



**Address to the University of Western Australia
Annual Senate Community Dinner 2018**

**The Honourable Justice Peter Quinlan
Chief Justice of Western Australia**

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The Honourable Robert French AC, Chancellor, Professor Dawn Freshwater, Vice Chancellor, the Honourable John Quigley MLA, Attorney General, the Honourable Bill Marmion MLA, members of the Senate of the University, Senior faculty and Executive, Donors and supporters of the University, other distinguished guests including fellow alumni of the University.

Thank you for the kind invitation to address the 2018 University of Western Australia Senate Community Dinner. Thank you Mr Olman Walley for your generous welcome to country. I pay my respects to your elders and all the elders of the Noongar nation, past, present and emerging and acknowledge the continuing stewardship of the Whadjuk people of the lands on which we meet.

It is fitting that the first official address I have been asked to make as Chief Justice should be here at the University of Western Australia, the place at which I spent seven years of my life, ultimately graduating in Commerce and Law. Indeed, only this morning I received an invitation to a 25th year reunion of my graduating class from the UWA Law School.

It also feels personally fitting for me to be here at the University. At the time of my appointment as Chief Justice last month, I had cause to reflect upon the journey that had brought me to that point and the various stages of my legal career, the most significant of which, in both duration and influence, was practising for 16 years as a member of the independent Bar. And so, in reflecting upon that journey, I expected that my memory would be particularly drawn to

that period of my career. What I found, however, somewhat to my surprise was that my memory was primarily drawn back to my time here at the Law School and more generally at this University. I was, in a sense, cast back to the beginning of the journey, when the law was a fresh and strange new endeavour and judges were simply names in the law reports, some of whom assumed a legendary status that appears to be largely confined to law students, but most of whom remained a mystery.

One aspect of life at university that returned to me quite vividly was the diversity of ideas and subjects to which I was exposed. I studied both Commerce and Law, in addition to taking units from Economics, and so in the formal curriculum I encountered a high degree of intellectual diversity: mathematics, economics, history, accounting, criminology, law etc. But it went further than that. I had friends studying medicine, and so would study occasionally in the Medical School library at QEII Medical Centre. A close friend of mine studied English in the Arts faculty and would enthusiastically press upon me books by new authors he had discovered and encourage me to come along to lectures that he thought I might enjoy.

And so, in many ways, university life taught me, for the first time, the great advantage and adventure of being what, in the law, we call a "generalist".

How different that now seems, in many respects, from the state of the professions today, or at least the legal profession, of which I form part and so have been able

to observe at close quarters. The legal profession now is not simply a specialised profession (that is, professing the law) but has become what could be described as "hyper-specialised", a notion to which I will return in a moment.

And this raises, of course, the very notion or purpose of a university and what its ultimate moving principle should be: the perennial debate between knowledge for knowledge's sake and education as utility.

It is a debate with which all of you in university teaching and administration will be all too familiar. It is also one which, it seems to me, is essential for the future and vibrancy of the professions as well, particularly the legal profession.

A great contributor to that debate, of course, was John Henry Newman, whose 1852 Treatise *The Idea of a University* remains a classic in the field. Many of you will be far more familiar with that work than I.

For now I wanted to focus on Discourse 7 of the *Idea of a University*, entitled "Knowledge Viewed in Relation to Professional Skill".

In the earlier parts of the book Newman had outlined his vision for liberal education within universities and in Discourse 7 turned to his critics. In relation to his fundamental claim that the business of a university should be knowledge for its own sake, Newman said the following.

[Can I interpolate to say that, in the interests of historical accuracy, I have left Newman's gender specific pronouns as they are, although I should note that I am

sure that a mind as open as Newman's would have had no difficulty with the turn towards properly inclusive language].

Turning back to Newman and his vision of knowledge for its own sake. He said:

"Now this is what some great men are very slow to allow; they insist that Education should be confined to some particular and narrow end, and should issue in some definite work, which can be weighed and measured. They argue as if every thing, as well as every person, had its price; and that where there has been a great outlay, they have a right to expect a return in kind. This they call making Education and Instruction "useful," and "Utility" becomes their watchword."

Of these "utilitarians", Newman singled out, as their forerunner, John Locke, who Newman quoted, as follows:

"'Tis matter of astonishment that men of quality and parts should suffer themselves to be so far misled by custom and implicit faith. Reason, if consulted with, would advise, that their children's time should be spent in acquiring what might be *useful* to them, when they come to be men, rather than that their heads should be stuffed with a deal of trash, a great part whereof they usually never do ('tis certain they never need to) think on again as long as they live; and so much of it as does stick by them they are only the worse for."

How often do you as members of the academy have to counter this insistence on the immediate utility of the subject matter of your teaching and curriculum.

What use is this in the real world?

Is this going to be in the exam?

Etcetera. Etcetera.

Newman's riposte, as relevant now as it was then, was that while intellectual culture was its own end: that which has its *end* in itself has its *use* in itself also. Newman drew an analogy with the health of the body and its contribution to manual labour in the following way:

"Again, as health ought to precede labour of the body, and as a man in health can do what an unhealthy man cannot do, and as of this health the properties are strength, energy, agility, graceful carriage and action, manual dexterity, and endurance of fatigue, so in like manner general culture of mind is the best aid to professional and scientific study, ... and the man who has learned to think and to reason and to compare and to discriminate and to analyze, who has refined his taste, and formed his judgment, and sharpened his mental vision, will not indeed at once be a lawyer, or a pleader, or an orator, or a statesman, or a physician, or a good landlord, or a man of business, or a soldier, or an engineer, or a chemist, or a geologist, or an antiquarian, but he will be placed in that state of

intellect in which he can take up any one of the sciences or callings I have referred to, or any other for which he has a taste or special talent, with an ease, a grace, a versatility, and a success, to which another is a stranger. In this sense then, and as yet I have said but a very few words on a large subject, mental culture is emphatically *useful*."

Not that Newman thought that this meant that university education ought to be disrespectful to particular studies or vocations. On the contrary. As he continued:

In saying that Law or Medicine is not the end of a University course, I do not mean to imply that the University does not teach Law or Medicine. What indeed can it teach at all, if it does not teach something particular? It teaches *all* knowledge by teaching all *branches* of knowledge, and in no other way. I do but say that there will be this distinction as regards a Professor of Law, or of Medicine, or of Geology, or of Political Economy, in a University and out of it, that out of a University he is in danger of being absorbed and narrowed by his pursuit,...; whereas in a University he will just know where he and his science stand, he has come to it, as it were, from a height, he has taken a survey of all knowledge, he is kept from extravagance by the very rivalry of other studies, he has gained from them a special illumination and largeness of mind and freedom and self-possession, and he treats his own in consequence with a philosophy and a

resource, which belongs not to the study itself, but to his liberal education."

Notice Newman's warning about the professional being "in danger of being absorbed and narrowed by [their] pursuit".

This brings me back to the problem I identified earlier: of "hyper-specialised" within the legal profession.

This is, in my assessment at least, a very real threat to the integrity and the future of the legal profession itself. And it is more pronounced than the threat Newman recognised.

In Newman's time the danger of being absorbed and narrowed by a particular pursuit was the danger of being absorbed by the Law, or by Medicine, or Geology.

Today the problem is far more acute. The degree of specialisation has increased, and increases exponentially.

For many, if not most, lawyers, from the moment they leave Law School, where the reach of their vision extended to the law as a whole, they are diverted and funnelled into narrower and narrower realms of specialisation. No more is it enough to specialise in litigation, one must move to the sub-speciality of commercial litigation, down to corporate litigation, down to insolvency, and

ultimately down to being the master of one particular section of the *Corporations Act*.

No doubt this is all in the interests of maximising the value of the individual lawyer as an economic unit and increasing their marketability, thereby contributing to the profitability of the firm as a whole.

But such gains come at a cost. And the costs of such economic efficiency can be found at every level.

At the level of the individual, lawyers become more and more narrow in their range of skills and miss out on the diversity and variety which lends colour to a professional life. Without such variety and work satisfaction, dissatisfaction generally, and stress, can set in. Recent studies have demonstrated alarming levels of poor mental health in the legal profession. As part of the response to that issue, we should ask ourselves to what extent lack of diversity in work is a contributing factor.

At the level of the firm, the business unit itself, there is the risk that people simply leave and move on to work that is more diverse and more fulfilling. Again, retention of skilled and experienced lawyers, particularly women, is a real and pressing issue for the legal profession. As part of our efforts to improve and enhance career development, versatility and meaningful work must surely be a major priority.

At the level of the profession, the common bonds and ethos of a profession begins to break down. Individual members of the profession have less in common with one another, and they are not able to share common stories and experiences to build the ongoing narrative that is essential for a professional ethos to survive.

And finally at the level of society, we all become deprived of the opportunity for our laws and their application to be improved and reformed by the cross-pollination and synthesis that results from the interaction of different disciplines. Every area of the law becomes an island by itself and the law as a whole lacks coherence.

So in the end, it may turn out that being a generalist, having our heads "stuffed with a deal of trash" to use Locke's expression, is actually useful, for all of us, after all.

It is a great paradox, that having been appointed to the Supreme Court of Western Australia, with its wide jurisdiction across almost all areas of criminal and civil law, I am now, as a judge, more of a generalist than I have been for 25 years in legal practice. Indeed, perhaps the reason my reflections upon my career kept returning to memories of law school, is that the last time my engagement with the law was as wide and as varied as it is now, was when I was a law student. And that can only be a good thing. For me and for the system as a whole.

And just to demonstrate that there is nothing new under the sun, consider this warning from Dr Edward Copleston, quoted by Newman:

"It is an undisputed maxim in Political Economy that the separation of professions and the division of labour tend to the perfection of every art, to the wealth of nations, to the general comfort and well-being of the community. This principle of division is in some instances pursued so far as to excite the wonder of people to whose notice it is for the first time pointed out. There is no saying to what extent it may not be carried; and the more the powers of each individual are concentrated in one employment, the greater skill and quickness will he naturally display in performing it. But, while he thus contributes more effectually to the accumulation of national wealth, he becomes himself more and more degraded as a rational being. In proportion as his sphere of action is narrowed his mental powers and habits become contracted; and he resembles a subordinate part of some powerful machinery, useful in its place, but insignificant and worthless out of it."

For myself, I could not think of a more poignant description of an exceptionally talented young law graduate, with a first class Honours degree, embarking on yet another tedious exercise sorting discovered documents into pre-determined categories for weeks and months on end.

As Dr Copleston continued:

"Society itself requires some other contribution from each individual, besides the particular duties of his profession. And, if no such liberal intercourse be established, it is the common failing of human nature, to be engrossed with petty views and interests, to underrate the importance of all in which we are not concerned, and to carry our partial notions into cases where they are inapplicable, to act, in short, as so many unconnected units, displacing and repelling one another."

This is, of course, where universities come in. Universities are, or should be, generalist in nature, where the pursuit of knowledge follows the broadest path possible. It is here that an appreciation for an expansive vision can be born and here that it should take hold. And so hopefully it is here, within the Universities, that the professions can, in the words of Newman's great pupil, Gerard Manley Hopkins, return to their "own best being" and so fulfil their own vital roles in the community.