicial robes.” And there is the *Good Weekend’s* Roddy, blowing kisses to his psychotic Alsatian, Didier, above the strains of Schubert, who is “as odd as the dog is mad.”

In the conclusion of *Roddy’s Folly*, I discuss at length the difference between a ‘character’ and an ‘eccentric’, and suggest that to understand my subject properly is to see past the larger-than-life character, and to see him as an eccentric – one who pursues thoughts and actions that seem authentic to him, irrespective of public opinions and reactions.

So, if we are to identify what is larger-than-life with the man, rather than with the things that appealed to him, I am not inclined to do so on the basis of his physical stature or his larger-than-life character. Today, I should like to explore the possibility that it was the controversies that he involved himself in – indeed, often gleefully created – that made him seem larger than life. In short, I should like to examine what made others regard him as a controversial figure.

¹ Damien Freeman is the author of *Roddy’s Folly: R. P. Meagher QC – art lover and lawyer* (Ballan, Victoria: Connor Court, 2012). Full bibliographic references for quotations not referenced in this paper may be found in *Roddy’s Folly*. This speech was subsequently published in *The Sydney Papers*.

The Controversial Mr Meagher

I propose that we consider four controversies in which Meagher became embroiled: one, his speech about political correctness in the Great Hall at the University of Sydney, when he was awarded an honorary degree; another, concerning the gift of a painting of a naked lady to the New South Wales Bar Association, and its subsequent removal from the Bar Association's common room; the third, his remarks about women at the Bar, and Justice Gaudron's response to them; and, finally, his various utterances over the years about Aborigines which have attracted the ire of many, including Pat O'Shane.

In the following discussion, I shall seek to demonstrate how each of these might be seen as representing different ill-effects of political correctness. Each might also be seen as illustrating something about what is larger-than-life about the controversial Mr Meagher, or rather why his vision for society seems to be larger than that the reality he perceives in society. Finally, I shall say something about the different ways in which I believe that he felt that political correctness was eroding the largeness of our collective life.

Four Famous Controversies

(i) The University and the LLD speech about political correctness

On 19 May, 2000, the Chancellor of the University of Sydney conferred the degree of Doctor of Laws on Mr Justice Meagher, an action which we now know was initiated by Justice Kirby. The award was intended to recognize both his contribution to legal scholarship and his devotion to the University (as Fellow of St John's College, Tutor at St Paul's College, Fellow of the University's Senate, and, most notably, his thirty-year career as Challis Lecturer in Roman Law and the Principles of Equity).

Meagher was invited to give an address before his fellow graduands and their guests. Recently, I heard that one guest remembered that his speech was disgusting, although she could not recall what he actually said. What he said was twofold. First, he said that a lawyer had no business concerning himself with organising marches and rallies, as such activities would distract his attention from his sole responsibility as a legal practitioner, which was to serve the interests of his client. Secondly, he attacked political correctness within the academy, which, he said, prevents individuals from asserting claims which may be true, but which are deemed to be politically incorrect, and therefore unworthy of attention.

Professor Chris Cuneen, then at Sydney, sent an e-mail message to all members of the Law School staff saying:

“Many people found the speech highly offensive. Among other topics it referred to ‘niggers’ and advised people that to join the Reconciliation march this Sunday would be bowing to ‘political correctness’... 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).”

It is unfortunate that the remarks were made days before the People's Walk for Reconciliation across the Harbour Bridge. However, it is obvious from the text that Meagher was referring to marches generally, not giving advice about a particular one. To take offence

at the reference to ‘niggers’ was simply being oversensitive. What Meagher said was, “Ronald Firbank cannot be reprinted because his most famous novel is called *Prancing Nigger*.” Meagher’s purpose was not to advocate the use of derogatory language, but to lament a situation in which parts of our cultural heritage cannot be discussed for fear of being branded as politically incorrect. (It is surely obvious that we might legitimately disagree about the value of Firbank’s *Prancing Nigger* as a novel, whilst being able to agree that the use of ‘nigger’ in contemporary discourse is unacceptable.)

Some decades earlier, Professor Julius Stone had written a letter to the editor of the *Sydney Morning Herald* criticising a speech that Meagher had given about legal education and training. This involved submitting Meagher’s arguments to rigorous analysis. By the time Professor Cunneen attacked Meagher’s later speech, rigorous analysis had given way to “heated debates”, in which Meagher was criticised for using an inappropriate term, rather than engaging in rigorous analysis of his use of the term to prove why it is inappropriate. It is in this way that political correctness seemed, to Meagher, to distract attention from the pursuit of knowledge.

(ii) The Bar Association and the Proud painting

One of Meagher’s most colourful controversies concerned a painting by Geoffrey Proud that Meagher donated, together with a number of colleagues, to the New South Wales Bar Association in 1975. The gift was accepted by the Council of the Bar Association, and the huge picture of the naked lady hung in the Bar Common Room for two decades and was the source of endless debate. Then, in 1994, Murray Tobias QC became the President, and one of his first actions was to have the painting removed from the Bar Association’s premises. Meagher was furious when he heard of this, and attempted to resign his life membership of the Association.

In removing the painting, Tobias was attempting to respond to calls for the Bar to be seen to be responding to the legitimate concerns of the women in its ranks. The feminists had been arguing for decades that it was inappropriate to hang a picture of a naked woman in a public space within the premises of a professional association. It was all the more offensive to them because most of the other pictures in the Common Room were formal portraits of men in the ceremonial attire of the leaders of their profession, and the only depiction of a woman was that of a naked one apparently intended to satisfy the male gaze. For the feminists, it was politically incorrect to hang the painting, and they supported its removal.

The campaign to bring the painting back to the Common Room was mounted by one of the Vice-Presidents, Rick Burbidge QC. Burbidge was not interested in the aesthetic value of the painting any more than he was in the political incorrectness of hanging it in the Common Room. What concerned him was due process and deference for the solemn resolutions of the Bar Council. The Council had formally resolved to accept the gift. On several subsequent occasions, attempts were made to remove the painting, and the Council repeatedly resolved against such action. From Burbidge’s point of view, if the President wanted to remove the painting, he had to do so with the express permission of the Council, and he had failed to obtain the Council’s approval before removing it in this case.

Meagher was furious about this politically-correct stunt, and he made much of the technical issues concerning the President's lack of authority. However, what really offended him was the fact that the painting was being judged according to some standard other than its aesthetic value. For Meagher, a work of art should be assessed according to its aesthetic merit alone, not its morality. A painting that is politically incorrect might lack moral value, but lack of moral value is not, in his mind, a proper basis for evaluating a work of art. Thus, for Meagher, political correctness had become a threat to beauty as much as to truth.

(iii) The *Good Weekend* article's remarks about women and Justice Gaudron's response

In 2002, the *Good Weekend* ran a profile of Justice Meagher, in which he offered his views on a range of topics including the following remarks:

“The bar desperately needs more women barristers... there are so many bad ones that people may say that women can't be good barristers and are hopeless by nature – but that is not so. It's a pity the able people don't come.”

Mary Gaudron, then a Justice of the High Court, responded in a speech a month after the *Good Weekend* came out:

“It is and always has been relatively simple to dismiss such remarks as the mutterings of male malcontents who, for very good reason, fear dealing with women on equal terms. However, the natural and probably consequence of a remark of that kind, when made by one of the most senior judges of this state's Court of Appeal, is that few, if any, women barristers will be briefed to appear in that Court. We should not insult Justice Meagher's intelligence by pretending that he did not ... intend that very consequence.”

Did Meagher intend that consequence? I doubt it. I think this remark was nothing more than stirring. If one reads it closely, he does not say that he thinks that women cannot be good barristers, but that “some people” might think this, and that he thinks it is “not true”. I think this is an attempt to tease the feminists and to ruffle their feathers. This he succeeded in doing. It is true that he probably thought that a lot of the women barristers were “bad ones”, but this must be seen in the context that he probably thought most people at the Bar were hopeless. Meagher was one of the most successful barristers of his generation. He belonged to the elite of the elite, and probably thought that there were no more than a dozen good barristers in Sydney at any one time. Perhaps, he did not think that there were any women among the top dozen barristers in Sydney. However, that hardly counts as a meaningful reflection on the overall quality of women at the Bar, and Meagher knew this.

As with most of his remarks about women, he was stirring his politically-correct enemies. He knew the naughtiness of what he was saying. He knew that it really would not make any difference in the grand scheme of things. He knew it would irritate the feminists. He knew that they had no sense of humour when it came to such matters. I think that he knew that anyone who understood him properly would know that he was not really hostile to women in any way, and he enjoyed watching the feminists misunderstand the situation and get so worked up about their misunderstanding. For such people, there was no room for

Roddy's humour. He despised the fact that political correctness was hostile to his humour, and he reacted against this.

(iv) 'Abos', denigration, affirmative action, spirituality, and art

Finally, there are the remarks about Aborigines that have led some to brand him as a racist. These fall into two categories. First, there was his staunch opposition to affirmative action with respect to judicial appointments. Pat O'Shane told those gathered at the launch of the *Alternative Law Journal* that the Chief Justice of Australia, Sir Harry Gibbs, described as "heresy" the view that the Courts should be representative of all races, sexes, classes, creeds and geographical regions irrespective of the merits of the individuals considered", and then she continued to explain:

"Those kinds of expressions are not rare and isolated. In Sydney in recent months we have become aware of these xenophobic pronouncements of Mr Justice [Meagher] of the undesirability of Aborigines entering the legal profession."

This and other comments prompted Meagher to respond to O'Shane in the following terms:

"You said I had expressed a view that no Aborigine should ever be appointed to judicial office... In fact, I have never said anything of the sort, nor do I believe anything of the sort... I have said and still believe a person should not be appointed a judge merely because he or she is an Aborigine. To make a token appointment would be insulting to the appointee, the judicial office in question and the Aboriginal race as a whole. That is a very different matter."

In resisting the idea that people should be appointed to judicial office for reasons other than merit, Meagher was undoubtedly correct. That is not to say that there is no reason for concern when only a narrow section of the community possesses the requisite merit.

More problematic is his persistent use of the word 'Abo'. It was a word that was in common parlance in his youth, and perhaps was then uttered without any malice. He persisted in using this language as a challenge to political correctness. He was determined that no one would tell him which words he could and could not use to express himself. It is worth remembering that the word 'Abo', although unacceptable and universally regarded as offensive today, was not in its origin offensive in the way that a word such as 'Boong' has always had an offensive and derogatory sense. For Meagher, 'Boong' is offensive, 'Abo' is merely politically incorrect. It is one thing to avoid offensive language; it is another to refrain from using language on the grounds of political correctness. I think, however, that we can probably all agree that 'Abo' is not merely politically correct, but also offensive. However, for the sake of telling you one story that I found insightful, let us accept that Meagher maintained a distinction between offensive and politically-incorrect language, and that whereas 'Boong' was offensive to him, 'Abo' was merely politically incorrect.

I was talking to him about some paintings that I had been looking at by Albert Namatjira and why I thought that they were superior to paintings in the same style by other Aboriginal artists. Meagher said to me, "I've never liked Namatjira's paintings. They lack any expression of Abo spirituality." For Meagher, Namatjira was simply imitating what French painters had been doing a century earlier. He was suspicious of a lot of Aboriginal art

for many years. This was, no doubt, in part because it was trendy. Then he went to the Northern Territory and walked around Uluru/Ayres Rock (I'm not sure which name he would have used). Then he became enamoured of Aboriginal art, and collected several important works. It was in this way that he came to appreciate that there was something that counted as "Abo' spirituality" which was valuable, and which could find expression in art. Aboriginal art that expresses 'Abo' spirituality is then more valuable than Aboriginal art that does not express it, and Namatjira's work is overrated if it fails this test, as Meagher believed that it did.

You may think that this is all very nice, but it does not require the use of denigrating language to make the point; that Meagher could have made the same point by referring to 'Aboriginal spirituality'. Perhaps he could have. But I think he was getting at something deeper. I think that he believed that deference to political correctness would do nothing to cultivate Aboriginal spirituality or the wider appreciation of this in the general community. I think that he believed that political correctness prevented us from getting closer to understanding the meaningfulness and authenticity of Aboriginal experience. Perhaps he was wrong about that. But I think he believed that, and it is for that reason that 'Abo' spirituality seemed important to me. In his own controversial way, he was making a significant point.

Meagher's critique of Political Correctness

What are we to make of these four examples? In particular, should we make sense of these examples in the same way, or in different ways? I think that in each of the examples we see a pervasive concern with political correctness, and yet, in each we see different ways in which political correctness worries him.

In his speech at the Great Hall, Meagher directly attacked political correctness. In this case, he was concerned with the effect that it was having on freedom of thought within the academy. Rightly or wrongly, he maintained that political correctness curtailed independent thought by stipulating which ideas were unacceptable for reasons other than their having been proven to be false. Meagher is not defending vilification in controversies such as this one. Rather, he is asserting that freedom of thought is no less important than freedom from vilification. In this example, political correctness comes in conflict with the quest for the truth.

In the saga of the Bar Association and the Geoffrey Proud painting, Meagher was reacting against what he saw as the President's capitulation to political correctness, when he authorised the removal of the painting of the naked lady out of deference to the concerns of female members of the Bar Association. This action might seem outrageous for a number of reasons. The reason that I have suggested that most offended Meagher was that the correct way to judge a painting is in terms of its aesthetic merits. Morality has no relevance for aesthetic value, and so the diktats of political correctness – whatever their moral status – have no relevance for aesthetic evaluation. Therefore, they did not provide a basis for removing an otherwise aesthetically valuable work of art. In this example, political correctness comes in conflict with beauty.

Comments about women, such as those made in the *Good Weekend* are also to be understood as an attack on political correctness and its advocates. Here, however, the concern is nothing so lofty as truth or beauty. This is Roddy being naughty and enjoying the way he so deftly enrages the politically correct through remarks that deliberately mask his genuine thoughts. Political correctness seems dull to him. It detracts from the lustre of life. It takes itself too seriously and is unnecessarily hostile to good humour. The difficulty that many will find with his criticism of the earnestness of the political correctness agenda is that the alienation of those in the margins of society is no laughing matter. It needs to be addressed; and it can only be addressed by taking it seriously. Roddy was capable of addressing serious issues, but he saw no reason to exile humour from serious discussion. In this example, political correctness comes in conflict with the – perhaps idiosyncratic – value that Meagher places on humour.

Finally, there are the remarks about Aborigines, which have led some to think that he was racist. I have concentrated on one private conversation in which he told me about “‘Abo’ spirituality”. I can well understand why some people might believe that those insights could have been expressed equally well in language that was neither intentionally, nor inadvertently, denigrating. I have tried to draw out the sense, however, in which there was some deeper significance attached to his use of politically-incorrect language in this context. It might seem like a tenuous example. I can only say that it struck me that there was something more to this, as so often his command of language provided the façade which masked his true attitude to his subject. In this example, political correctness comes in conflict with the expression of spirituality.

I have chosen these examples not because they are necessarily the most important or insightful, but because they were sensational, and so they help us understand the controversy that he attracted. They also show the variety of ways in which the phenomenon that we might call ‘political correctness’ offended him.

Always he seems to be stirring and pushing the envelope of acceptability. Always he recruits humour as the most powerful weapon in his arsenal when attacking political correctness. Always he seems to be concerned with some deeper truth that his opponents failed to grasp. Whether or not he succeeded in exposing the shortcomings of political correctness, always he seems to have succeeded in attracting controversy. This he loved in equal measure as he despised the pernicious effects of political correctness.

Larger than Life

So how are we to understand the relationship between “Roddy Meagher” and “Larger than Life”? Often, he did seem larger than the world he inhabited. Her Excellency the Governor of New South Wales admitted as much when she said: “In fact, let’s face it: we need more people like Roddy. We’re becoming a bit bland in our affluent society, aren’t we?” Much of the largeness of Roddy’s life can be seen in the colourful way that he railed against public acceptance of political correctness. For Meagher, political correctness seemed to pose a threat to humour in public life as much as it did to the appreciation of beauty, truth, and spirituality in that realm. The former Chief Justice of Australia, Murray Gleeson, observes:

“Roddy Meagher had a strong belief in what G. K. Chesterton called the romance of orthodoxy. Heresy, he considered, is dull. When he thought heretics were being ridiculous, he ridiculed them remorselessly and, sometimes, extravagantly. The present is not a good age for orthodoxy, but he had notable successes, including some that have come to be acknowledged even among those committed to the promotion of change.”²

The former Prime Minister, John Howard, notes that this was not only effective, but also appealing for those who shared his sympathies:

“he had a capacity to talk in a colourful, and therefore attention-attracting, fashion about his conservative beliefs... He made it interesting to be a conservative.”

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Recently, I heard the Sydney Symphony Orchestra perform Mozart’s Requiem. In the programme notes, the introduction to the concert concludes:

“In his funeral prayer, [Mozart] ... was perfectly equipped to portray fear, trust, sorrow, optimism and hope – the emotions that touch the souls of the faithful in the face of death.”

The performance left a slightly different impression on me. It seemed to me that Mozart was presenting us not with an actual experience of emotion, but with a possible experience. What interested me was not the sense that it was perfectly possible that an actual person might, at an actual moment in time, experience a certain range of emotions (in other words, that a person of faith might feel fear, trust, sorrow, optimism and hope as death approached). Rather, what struck me about the performance was the possibility for experiencing these emotions *in a particular way*.

In *The Principles of Art*, R. G. Collingwood explains that we can experience emotions in more or less precise ways, and that the role of the artist is to offer us a very precise experience of emotion; one that enables us to comprehend the emotion, rather than the sort of vague and imprecise feelings that we encounter in our day-to-day life. This special way of experiencing emotion is what he thinking is unique about art. When I listened to Mozart’s Requiem, it was as if I had become exposed to a human possibility that I do not encounter in the world that I inhabit. It affirmed for me the possibility of experiencing fear, trust, sorrow, optimism and hope in a more precise, pure, authentic way than seems possible in the world that I inhabit.

Roddy Meagher was, I believe, acutely aware of what it would mean to engage with truth, beauty and spirituality in a precise, pure, and authentic way. And he was acutely aware of just how short of the mark our society is in terms of the way in which it engages with the true, the beautiful, and the spiritual. Truly, his experience of the true, the beautiful, and the spiritual seems to have been larger than life – at least larger than the experience of these that is articulated in our public discourse.

² Gleeson, M., “Roderick Pit Meagher”, *Australian Bar Review*, Vol. 35(1), 2011, pp. 24-25, p. 25.

Rightly or wrongly, he perceived political correctness to be responsible for this malady in society. No doubt, political correctness has made some valuable contributions to society. Probably, these contributions were lost on Meagher. What was not lost on him was the damage that he perceived it to be wreaking. To the extent that he is correct in maintaining that political correctness can have a negative effect on society, it behoves us to strive to find a way of balancing the benefits of political correctness with the need to avert the worst of its deleterious effects.

The things that were larger than life appealed to Roddy Meagher. He inhabited a world that increasingly seemed bereft of the large possibilities that he saw for it. Much of what made him seem larger-than-life was his acute awareness of the smallness of the world that he inhabited. Whether or not one agrees with his analysis of the causes of the diminishing scale of life, it is undoubtedly to his credit that he resisted it in the way that seemed best to him.

He would not go gentle into that good night. He raged and raged at the dying of the light.