

VALUING INTANGIBLES

SYDNEY UNIVERSITY

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MURRAY GLEESON*

When the University of Sydney was established, it was decided, following English precedent, that it should have its own representative in the New South Wales Parliament. This was to occur when the number of its graduates reached 100. That time came in 1876. An election was held. The unsuccessful candidate was a recent graduate named Edmund Barton. He was defeated by a barrister named Windeyer. In 1879, Windeyer was appointed to the Supreme Court. Another election was necessary. Barton stood again. His opponent was Dr Renwick. Barton won by a margin of 73 votes to 45¹. The man who was to lead the Federation movement, and to become Australia's first Prime Minister, entered political life in New South Wales as the member for the University of Sydney. Barton also became a Fellow of the Senate of the University in 1882, and, except for one short period, held that office until his death².

* The Hon Murray Gleeson AC, Chief Justice of Australia.

¹ An account of this is to be found in Geoffrey Bolton's work "*Edmund Barton*" (Allen & Unwin, 2000) pp 17-26.

² Ibid p 29.

Although Edmund Barton was a barrister, he did not study law at Sydney University. The University offered no comprehensive law course until the establishment of the Law School in 1890. In the work published to mark the centenary of the Law School³, John Mackinolty wrote that "[d]uring the period 1850 – 1890, the Faculty of Law had a somewhat shadowy existence". The judges of the Supreme Court controlled entry to the profession, and a university degree was neither necessary nor sufficient for such entry. Barton studied classics at Sydney University; as did the first Chief Justice of Australia, Samuel Griffith⁴. In fact, all three of the original members of the High Court of Australia were graduates of this University, although none graduated in law. The third member of the Court, Richard O'Connor, graduated in Arts in 1871 and became a Master of Arts in 1873⁵. The present enthusiasm for imparting knowledge to prospective lawyers did not exist 150 years ago. Then again, neither did the present respect for the invisible hand of the market.

The University was founded by an Act of the New South Wales Parliament in 1850 which followed a report of a Select Committee. The Committee said that the new University should be⁶:

³ "A Century Downtown: Sydney University Law School's First Hundred Years" Ed John & Judy Mackinolty, 1991 at p 19.

⁴ R B Joyce, "Samuel Walter Griffith", p 9.

⁵ G Serle (ed), *Australian Dictionary of Biography*, Vol 11 (1988) p 56.

⁶ New South Wales Legislative Council, *Report from the Select Committee on Sydney University*, (1849), p 1.

"... accessible to all classes and to collegiate or academical institutions which shall seek its affiliation. In order to give it this wide sphere of usefulness your Committee considers that it must belong to no religious denomination, and require no religious test."

The middle of the 19th century was a time of considerable debate in England about the purpose and structure of universities. Concepts of accessibility, usefulness, and secularism were controversial. It has been said that the Sydney University was designed to follow the model of the University of London, rather than that of Oxford or Cambridge⁷.

The disputes that were going on in England were reflected in a series of lectures given in 1852, in Dublin, by John Henry Newman. Entitled "The Idea of a University"⁸, they were addressed to Catholic businessmen in an attempt to enlist their support for the establishment in Dublin of a Catholic University. That was a formidable task of advocacy. Within the memory of most of the audience, Catholics had been forbidden to conduct primary or secondary schools, and in the time of the Penal Laws they had been denied entry to the learned professions. The University with which they were most familiar would have been seen by many of them as a hostile institution, representing an alien Ascendancy. One of the interesting features of Newman's advocacy was that the concept of a university he was promoting to this audience was uncompromising and rather unreconstructed; in fact, his ideal

⁷ C Turney, V Bygott and P Chippendale, *Australia's First: A History of the University of Sydney* (Vol 1) 1991, pp 7-9.

⁸ References hereafter will be to J H Newman, *The Idea of a University* 3rd Ed, 1873.

university seems to have been a kind of unreformed Oxford. Another interesting aspect of his lectures is that it is hard to find reference to recent serious disturbances to the tranquillity of Oxford to which Newman himself had made a notable contribution.

The Select Committee's report about the proposal for Sydney University recommended accessibility, usefulness and secularism.

I cannot find much in Newman's lectures about accessibility. His idea of a university does not have great personal appeal ~~appeal~~ to me, because I doubt that I would have been able to afford to attend it.

As to secularism, he had to tread a narrow path. The university he advocated was surprisingly secular. What is strange is his assumption that the Catholic hierarchy of Ireland would leave such an institution to run its own affairs without their assistance. This is where time showed him to have been somewhat romantic.

It is what he had to say about usefulness that is most interesting. It shows that some issues never disappear; they only take new forms.

Having asserted the value of what might be called formation rather than instruction, Newman said⁹:

"Now this is what some great men are very slow to allow; they insist that Education should be confined to some

⁹ Ibid p 153.

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."

Not much has changed in 150 years. The new watchword is accountability; and for some people, only that which can be cut and dried, weighed and measured, is to be acknowledged as valuable.

But even the most hard-bitten calculators accept that, in the world of commerce, intangibles have a value, even though it may be difficult to measure. And a corporation interested in buying a business may need to think carefully about what it is prepare to pay for goodwill, and other intangible assets, including intellectual property.

There is a developing recognition that institutions, including universities, and courts, have a real, and even potentially measurable, economic value. Pursuing such a valuation process may itself be of practical significance in setting funding priorities.

The purpose of this occasion is to honour a group of people who have, for 150 years, in a practical manner, demonstrated that they value intangibles. The men and women who have given service as Fellows of the University of Sydney have shown a personal commitment to the idea of the great public value of this seat of learning. This anniversary provides a splendid opportunity to honour the Fellows of the Senate, past and present, for their contribution to the University and to the community.

I congratulate the Senate on the 150th Anniversary of its first meeting and am delighted to have been given the opportunity to express my admiration for the work of its Fellows.