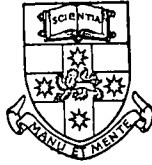


THE UNIVERSITY OF NEW SOUTH WALES



*“The Universities — Some Queries”*

The Rt. Hon. Sir Robert Menzies, K.T., C.H., Q.C., M.P.

Prime Minister of Australia

THE INAUGURAL WALLACE WURTH  
MEMORIAL LECTURE

28th August, 1964



*Photograph by courtesy "Sydney Morning Herald"*

**The Chancellor, the Hon. Mr. Justice J. S. J. Clancy, C.M.G.**

Prime Minister, members of the University, ladies and gentlemen—

This evening is an historic occasion in the life of this University. We are to hear the inaugural Wallace Wurth Memorial Lecture. This was established by the Council of the University to commemorate our first Chancellor, the late Wallace Charles Wurth, in recognition of his great work, not only for this University but for the community. We are privileged this evening that the Right Honourable Sir Robert Menzies, Prime Minister of Australia, has consented to deliver this lecture. We had always hoped that this would be, so we waited, and we are very grateful that tonight Sir Robert is with us on this very important occasion. I now invite you, Sir Robert, to deliver the Wallace Wurth Memorial Lecture.

**The Rt. Hon. Sir Robert Menzies, K.T., C.H., Q.C., M.P.**

Wallace Wurth was a civil servant. I am occasionally told that I use this expression wrongly, and that I should refer to people like him as "public servants", working under what in Australia are called the Public Service Acts.

However, I believe that there are many people who are public servants who are not under the Public Service Act at all, and I therefore have fallen into the habit of calling people civil servants when I intend to refer to those who are in the direct administrative service of government.

Because he was a civil servant, Wallace Wurth was a member of a class of people who constitute a recurrent theme of criticism, usually by those who are not well-informed.

I have heard civil servants referred to with monotonous regularity as "bureaucrats", as "clock watchers", as "red tape merchants", as repetitive and costly "tea drinkers".

My experience shows that such criticisms come most loudly from those with the least information. When I cast my eye around the upper brackets of the Commonwealth Civil Service

and realise the devotion and talent and experience and objectivity which they bring to their work, I could laugh to hear them dismissed with a sneer. There are, in fact, few people who work harder and who think more assiduously. They are in a very real sense among the custodians of continuity and sanity in government.

It is now many years since I first heard a friend of mine say, with a certain touch of irony, that "the Civil Service produces a level of efficiency below which no sensible government can fall".

This is, of course, not to say that politicians, and in particular Ministers, should become the mere spokesmen of their departmental officers. This would be all wrong. Indeed, it would be seen to be wrong by their senior officers themselves. It is the duty of those civil servants who are in the position of advising Ministers and of administering policies subsequently created to give the most objective advice and the most intelligent service that they can. When they have done that, they have discharged their task.

It is for governments to determine policy. It is then for the Civil Service to give effect to those policies whether they assume legislative or administrative form, and to do so without fear, favour or affection.

For myself, I have never wanted to know the Party political alignment of any officer of mine. Indeed, I would resent it if he told me. For the truth is that whatever Party is in power, it has exactly the same right to expect honest, disinterested, and competent work from the Civil Service as any other Party should expect if it came into office.

These general remarks are by no means irrelevant to the late Wallace Wurth. He was, as his record showed, a man of most versatile talents, of rich character and personality, and great achievement. There was, indeed, something elusive and yet compelling about him.

For ten years, until his death, he attended Loan Councils and Premiers' Conferences at Canberra, as Chairman of the New South Wales Public Service Board. From my place at the top of the table, my eye would frequently catch the sight of Wallace

Wurth sitting calmly on the front Treasury bench—as to the manner born—hearing all, but, so far as I could judge, steeped in silence. At first I used to wonder vaguely what he was doing at the conference as a member of the New South Wales team. After all, I had known a few Chairmen of Public Service Boards in the Commonwealth but had seldom found it necessary or appropriate to take up with them such matters, financial or otherwise, as come to be argued when the State Premiers march on Canberra.

The Chairman of a Public Service Board has great responsibilities, but they do not commonly fall into the arena of the political cut and thrust of a Premiers' Conference.

What then, I used to say to myself subconsciously, was Wurth doing in this galley? And then the answer dawned on me all too slowly. Wallace Wurth was not for this purpose, and, except in name, Chairman of the New South Wales Public Service Board in the restricted or orthodox sense at all. He was the friend, the consultant, the universal provider, the wise and upright judge of issues. He was in a sense a muted noise off stage. He was, to vary the metaphor, armed yet disarming, the *eminence grise* of the New South Wales Government. In short, he was present, not as Chairman of the Public Service Board, but in a wider capacity. He was, of course, as his whole record shows, a superb administrator, and I at no time doubted that he managed the New South Wales Public Service very well. But his essential contribution came through his pervasive influence on general policy and action, an influence made possible and perhaps inevitable by his luminous intelligence, his great force of character and his unbiased integrity.

In my long experience of public life and affairs, Wallace Wurth was, in his own right and in his own fashion, unique.

Bearing all these facts in mind, it was a happy stroke when he was made Chancellor of this new University. For a good Chancellor, if I may say so, should be a wise and experienced man with enough knowledge of academic people to understand their problems, but also to be able on proper occasions to treat them lightheartedly. He should, in these days when governments have the major responsibility for universities in Australia, know

something about governments and how they think, something of the qualities and something of the oddities of politicians, and, at the same time, enjoy wide respect from people, many of whom have never been in a university at all, but who represent some of the great currents of knowledge and experience which animate modern social and industrial life.

The significance of Wallace Wurth in relation to the University of New South Wales could perhaps best be expressed if I say that one of the functions of a university is to produce individuals who can develop and preserve their individuality while still playing in the team. This, after all, should be one of the great purposes of a university; not uniformity, but developed individuality.

When I was invited to deliver the Wallace Wurth Memorial Lecture, I had a vagrant thought, built upon some previous experiences, that I would be allowed to select any topic and take the opportunity of saying what I thought about it. This has happened on a number of occasions and it was not unimportant to me, because I do as a rule one of these lectures a year, and sometimes, through inadvertence on my part, two. I like doing them, for the very good reason that, in public affairs we can accustom ourselves all too readily to somewhat general thought and speech and succumb to the endemic disease of politics, which is a dislike of precision. I have, therefore, found it a very good thing for me to have to sit down over a period of many weeks, do some research, analyse some ideas, and work them into a degree of clarity of which I would hope not to be ashamed after they were delivered.

Full of these ideas, I said to my secretary "Find out whether I am at large in the choice of a topic." The answer came back with all the inevitability that one expects from a great scientist like Professor Baxter, "We would like the Prime Minister to speak about some topic connected with the universities."

Well, Mr. Chancellor, I have for some reason or another, or perhaps for no reason, been the recipient of, I think, 18 honorary degrees around the world. That has meant 18 speeches about universities. I have made quite a number of such speeches in the Parliament; I have delivered others at the opening of

buildings or schools in various Australian universities. I, therefore, said to myself, with some feeling of despair, that, as no doubt some of my political opponents would say, I was an exhausted volcano. What was there with the faintest degree of novelty that I could say about the universities? Under these circumstances I decided on heroic measures. I would put some queries and perhaps answer them.

I settled on two queries; in each case because I thought it related to something important about which comparatively little is said, but about each of which there may be considerable misconceptions.

So, having said something, all too little, about the late Wallace Wurth, I will proceed to deal with my two queries.

The first relates to the new axiom or dogma that university education ought to be regarded as a right and not as a privilege; in other words that it should be available to all persons, male or female, who pass what I will broadly call the entrance examination. Now in my younger days, if I may venture to go back so long in history, this was neither axiom nor dogma. Scholarships were few and had to be battled for in a highly competitive field. A university education was not a right, nor indeed was it the perquisite of the sons and daughters of the rich. In my own time as an undergraduate, great sacrifices were made by parents, including my own, to give their children the opportunity for a higher educational attainment. But times have changed, and, for reasons to which I will refer a little later, for the better.

Could I start by referring to the celebrated Robbins Report on higher education in Great Britain? In paragraph 31 of that report the committee said—

“Throughout our Report we have assumed as an axiom that courses of higher education should be available for all those who are qualified by ability and attainment to pursue them and who wish to do so. What type of education they should get and in what kind of institution are questions we consider later on; and the criterion by which capacity is to be judged is clearly a question on which there may be a variety of opinions. But, on the general principle as we have stated it, we hope there will be little dispute.”

This statement has been referred to with approval by our own Universities Commission, and by quite a few educational publications in Australia. Yet, of course, it is not completely definitive. You will have noted the phrase "those who are qualified by ability and attainment to pursue them", and you will also have noted that "the criterion by which capacity is to be judged is clearly a question on which there may be a variety of opinions".

Whether this means that the simple test, to apply it to Australian conditions, is the passing of the Matriculation Examination, I do not profess to know. For myself, I would like to believe that the real point is that finance should not be the limiting factor where the intellectual capacity and the personal ambition are adequately high.

On this matter I have had my own mind improved, and no doubt most of you would agree that that is a desirable state of affairs, by my perusal, by courtesy of Professor Connell, of a recent study made by the Department of Education in the University of Sydney, under the title of "The University and the Community". I am much indebted to this publication and would like to quote one most interesting passage from it. This is of great historic interest I think.

"Tertiary education in the past has been thought of largely as an education of an elite or specially talented segment of the community. The falsity of this position is now becoming more apparent every day. The more talented and productive the elite, the more it becomes necessary to have it built upon a highly educated community. This is the only way to ensure the continuance of first rate education for the best brains in the community. There are three good reasons for this. First, the talented perform best, generally speaking, in a climate of sympathetic understanding among people who have some reasonable idea of what they are doing, and take an intelligent interest in their success. Secondly, the higher education of the talented is an expensive business, and it will receive adequate financial support only from public monies. These will be forthcoming only if there is a sufficient body of soundly educated people who



can see the value of such an education. And, thirdly, by increasing the number of highly educated men and women in the community, you not only ensure stimulation and support for the specially talented, you also increase the pool of individuals who aspire to further education, and from whom large numbers of specially talented may be drawn for a higher education. These arguments suggest that if we are to educate even our gifted successfully, we must provide opportunity for as wide a segment of the community as possible to proceed into some form of higher education, and at the same time raise the general level of educational achievement throughout the whole community." I am sorry to inflict so long a citation upon you, but this seems to be of singular quality and relevancy to what I am saying.

Accepting these views, I would like to say that they not only present a statement of desirable rights, but they present an enormous challenge. When I attended, earlier this year, the University of Birmingham to receive a degree there at the hands of my old friend, Lord Avon, I said a little about this problem in my speech of acknowledgement. The Vice-Chancellor of Birmingham later gave me a copy of his report to his University for 1963. In this he referred to the implications of the initial proposition in the Robbins Report.

In the course of his report the Vice-Chancellor said, "The universities' task of sustaining quality is more important in the long run than numbers." He also went on to say that "Another consequence of the new philosophy will have to be watched. The attitudes of students who come to the universities, claiming their places as of right, will, or as I would have said 'may', be different from those of students coming to enjoy and use a hard won privilege."

He had other things to say which seemed to me to be of great importance. But, speaking now for myself, and accepting the new philosophy as an ideal to be aimed at, I do want to point out a few practical considerations which cannot be ignored in the enthusiasm of a new vision.

Far too many people in our country, when they urge the creation of a new university, seem to think of it in terms of

financial provision by governments, and the bricks and mortar of practical construction. Yet the fact is that the value of a university depends primarily upon the standard of its research and its teaching. In short, the greatest problem about the expansion of universities, or the creation of a new one, is that of securing a highly qualified staff. Any man who has any share of responsibility for the general national balance and prosperity cannot fail to be conscious of such problems as the pressure of numbers on financial resources, the pressure of numbers and demand on physical resources, because these things form part of the economic problems of the nation. They have to be considered. They can produce some limitation upon the financial provision by governments. But, in the ultimate, the capacity to establish new universities or to expand old ones is primarily to be judged by reference to the maintenance of the quality of research and teaching and the value of the degrees to be awarded.

Gresham's Law, if I may say so, applies to universities and their degrees just as much as it did and does to money. In short, we have occurring under our eyes a tremendous explosion in the numbers of those who seek tertiary education. Our task is to see that they get it without lowering the standards.

The last thing that I want to do is to encumber you with statistics, but I would ask you to carry in mind just a few figures which I derived from the last report of the Australian Universities Commission.

In 1960, which is, after all, not long ago, the number of students at Australian universities was (and I will quote figures to the nearest thousand) 53,000. By 1963 this had grown to 69,000. The prediction of the Commission (and it is not likely to be over the mark) is that by 1966 the figure will be 95,000. (1960—53,000, 1966—95,000).

These figures represent an enormous increase in what I will call demand for tertiary education. They must be accompanied by the observation that graduation rates, either in total or in minimum time, were, over the period from 1951 to 1956, deplorably low. The figures seem to be improving, but they are still not as good as they should be. This is, of course, important because the amount of money spent and the amount of teaching

energy put forward in the training of students is wasted to the extent that the result is not achieved. Any community like ours, which accepts large financial burdens for universities, cannot afford this kind of waste.

The reasons for what I have called wastage are, I think, clear enough. We have not yet reached a completely adequate level of training in the secondary schools, and, therefore, too many matriculating students go to university with a considerable risk of failure. This has deeply impressed me ever since Sir Keith Murray, now Lord Murray I am happy to observe, presented the original report. It explains why my own Government has initiated schemes for secondary school scholarships designed to give extra time in secondary studies, which is very important, and for science teaching facilities in the secondary schools so that on the science side students may, if they decide to go on to the university, go on much better prepared. Again, most universities have felt inadequately staffed, that is in terms of numbers I hasten to say, and that the staff-student ratios were unsatisfactory. What I have said means that I believe that before we become too rhapsodical about the increase in numbers and the rights of people to have university training, we should face up to the problem that the greatest task, and in a sense the most difficult one, is to find the necessary trained and competent staff.

There was a time when quite a number of professors and lecturers came from overseas. That was true in my own time. That time has come to an end. We must, as never before, generate in our own universities our own future staff.

This is a problem by no means overlooked by our own Universities Commission. It must not be overlooked by governments. I certainly don't overlook it myself. Unless we can, by one means or another, encourage and produce an increasing percentage of university students who aim at higher degrees and research work, then we will do a gross disservice to university education by concentrating our minds exclusively on numbers and on money.

I would sum up my own views about which perhaps I've said

too much, on this matter by stating the new rule in my own fashion. I believe that we should aim at a state of affairs in which all young men and women capable of, and likely to benefit from, a university education are not denied their opportunity for want of means. But I believe that this opportunity will find them pursuing false lights unless they can go through a period of training and inspiration which can come to them only through the work of teachers of the highest order.

My second query—and this is, I think, rather a bold one; still one must be bold occasionally—relates to “academic freedom”.

For various well-known reasons, there has been, during the last few years in Australia, considerable discussion about the nature and extent of the academic freedom to be enjoyed by academic people.

I want to say something about the problem tonight, for two reasons.

The first is that I think that I am at liberty to express an objective view, for, although I have had, fortunately, much to do with university developments in Australia over the last decade, I have at all times been careful to maintain my own belief in the autonomy of universities and in the utter undesirability of governmental executive direction to the universities as to what they are to study and teach. It is, I think, well to remember that in Australia the universities are in a substantial sense government universities, relying to a major extent upon monies provided by governments. Under these circumstances, it might be feared that the governments which find the money might wish to call the tune, and might interfere with those university activities which it is the function of the university to promote. As I think it will be agreed that I have at no time sought to interfere with university autonomy, I may feel justified in offering some views about academic freedom.

My second reason is that I think that a good deal of what has been said in the press and otherwise about academic freedom has been over-emotional; it has, I fear, promoted more heat than light. It is, therefore, I think, a valuable exercise to pose the question “What is academic freedom?” and to endeavour to answer it.

The first element in academic freedom is the liberty of thought. This has never been better defined than by Charles Morgan in his remarkable book, and my favourite book, "Liberties of the Mind". I quote his words—

"I mean by it the mind's freedom from any external pressure designed to drug, intimidate or otherwise reduce its full exercise of natural capacity."

I would also like to quote with warm approval the words of the report of the Murray Committee on Australian Universities—it is as well to recall these words:

"In the middle of the twentieth century universities are very much in the public eye and in most countries they receive a good deal of attention, and also very substantial financial support, from governments. In most parts of the free world they are accorded a high degree of autonomy and self-determination on the ground that the particular services which they render, both to their own country and to mankind in general, cannot be rendered without such freedom. Even in time of war and national danger, the nations of the West have sought to honour, so far as they humanly could, the right and duty of the universities to pursue new knowledge without fear or favour and to educate in a liberal spirit and with integrity; and even in times of economic depression they have shown increasing signs of seeking to maintain the life and work of universities in full vigour."

The integrity of the scholar would be under attack if he were told what he was to think about and how he was to think about it. It is of the most vital importance for human progress in all fields of knowledge that the highest encouragement should be given to untrammelled research, to the vigorous pursuit of truth, however unorthodox it may seem. It is for this reason that in Australia we have established the autonomy of universities, and have, so far as I know, and I hope I am right, consistently refrained from interfering in their work with what I will call political executive directions.

If no limits can sensibly be put to the search for new truths or the better understanding and expression of old ones, it follows that the scholar must work in an atmosphere of freedom

and with a free mind. True, in a democracy, Parliament, acting within its constitutional jurisdiction may, under some circumstances, pass legislation which limits the rights of expression. Such circumstances may arise in time of war or other special times where national security may require, under an appropriate law, some limitations upon freedom of expression or of individual activity. But I know of no law in a modern civilised country which has made it an offence to think. There is, of course, in some philosophies in the world, an attack made upon the mind in order to constrain it into habits of thought which are agreeable to the rulers. There are philosophies in the world which aim at reducing the power and significance of human volition in order to pave the way for what has been called a mechanistic conception of life; in which people are to be pawns in the game of economic and material conflict. But I think we may say that in Australia we have never accepted these philosophies and that we still retain our passion for freedom and for the development, not only of the individual, but of every faculty that he may possess for investigation and discovery.

Now I said just now that some discussion has appeared to me to be over-emotional. I have, indeed, if I may say so prudently in this assembly, detected some disposition on the part of some academics to claim a freedom which puts them outside the substance and procedures of the ordinary law. Now, quite frankly, this is a claim that cannot and must not be sustained. Freedom is one thing. Privilege is another, and privilege cannot be claimed unless the law recognises it. There are, indeed, some privileges recognised by the law. For example, the privilege, under some circumstances, of communications between patient and doctor and between the priest and a confessing member of his communion. But these, I repeat, are within the law.

But, putting such matters on one side, freedom is to be seen as a faculty enjoyed by all citizens, not because they are academic or because they conduct a newspaper, but because they are citizens. The freedom of the press, for example, like yours or mine, is a freedom within the law. It is subject to all the legal rules relating to defamation or sedition or violation of the criminal codes. A rich private citizen achieves no new or special

freedom when he purchases a newspaper and controls its policy and utterances. Similarly, a barrister practising his profession at the Bar and enjoying the normal freedom of mankind and the special legal privilege which attaches to what he says in court, does not acquire a new body of either freedom or privilege if he becomes a Professor of Law at a university. It is, I think, and I speak subject of course to your correction, Mr. Chancellor, well to remember some of these basic truths.

The whole matter has been somewhat confused for some Australian minds, I venture to think, by the great masses of litigation and debate which have occurred in the United States, the reasons for which are, as I will point out later, largely peculiar to the United States itself. But before I come to that let me consider what the position is under our own legal system and that of England. I will give one example which always ought to be remembered; the famous trial of Thomas Paine, the author of "The Rights of Man". Now this was a very peculiar trial because the defendant was not present, and a stranger trial still because a hand-picked jury had been specially bribed to produce a verdict of guilty. A very satisfactory state of affairs from the point of view of the prosecution.

But in that trial although he was absent, and although the result was pre-determined, he was defended by Thomas Erskine. This, I hasten to say, was before Erskine succumbed to those rather sordid ambitions which led him to the House of Lords; before he had entered into that process of deterioration in which he rose in favour but fell in grace. But his speech in defence of Thomas Paine remains a classic. He did not attack the law, for that would have been futile. He did not claim that Paine, as a thinker and writer, had some special immunity from the law. On the contrary, he said this:—and these are memorable words with which a great number of you will be very familiar:

"If I were to ask you, Gentlemen of the Jury, what is the choicest fruit that grows upon the tree of English liberty, you would answer SECURITY UNDER THE LAW. If I were to ask the whole people of England the return they look for at the hands of the Government, for the burdens under which they bend to

support it, I should still be answered SECURITY UNDER THE LAW". I am not sure that a modern jury would make that answer but still that was a magnificent statement.

The whole basis of this famous passage was that Paine's freedom to write was consistent with, and therefore protected by, the law; not that it was superior to the law.

I will make one more citation. It is from a play, but it expresses with great accuracy the spirit of the law. My former colleague, and our recent Ambassador to the United States, Sir Howard Beale was good enough to direct my attention to it. The play is Robert Bolt's play about Sir Thomas More, "A Man for All Seasons".

More, as you all remember, was the Lord Chancellor, and, in those days particularly, the Lord Chancellor was more than the head of the judiciary, he was a man of immense and, at that time, in some respects, arbitrary power. In the play, his wife Alice is protesting to him because he will make no move to arrest a man named Rich, who, although pretending to be a friend, she thinks and believes is preparing to change sides and become a dangerous enemy. She is joined in this argument by William Roper and so the dialogue proceeds—

ALICE: While you talk [she is talking to her father] he's gone!

MORE: And go he should if he was the Devil himself until he broke the law!

ROPER: So now you'd give the Devil benefit of law!

MORE: Yes, what would you do? Cut a great road through the law to get after the Devil?

ROPER: I'd cut down every law in England to do that!

MORE: Oh? And when the last law was down, and the Devil turned round on you—where would you hide, Roper, the laws all being flat? This country's planted thick with laws from coast to coast—man's laws, not God's—and if you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would blow then?

To continue, I would venture to say something more on this matter that a professor or lecturer at a university is an employee



of the university acting through its governing body, and that, as an employee he is subject to the normal rules relating to master and servant [I am not talking about some special contract made with somebody outside] to dismissal without notice if his employer can prove good cause, and to all the risks of not being re-appointed if his original appointment has been for a specific term. To deny this proposition would be to say that he is taken out of the usual Common Law relating to master and servant and put into a category which is either above the law or which is subject to no law. This is not a tenable proposition. I hasten to add of course that any university, which treated a professor or lecturer as if he was just a man hired to study as directed and to teach in accordance with rules laid down by other people, would be an extremely strange university; it would have failed to understand the immense importance of true academic freedom.

There is, of course, great scope for discussion of the rules of practice that may properly be applied in a university; rules of practice which may warrant consultation and exchange of views on the facts between the lecturer and the governing body before some action affecting the lecturer is taken.

These are matters which fall within the principles of natural justice, which are not inconsistent with the law, and of course may freely tend to the improvement of academic morale. But it still remains true that academic freedom is freedom within the law, subject to the law, and that if recourse is made to the law, the ordinary rules of law will apply. For all these reasons I am convinced that it is a disservice to academic freedom, a freedom to which I attach the most tremendous importance, to seek to promote it into a doctrine of privilege outside the law; a privilege which sets the academic free from obedience to the ordinary legal rules which govern the lives of all the rest of us.

It is perhaps because these things are pretty well understood in countries familiar with the rule of law and not so familiar with special constitutional provisions, such as those which appear in two of the amendments to the American Constitution, that, so far as I can discover, and I do not speak at first-

hand, there have been no notable instances in the United Kingdom of interference with academic freedom.

I recently read an article by Lord Chorley in a compendium on academic freedom, published by the School of Law at Duke University. He says that academic freedom is taken for granted in the United Kingdom. He, of course, concedes that there have been other pressures or dangers of pressures, religious or political, in the course of history. But, on balance, he thinks it is safe to say that academic freedom is enjoyed as fully in English universities as anywhere else in the world. He points out, as indeed I endeavoured to point out a little earlier in other words, that "in the modern age there can be no doubt that the main enemy to academic freedom has been the powerful State".

I turn now briefly to the United States of America where academic freedom has been, in contra-distinction to the state of affairs in Great Britain and Australia, much discussed in the courts and particularly in the Supreme Court—the highest tribunal.

To understand how such a matter can fall for judicial decision, it is necessary to look at two provisions of the American Constitution. It will be recalled that the Constitution of the United States was amended very early in the piece. The first Congress, when it met in 1789, submitted to the States ten amendments to clarify certain individual and State rights not named in the Constitution. These amendments were ratified. The ten original amendments are always referred to in the United States as "The Bill of Rights". I will just quote two of the Articles—

Article 1 provided that [and I am omitting irrelevant words for this purpose] "Congress shall make no law . . . abridging freedom of speech or of the press . . ." that's Congress.

Article 5 made a general provision, that is, not one directed at Congress only, but of wider application, which was that "no person shall . . . be deprived of life, liberty or property without due process of law".

Many years later, in 1868, the 14th amendment came into operation. It was stated in more comprehensive terms and

affected both the Congress and the legislatures of the States. It is well to have this in mind because a great deal of what goes on in the United States in the field of public argument has relation to this—integration, civil rights and so on. It said: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.”

It will be seen that these celebrated Constitutional provisions, commonly referred to in America as “the due process” provisions, have brought into the arena of judicial determination matters which in another Constitutional structure would not reach the Courts at all.

I do not propose to engage in a close examination of the decisions of the American Courts, but I think there are a few things which can be said with advantage.

In a fairly recent case, Mr. Justice Harlan, whose name is greatly respected among Australian as well as American lawyers, summed the matter up and explained the reason for judicial proceedings in a single paragraph. He said: “When academic teaching-freedom and its corollary, learning-freedom, so essential to the well-being of the nation, are claimed, this Court will always be on the alert against intrusion by Congress into this constitutionally protected domain.”

After a considerable review of the decisions of the American Courts, I have come to the conclusion that they have been astute to protect the universities against any violation of the freedoms guaranteed by the American Constitution. The protection has not been given to a privilege claimed outside the law. It has been given to a freedom guaranteed by the constitutional or basic law of the nation. As one American writer has said—“In the United States freedom is not an academic privilege; it is a right constitutionally guaranteed to all residents.”

In 1952, that very great judicial lawyer, Mr. Justice Frankfurter, put the whole problem in a single paragraph.

“It is the special task of teachers to foster those habits of open-mindedness and critical inquiry which alone make for responsible citizens, who, in turn, make possible an enlightened and effective public opinion. Teachers must fulfil their function by precept and practice, by the very atmosphere which they generate; they must be exemplars of open-mindedness and free inquiry. They cannot carry out their noble task if the conditions for the practice of a responsible and critical mind are denied to them. They must have the freedom of responsible inquiry, by thought and action, into the meaning of social and economic ideas, into the checkered history of social and economic dogma. They must be free to sift evanescent doctrine, qualified by time and circumstances, from that restless, enduring process of extending the bounds of understanding and wisdom, to assure which the freedoms of thought, of speech, of inquiry, of worship are guaranteed by the Constitution of the United States against infraction by national or state government.

“The functions of educational institutions in our national life, and the conditions under which alone they can adequately perform them, are at the basis of these limitations [which I repeat were limitations of law] upon State and national power.”

Here we have stated with clarity the whole reason for academic freedom and the reason why, in the case of the United States, special constitutional provisions, basic legal provisions, were established to protect it. But the point that I want to emphasise, though I become guilty of tedious repetition, though it ought to be trite enough, is that in America itself, with these special constitutional provisions, the guaranteed freedoms belong to the community as a whole, and are not in some particular or exclusive way sectional privileges outside the law. It is one of the glories of a civilised democracy that we enjoy our freedoms in common; that we are born with those freedoms, and that they can be limited or taken away only by the principles of the common law or by constitutionally competent statutory provisions made by Parliament. In the absence of specific legal provisions, no man may claim a greater freedom than another.

Yet, and I come back to it, the freedom of the enquiring mind in a university is of vital importance, not only for contemporary society, but for a developing future. For this reason it is important that academic people should not set their claims too high, so that they appear to be claiming, as perhaps some of them do, privileges unrecognised by the law. But they certainly should, in their university community life, insist, within the law, upon the maintenance of the freedom of their minds; and should at all times resist unauthorised political interference with their work, or administrative procedures within the university itself which could frustrate them in the kind of work they are in a university to do.

Interestingly enough, and this is an almost irrelevant interjection to myself, there has been a good deal of debate in the United States about the position of a practising Communist in a university. Some responsible and liberal-minded people have queried the employment of practising Communists in a university, for the intelligible reason that the whole philosophy of Communism and the whole discipline of the Party are opposed to that complete freedom of thought and objectivity of mind which it is one of the functions of a university to maintain. I will not try to pursue that argument to its conclusion, because, as in all these contentious matters, the boundary line is very hard to define.

One other matter that has engaged a good deal of attention in the United States is the problem of the tenure of members of university staffs. There can be no doubt that professors or lecturers appointed at will could be much more liable to executive interference or pressure than those who are appointed for a substantial term. Even those appointed for a term of years may find themselves complaining that a failure to renew their appointment at the end of their term has been due to some objection to their exercise of their academic freedom. These are, of course, very important matters. I, for one, would offer my own view that an academic appointed after due consideration should not feel himself to be at the risk of arbitrary treatment if his enquiries lead him to conclusions which are, in some quarters, unpopular. But it still remains true that, whether the

staff member has a fixed short or long term or no term at all, the rules which control the right of the university to dismiss him are the same as the rules that apply in any contract of employment, and that, if he is dismissed without notice, the onus will be, as in any other case, on his employer, the university, to justify in law the action that has been taken.

To sum up, you will see from what I have said that when we speak of academic freedom, we are not speaking of a privilege given to academic people and denied to ordinary men and women. It merely happens that, as universities are increasingly in what I will call the limelight of current history, there will at all times be two temptations. One will be a temptation on the part of partisans, including partisans outside the university, to seek to control the universities in what they think and what they say, irrespective of the law. The other will be a temptation, occasionally encouraged in circumstances of emotion or heat, for university people to claim that those rules which apply to ordinary men and women in the eye of the law, do not apply to them. I would prefer to think of academic freedom as a precious and shining example of that kind of freedom which all thinking men and women in our community want for themselves, and will not abandon without a struggle.

**The Vice-Chancellor, Professor J. P. Baxter, C.M.G., O.B.E.**

The Chancellor, members of the University, distinguished guests—

For us, this is a solemn occasion. We remember tonight the first Chancellor of the University who led it through its early, difficult and formative years and set it on the road to its present success.

We remember, with love and gratitude

Wallace Charles Wurth.

For us this is a great occasion, for our first Wallace Wurth Memorial Lecture has been given by Australia's greatest leader, our Prime Minister, the Right Honourable Sir Robert Menzies.

During his long period of office, Sir Robert's influence has permeated every aspect of Australian life and progress, but nowhere, I believe, have his actions cast ahead of them a greater promise of benefits to come than his decision in 1956 to come to the rescue of the Australian Universities which were then facing complete collapse in the tide of mounting enrolments and inadequate resources.

The Murray report, promptly implemented by the Prime Minister, the Universities Commission, with its triennial grants, have put us on the road to recovery and though we seldom admit it in public, we are doing pretty well.

We are I believe creating an investment for the future, an investment in young people's minds and abilities which will mean more for Australia in the next fifty years, and beyond, than anything else we could do.

We owe it largely to one man, the man who saw our needs, realised the importance of our problems and who took the action required to solve them.

But the Prime Minister has done much more than that. He has shown a profound understanding of and sympathy for all those things which are important in Universities, and the help he has given has never been tinged with a desire to restrict true freedom or genuine scholarship.

He has made it clear that he expects our standards of service to be as high as his own.

When the history of our Universities comes to be written Sir Robert's role during these years will stand clearly out, and even in his own immense personal record of service to Australia this will be an enduring chapter.

To you, Sir Robert, for the many things you have done for the Universities, for the leadership and encouragement you have given us, for your constructive and wholly delightful address tonight, and for your presence here, with Dame Pattie, on this occasion when we remember our first Chancellor, we tender our sincere thanks.