

REFORM AND REACTION

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IN one of George Meredith's novels, two men, having supped to their complete satisfaction, arise from their table.

"I am going down to my inner cellar," remarked the host.

"An inner cellar!" exclaimed the visitor.

"My cellars are worth a visit."

"Yes, cellars are not catacombs. They are, if rightly constructed, rightly considered cloisters, where the bottle meditates on joys to bestow, not on dust to misuse! Have you anything great?"

"A wine aged ninety."

"Is it associated with your pedigree, that you pronounce the age with such assurance?"

"My grandfather inherited it."

"Port or Hermitage?"

"Port."

"Ah! We are in England! . . . I have tasted senior Hocks. Their flavours are as a book of many voices; they have depth also. But senatorial port! . . . We cannot say that of any other wine. Port is deep-sea deep. It is in its flavour deep; mark the difference. An ancient Hermitage has the light of the antique; the merit that it can grow to an extreme old age; a merit. But neither of Hermitage nor of Hock can you say that it is the blood of those long years, retaining the strength of youth and the wisdom of age. To Port for that. Port is our noblest legacy! Burgundy has great genius. It does wonders within its period; it does all but keep up in the race; it is short lived. An aged Burgundy runs with a beardless Port. Observe, I do not compare the wines; I do distinguish the qualities. Let them live together for our enrichment. They are not rivals."

Burgundy and Port. *Et nova et vetera*. The new and the old. Reform and reaction.

On the one hand the sentiment of Tennyson:

Forward, forward let us range,
Let the great world spin forever
Down the ringing grooves of change—

And on the other, the opinion of Edmund Burke:

One does not improve the construction of an ancient building by tearing down its bending beams.

Many people outside our professions, and a few within, are disenchanted with some of our weary vocational habits. They want to scrape away the ingrained and freshen our image with innovation. They feel the excitement of challenging the established with the exploratory and the tried with the untried. But they are involved with the forces of an age-old tension between preservation and progress.

Richard Hooker, a sixteenth century philosopher, claimed that all change was inconvenient, even change from bad to good. It seems to be a sad truth that, irrespective of the soundness of an argument, the justice of a cause, or the need for a reform, innovators struggle against the belief that "time as well as truth is required to overcome a tradition."

Why is this? And why particularly for reforms which involve the medical and legal professions?

The answer lies partly in the background against which all attempts at reform should be considered. Minds of either a conservative or progressive inclination seem to have been scattered into society with about equal frequency. Macaulay, the great historian, claimed that this distinction between the restraining and reforming approach —

had its origin in diversities of temper, of understanding, and of interest, which are found in all societies . . . Everywhere there is a class of men who cling with fondness to whatever is ancient, and who, even when convinced by overpowering reason that innovation would be beneficial, consent to it with many misgivings and forebodings. We also find everywhere another class of men, sanguine in hope, bold in speculation, always pressing forward, quick to think lightly of the risks and inconveniences which attend improvements, and disposed to give every change credit for being an improvement. In the sentiments of both classes there is something to approve. But of both the best specimens will be found not far from the common frontier. The extreme section of one class consists of bigoted dotards: the extreme section of the other consists of shallow and reckless empirics.

Macaulay's portraits may call to legal memories the exchange between Lords Denning and Asquith during a case which dealt with some accountants who had offered misleading information to a client, who then made investments, and lost money, on the faith of the defective accounts.

Counsel for the defendants argued that a duty to be careful in making statements arose only out of a contractual duty to a client, and continued that apart from such cases no action had ever been allowed for negligent statements, and urged that this want of authority was a reason against it being allowed now.

Lord Denning replied that "The argument about the novelty of an action does not appeal to me. It has been put forward in all the great cases which have been milestones in the progress of our law, and it has nearly always been rejected. If one looks at these great cases one finds in each of them the judges were divided in opinion. On the one hand were the timorous souls who were fearful of allowing a new course of action. On the other there were bold spirits who were ready to allow it if justice so required. It was fortunate for the common law," concluded Lord Denning "that the progressive view prevailed."

When the case came before Lord Asquith for a successful appeal, he concluded "If this decision relegates me to the company of 'timorous souls', I must face that consequence with such fortitude as I can command."

Other legal commentators have claimed that "Lord Denning, throughout his judicial career, has engaged in manufacture of novel equitable doctrines designed to further his attitude to the merits of particular cases. His Lordship's inspiration is a notion of justice, dim and ever changing to the eye of the spectator, but to him clear and compulsive of fervent and evangelical adherence. . . . It remains ever true that judges must be servants not masters of the law; otherwise they can expect from those who succeed them a degree of respect no greater than that they gave to those who went before them."

There will always be narrow-eyed exchanges between the extremists who wish either to embalm us or cause explosions. Most of us, perhaps charitably, exclude ourselves from the ranks of fanatics. We blandly reassure ourselves with platitudes like "a responsibility rests with us all to preserve what is good, and to progress on from what is bad" while we look with disdain on those committed to reform.

One problem for innovators therefore is that they are open to charges of wildness and impractical idealism: comments such as "complete indulgence in lofty and visionary ideals, however admirable they may be, is only practicable in a world in which no one else has opinions, and finances are unlimited."

Shelley dismissed such faint heartedness when he wrote "A thing is good in that though it is impossible, were it possible, it would be desirable". There are some shaky souls who feel that once progress is made in a certain direction, the whole secure structure of the

established way will quickly crumble and collapse. Steady people are made nervous by alteration. Berthold Brecht, in his fearless play *The Life of Galileo* warned ironically,

If a man is made to question the fact that the sun rotates around the earth, may he not question everything?

Innovators cannot ignore these mass sentiments which are antagonistic to change. One of the problems of consensus opinion is that innovation, originality and discovery can struggle against it for want of understanding or appreciation. How then does an innovator manage to achieve a balance between allegiance to a conservative profession and an obligation to professional agitation? And why is it that our professions are conservative?

When a foot becomes gangrenous, one shouldn't hobble along praising its "sometime swiftness". Our professions seem to be in danger of this for they both have a facility for reassuring themselves and excluding the opinions of those outside their ranks. The policy makers of our professions often have difficulty in distinguishing between what is established to be right, and what is right because it is established, because what we call necessary activities are often no more than activities to which we have grown accustomed. And yet the reassurance of the familiar is a powerful stimulus for stasis; it produces the sweet slumber of a settled opinion. The task of changing attitudes is never easy. As Doctor Johnson noted—

Every man who has ever undertaken to instruct others can tell you what slow advances he has been able to make, and how much patience it requires to reach even vagrant inattention, to stimulate sluggish indifference, and to rectify absurd misapprehension.

Our professions are conservative, a conservatism that has many elements and expressions. It is important that we appreciate them all before we decide on our preference between progress and preservation for an understanding of these factors is essential to our ability to initiate reform.

Everyone agrees with *practical* conservatism: that simple and sensible caution that denies any new legal theory or opinion or medical therapy until they have been tested for sinister or unsuspected side-effects. In medicine, all clinical innovations should be those in which the patient is offered the safest and soundest therapeutic chance.

Traditionalist conservatism is an attitude of mind endeared to the heritage of a profession. It respects the order that has been slowly developed through the composite wisdom of its members. A passage from Amiel's *Journal Intime* (1885) illustrates this belief:

Each man begins the world afresh, and not one fault of the first man has been avoided by his remotest descendant. The collective experience of the race accumulates, but individual experience dies with the individual, and the result is that institutions become wiser and knowledge as such increases; but the young man although more cultivated, is just as presumptuous, and not less fallible today than he ever was. So that absolutely there is progress, and relatively there is none.

Traditionalist conservatism is an attitude which embraces a sensitivity towards the history of a profession as portrayed in both standard texts and the popular literature and letters of a period. It respects the evolution of the professional's educational and ethical standards, the vocational fraternity, and the tradition of mutual support for colleagues who are inexperienced or unwell.

Critics of traditionalist conservatism say that it is used to offer excuses and explanations for situations which are unsatisfactory. Occasionally that is true; but I feel that traditionalists are aware that it is easier to overturn something than to support it. The world can be toppled by any fool with the tip of a finger on a long lever, but it needs the shoulders of an Atlas to support it.

The wisdom of traditionalist conservatism assists our awareness of our cultural heritage and our desire to preserve influences and traditions which have given dignity, stability and moderation to life. This is not just my view or personal philosophy, it is part of human nature's mass sentiment. Nevertheless, elements in a society or a profession must be subject to scrutiny and change. Thomas Browne, writing in his *Religio Medici* (1643), pleaded for Christianity to return to its "primitive integrity". Similarly, I believe that every profession is perpetually degenerating towards settled opinions. It accepts without question revered beliefs from which it must be rescued at certain periods by the resuscitation of its first principles and by the re-establishment of its original ideals. Most of us would concede that while the views and opinions of our professions have evolved with thought and assessment, and for the most part they are successful, powerful, and worthy of respect, there arrive periods when circumstances and conditions change, and when the guiding rules of the profession ought to change also. If it refuses, it will become a ruin, because an institution without the means of change is without the means of its conservation.

If a reformer encounters *reactionary* conservatism he faces bone-headed hardness. This is an attitude which unfortunately intrudes into my profession. It is both unacceptable and dangerous for it is commonly embraced by those with mediocre minds. There are some who seem

to have an affection for the artificial stability produced by an inflexible rule. They feel no wonder and ask no questions about what is constantly before their eyes. For them, it is familiarity rather than conviction that accounts for most beliefs. As D. H. Lawrence wrote, they wish to "establish the sort of stability in which we can all perish safely". If one was kind, one would say they are not so much blind as blinkered, not mistaken so much as misled.

Conservatism should not mean intransigence and ossification. It has always pleaded for a broad view and has tried to relate new happenings to historical events. One can be a reformer yet a conservative, and one can be a conservative and have social concerns. Disraeli, writing in one of his novels claimed that "Power has only one duty—to secure the social welfare of the people".

Reforming conservatism is a reality and is a responsibility of each member of our professions. As Chekhov pointed out we owe it to our society to be indignant.

Medical reformers today are attempting to bring about many changes some of which may be relevant to the legal profession: to correct the imbalance in the criteria on which medical students are selected; the dominance of scientism in medical studies; the lack of adequate opportunity to discuss the human problems associated with disease; the singularity of hospital orientated teaching; the neglect of prophylaxis in both medical education and practice; the paucity of adequate discussion about the profession's role in the society it serves, and its accountability; the absence of comprehensive peer review; the uncomfortable relationship between the profession and some governments; the disparity between the socio-economic status of doctors and their patients; the indictable neglect of ethical conflicts in medicine and discussions of issues of legal importance such as negligence, consent, confidentiality, workers' compensation, advertising, health insurance and legislation.

I do not intend to outline a similar list for lawyers. In an earlier draft of this address I had such a list but I struck it out for a number of reasons. First, because I appreciate the need for critics to have an understanding of the heart and soul of a profession before they suggest areas in need of reform. My legal list seemed to me to be superficial and unsupported by the depth of professional understanding needed for credible commentary. My ignorance of both legal procedure and professional traditions warned me that while I could make obvious suggestions, I could not display an insight into why things have come to be done the way they are done: in legal matters I am ignorant of the professional reasons behind the obvious responses.

Secondly, I came to an understanding that the medical and legal professions have severely contrasting relationships with the past. In medicine we look back with anecdotal interest at the way we did things in the past, grateful that we have progressed on from our ineffective and inadequate earlier understandings. For lawyers, the past, with its precedents and its traditions in law, is the life blood of practice. Therefore our relationships to reform and progress are naturally different. Lawyers are justifiably more conservative in professional matters. Herein lies a particular problem for the legal profession. When the rate of change in a society is rapid then the natural restraint within the legal profession may be ill-suited to the needs of the society. Professional tardiness then serves to support injustices in society in need of reform. Essential change can be crippled by circumspection.

Many enthusiastic reformers end their crusades in frustration leaving behind them, as did Hamlet, words, words, and more words. Because even with the issues defined our professions are slow to reform themselves. This is especially so in areas of social medicine and social law. In part, this is due to a final sort of professional conservatism: *political* conservatism—for whereas an estimated 85 per cent of doctors and lawyers in Australia, Canada, the United States and even England, vote for conservative parties, the political sentiments of their patients or clients are about equally divided between the left and the right. I believe the medical and law school curricula should offer the opportunity to discuss the problem of the disproportionate political representation in our professions and how it affects our relationship with governments—particularly socialist governments—on matters of social importance.

One must concede the importance of government in relation to reform, for all submissions involving money and all projects needing resources ultimately involve decisions made in parliament. These are basic for medical reforms. The legal profession is also involved with government, and in a more direct and vital way. For it is parliament's responsibility to finally effect legal reform.

Medical and legal reformers must engage governments and this creates a fresh problem. Australian politics no longer seems to bend to Disraeli's plea "To secure the social welfare of the people". It seems concerned with the preservation of party power. And against a party—be it left or right wing—that is disregarding of the well-being of individuals, that has a sinister and cynical approach to the distribution of economic resources, and that violates any tradition in order to maintain control, reformers will strive in desperation.

There are many other hindrances to the reformer of professions. One is that he can be labelled an outsider; it's simply poor form to

presume to be a spokesman for a profession. Public anonymity is one of the requirements of club membership. Any attempt to gain an unfair advantage to boost one's practice can bring one close to professional ruin. Let's not forget that virtually every specialist, at least in medicine, is dependent on the intricate mysteries of the referral system for work—a system that responds with sensitivity to the "soundness" of the specialist. Any suggestion of medical vagrancy can spell professional perdition. The vagabond and the renegade are hunted out and starved, especially if he has an idealism that will not compromise.

Because the medical and legal professions have a tradition of reacting with irrational hostility towards a reformer who does not appear to be like itself, or who is voicing fresh opinions from outside its ranks, it is important that all "progressives" make at least a gesture towards respectability and responsibility. Otherwise they will be shunned as if contagious.

Very frequently those with reforming zeal are not distinguished for their good manners and grace. One of my favourite medical "reformers" was an eccentric doctor called Sir John Hill, an eighteenth century physician. His temper was intolerable. In every fellow creature he seemed to find an enemy. He flung his glove in the teeth of the world, and the world, as is its custom, bit him. He was rejected by every learned society in London, and the great novelist Fielding, punning on his name Hill called him a paltry dunghill. A poem entitled the "Hilliad" said he was—

A wretch devoid of use, of sense, of grace,
The insolent tenant of encumbered space.

This fellow Hill wrote plays as well as prescriptions and Garrick, the great actor, quipped about him—

For medicine and farces, his equal there scarce is,
His farce is a medicine, his medicine a farce is.

Another said of him—

The worst that we wish thee for all thy vile crimes,
Is to take thine own medicine and read thine own rhymes.

To which someone with a swift mind corrected—

No, let the order be reversed,
Or else unpunished his crimes,
For if he take his medicine first,
He'll never read his rhymes.

Hill had last laugh however—he wrote a fake letter to the Royal Society which had repeatedly rejected his membership, under the

name of a ship's captain. Hill, as the captain, reported that a sailor, after falling from the mast, had broken his leg, and a ship's surgeon had repaired it so well with tar and oakum that within three days the leg was completely mended and the sailor walking. The Royal Society demanded to see the evidence and invited the writer of the letter to come before the Society. In reply, Hill—writing again as the ship's captain—asked that all the Society, including the President, should be assembled to witness the event. He demanded full pomp and glory. He concluded his letter with a short postscript—"I forgot to tell your learned gentlemen that the leg was, of course, a wooden one."

Reformers must have a manner which combines wit and cunning with convention. They should try to "wooden horse of Troy" any establishment they are trying to alter. I believe it's good practice to compromise one's form in order to gain acceptance of one's content. I would go so far as to suggest that one should be prepared to compromise all aspects of style in order to win acceptance of substance. And form includes every aspect of appearance, speech, and written word. In his work on *The Scope and Nature of a University Education* (1852) John Henry Newman had a general proposition that, endeavours towards a certain object

have their life in the prosecution of that object, and cease to have any meaning as soon as that object is compromised or disparaged. When, then, a number of persons come forward with the one object of (say) advancing universal knowledge, we may allow them to sacrifice—ambition, reputation, leisure, comfort, gold; one thing they may not compromise—knowledge itself.

Compromise always produces problems. Mark Twain told the anecdote of the hunter facing the bear. The hunter with gun poised ready to shoot the bear, the bear ready to leap. At this moment the bear asked the hunter what it was that was his bother. The hunter replied that he wanted a fur coat to cover himself, and in return asked what was the basis of the bear's animosity. The bear replied that he was looking for his dinner and suggested that perhaps instead of fighting they should go off into yonder cave and discuss the matter like reasonable people. The hunter agreed and the matter was resolved to mutual satisfaction, for moments later the bear appeared, no longer hungry, and the hunter was so well covered with the fur coat that he could no longer be seen.

There is no answer to the problem of being forced to negotiate with those who have the ultimate power to deny your reforms. And this leads us to a further frustration which a reformer may encounter. There is no answer to the problem of the intransigent man at the top.

Shakespeare claimed that "The deafness of old men is not in the ear." Now while it would be unwise to apply that sentiment to the senior members of our professions, it is true that absolute inflexibility on the part of the guardians of a profession, a faculty, a university, or a society will prevent any reforming endeavour from being successful. Unfortunately, and yet perhaps traditionally, there are many seniors who would agree with something Aristotle wrote in 370 B.C. that—

The youth of today is a disgrace; their intellect is minimal, their taste deplorable and their respect for their elders and the traditions of society non-existent.

On the other hand, it is foolish and naive of young reformers to believe they can effectively bring any change to our professions unless they are seen to be working through the standard channels. A thorough knowledge of committee systems, of the movement of ideas through committee structures, and of the psychology and human sentiments of co-committee members are all essential to the shrewd reformer.

When, in planning this address, I turned towards the homeward journey I found myself at a crossroad and debated whether to turn left to a short section on the problem of medico-legal reform, or whether to turn right and make a special plea for the sort of reforms with which I have been personally involved. I have decided to do the latter, not from any premise of self-gratification but rather because I think it will be a lighter brief than a consideration of topics such as the medico-legal aspects of abortion, euthanasia, or tissue grafting (on which I have spoken previously), and because I believe that my endeavours in medicine may have some relevance for lawyers and legal education.

My reforming efforts have been an attempt to highlight the need to protect personal sensitivity from certain professional influences: to define professional activities which can subvert our humanity. I have evolved a method in medical education which combines entertainment with instruction. My campaign has been for breadth in education and in particular to present to the students the professional insights offered by a study of the humanities.

Anton Chekhov, who personally experienced the wear and woes of being a doctor, suggested that "judges, doctors and police, whose attitude to human suffering is strictly official and professional, become so callous in the course of time from force of habit, that they cannot treat their clients in any but a formal way."

I believe that through the use of specifically selected passages from works of literature, students can be offered a forum for the discussion

of many of the gentler aspects of practice ignored in a heavy utilitarian curriculum.

Let me read just two of the passages which I discuss with medical students—

Within a few hours, that first evening in the ward, Pavel Nickolayevich became haunted with fear.

The hard lump of his tumour—unexpected, meaningless and quite without use—had dragged him in like a fish on a hook and flung him onto his iron bed—a narrow, mean bed, with creaking springs and an apology for a mattress. Having once undressed under the stairs, said good-bye to the family and come up to the ward, you felt the door to all your past life had been slammed behind you, and the life here was so vile that it frightened you more than the actual tumour. He could no longer choose something pleasant or soothing to look at; he had to look at the eight abject beings who were now his “equals”, eight sick men in faded, worn, pink-and-white pyjamas, patched and torn here and there and almost all the wrong size. And he could not even choose what to listen to; he had to listen to these uncultured creatures and their wearisome conversations which had nothing to do with him and were of no interest to him. (He would have loved to command them all to be quiet, especially the tiresome fox-haired one with the bandage-grip round his neck and the constricted head. Everyone called him simple “Yefrem”, even though he was not a young man . . .)

He needed support, but instead he was being pushed down into a pit. In a matter of hours he had as good as lost all his personal status, reputation and plans for the future—and had turned into eleven stones of hot, white flesh that did not know what tomorrow would bring.

* * *

Dr. T, who was looking after Maman's general condition, came to see her while I was there.

“It seems that you eat too little?”

“I was depressed this summer. I didn't have the heart to eat.”

“You found cooking a nuisance?”

“What happened was that I made myself little treats, and then I left them”.

“Aha. It wasn't laziness, then. So you made yourself little treats?”

Maman concentrated. “Once I made myself a cheese soufflé: after two spoonfuls I couldn't eat any more.”

“I see,” said Dr. T, with a condescending smile.

Dr. J, Professor B, Dr. T: neat, trim, shining well-groomed bending over this ill-kempt, rather wild-looking woman from an immense height: great men, bigwigs. I recognised that piddling self-

importance: it was that of the judges on the bench when they have a man whose life is at stake before them.

"So you made yourself little treats?" There was no reason to smile while Maman was searching her memory with trustful willingness: it was her health that was at stake. And what right had B to say to me "She will be able to potter around again?" I objected to his scale of values. I bristled when the privileged classes spoke through my mother's mouth; and I felt wholly on the side of the bedfast invalid struggling to thrust back paralysis and death.

On the other hand I did like the nurses; they were linked to their patient by the extreme closeness of those necessary tasks that were humiliating for her and revolting for them, and the interest they took in Maman did at least have the appearance of friendship. Mlle Laurent, the physiotherapist, could raise her spirits, give her a sense of security and calm her; and she never assumed any superiority.

Passages such as these allow discussion of professionally sensitive areas which cannot be considered in a lecture or at the bedside. They also require a form of thought different to that which is applied to the strictly scientific aspects of a diagnostic problem. To study the human experience of illness we must quit the small vessel of science, and put ourselves on board the ship of the humanities which alone possesses the compass needed to direct our course. Science is a method not a philosophy. It is a technique of investigation and not an account of being.

The other advantage of liberal studies is outlined by Newman in *The Nature and Scope of a University Education*:

There can be no doubt that every art is improved by confining the professor of it to that single study. But although the art itself is advanced by this concentration of mind in its service, the individual who is confined to it goes back. The advantage to the community is nearly an inverse ratio with his own.

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 . . .

And I suppose the greatest liability of a narrow and somewhat inhuman education is that its victims will be far more likely to take up untenable positions against reforms which are necessary for the well-being of ordinary people.

And so we come to the final, and I believe the most important, point of this address. Why do some of us believe to be true what others have proved to be untrue? Because we do not agree that proof is the only warrant of truth. All of us test an offered proof against our world view—our religious, political, social or personal theory of being. Human conviction is not based on proof alone. Intuition, imagination, tradition, feeling, and sentiment are the foundations of belief. To this world belongs everything about which civilized man cares most. It includes the world of ethics, morals, religion, and aesthetics. It covers discussions of liberty, nationality, justice, love, truth, faith, and knowledge.

"Don't try to prove to me," someone might say, "that genetic engineering or uranium mining is innocent, for I believe on balance all technology has become suspect if not overtly evil." Someone else might claim that "Scientific medical research spending cannot be justified because many, if not most, of the diseases being studied, could be prevented if the equivalent money and effort was directed towards prophylaxis." Another voice might be heard saying 'Don't try to convince me of the need for stability, for I see that the structure you support is unsound.' It's the syndrome of the mother who claims her son is innocent because he was such a good boy as a child.

The most deeply held convictions of human beings are truths which are not of the empirical kind—they consist in their being consistent with the world view of the individual concerned.

Proust, writing in his twelve volume novel *The Remembrance of Things Past* said—

The facts of life do not penetrate to the sphere in which our beliefs are cherished; as it was not they that engendered those beliefs, so they are powerless to destroy them; they can aim at them continual blows of contradiction and disproof without weakening them . . .

If any of you disbelieve or distrust this final message let me issue a challenge. I ask each one of you to write down the five beliefs to which you hold absolutely. What fundamental truths make sense in your life? And then let me ask you when was the last time you changed any of those beliefs.

In discussion and argument, when we feel our opinions have been savaged by someone, our response is that we have been rebuked but rarely refuted.