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EMBARGOED UNTIL DELIVERY

SUPREME COURT OF NEW SOUTH WALES,
BANCO COURT
THURSDAY, 29 JANUARY 2026

BOOK LAUNCH:

“LAW, JUSTICE AND OTHER CHALLENGES –
SELECTED SPEECHES AND PAPERS OF
MICHAEL KIRBY”
THE FEDERATION PRESS

DR PAUL VOUT KC (ED)

WORDS A LONG TIME COMING

The Hon. Michael Kirby AC CMG

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To the Governor-General, who wrote the Foreword to my book, and is my past associate. Here, in 1988, she pushed in my chair and faithfully edited my written words. To the Chief Justice of Australia, the Hon. Stephen Gageler, who is here, as launcher of the book. To the newly decorated Chief Justice of New South Wales, the Hon. Andrew Bell, our master of ceremonies. When I checked myself, on arrival, I concluded that I was definitely still alive. So far, I am enjoying the occasion. So this is presumably not my State funeral. I thank everyone for adding to the enjoyment. Best not to think of the ceremonies that lie ahead. Normally, it would take a funeral to gather so many dignitaries.

Special thanks are due to Her Excellency for her warm words in her Foreword. Little did I imagine, that one day, she would rise in the elevator of the Law Courts, beyond Level 12 to Level 13. And appear in the Banco Court as the first citizen of our country.

I thank Chief Justice Gageler for his perceptive launching remarks. I thank Chief Justice Bell, who is a great historian of this historic court. I also thank Dr Paul Vout KC, another ex-associate from my Court of Appeal days, for his essential work as editor of the book. I also thank The Federation Press, Jason Monaghan and other officers of the company for conceiving this project and bringing it to a successful completion today. It only remains to urge you all to buy the book, which is the whole point of a “launch”.

I honour the First Nations People across Australia: always in my heart. And also the Jewish victims and the heroes of the day, originally set for this launch. I am sorry that they are suffering. It will always be in mind when I take up the book.

When The Federation Press first proposed the project for this book, about 2 years ago, I had my doubts. How could my ‘pearls of wisdom’, spread over nearly 4000 published speeches and articles on my website possibly be reduced to manageable numbers? Who could possibly absorb all the online documents, so as to produce a representative sampling, suitable for a single book?

Naturally the publisher did not rely on me for this selection. It looked to Dr Paul Vout KC, from the Melbourne Bar, who is Chief Senior Editor of the *Commonwealth Law Reports*. Rightly, he is respected, not only by the

High Court Justices, but also by a number of publishing houses that specialise in quality legal texts. He accepted the task and set about the arduous task of selection and editing.

It must have almost broken his heart, poor man, to confine this book to a mere 800 pages. However, Paul Vout addressed the project with his well known dedication and decisiveness. In 1991, in the Court of Appeal of this Court, he was appointed my associate. It was 3 years after Sam Mostyn. In an astonishingly brief time, last year, he had confined my online text to the contents for hard-copy publication. When I set about my own task of reading the manuscript from 'cover to cover', I was delighted with Paul's selection. There was no way I could have discarded the residue of a mere 3870 items. If there is a consumer demand, as I expect, further volumes and more book launches will follow in the years ahead.

When I was provided with the 54 chapters selected by Paul Vout, I immediately had two thoughts. The first, remembering roughly what was contained in the online speeches, was that I should write a special additional chapter (on which more anon). I put this idea to one side as I concentrated on the task of reading the selected chapters, one by one. Starting from the first and working my way through to the last. My chief impression was that the chapters, read again today, are actually very interesting and still relevant.

The second feature that immediately struck me was that the collection, as presented, bore no similarity to the order in which the selected speeches and articles had been first written. Now, in the editor's selected order, the chapters represent a substantially chronological sequence, based on the years of my life. They begin with some of my earliest recollections, sitting

in local public schools; singing in the local church choir; and realising that there was something a bit unusual about me. It was something, at the time, that I knew I was strictly forbidden to mention to anyone.

The early chapters dealt with my life in primary, opportunity and secondary schools. These, in turn, were followed by my experiences at university. Including the Universities of Sydney, Newcastle and Macquarie University, where I succeeded Sir Garfield Barwick as Chancellor. Within these years, I took a leading part in student activities, rising to the glorious, and still gratefully remembered, years as President of the SU Students' Representative Council.

These early chapters were followed by a number covering my years as a solicitor, barrister, engagement with civil liberties and then with institutional law reform. These chapters took me into considering law reform as it affected law, society and technology. Years before most, in *The Boyer Lectures* of 1993, I broached the possible advent of artificial intelligence to help lawyers cope with the crushing work of evidentiary and legal issues, arising in their professional duties. My days in the Australian Law Reform Commission are described in a number of chapters. They were exciting and productive of many nationwide reforms. But, in turn, they soon gave way to my years in the Court of Appeal of New South Wales, sitting and often presiding, in this very courtroom. It is a beautiful space, so grand and intimidating. Now it is here that we launch this book, before impressive colleagues.

Paul Vout's selection of chapters took me through many essays, still relevant to the work of the courts, and the problems they have to resolve. Judicial welcoming speeches followed by judicial farewell addresses.

These provided a moment to reflect on where I had come from and where I would later find myself. Particular engagement with judicial colleagues in successive issues caused me to identify serious faults in the law, some of which could be addressed, and repaired, by senior courts, operating as a safety valve for society, through the techniques of common law exposition and development.

There are several chapters dealing with injustices to First Nations People, although I had not reached the High Court by the time the *Mabo case* fell to be decided in 1992. Similar challenges affected other minorities. They are dealt with in successive chapters: HIV/AIDS and the new realm of bereavement. People with disabilities. Antisemitism and like issues on the centenary of the *Dreyfus case*. Religious apostasy. Gender inequality. Refugees. The unfinished business of worldwide capital punishment. Museums retaining, and displaying, human remains. And long-standing criminal laws targeting LGBT minorities.

By this stage in my career, reflected in the chapters of the book, I had become deeply involved in many the United Nations and global issues, Apartheid and Nelson Mandella; Cambodia and King Sihanouk; North Korea and Kim Jong-Un. With the meaning of the “self-determination of peoples” mentioned in the UN *Charter*, studied and reported in a UNESCO committee that I chaired. This work has attracted an unexpected, belated relevance for the possible resolution of the Russo-Ukrainian war which presently afflicts humanity.

The book concludes with biographical chapters on impressive lawyers whom I have known:

- * H.V. Evatt, and the Communism Referendum;
- * Lionel Murphy and his dedicated reforms, judicial and legislative; and
- * Roddy Meagher with whom I sat, including in this courtroom, and the way he often mobilised his remarkable legal mind in the cause of resistance.

I read all these chapters. I gratefully absorbed the footnotes that the Editor had added, bringing the chapters relevant. However, the striking feature of reading through these words ten, twenty, thirty and even forty years after they were written, is how up to date they mostly still are. There still many unsolved problems. There are still clear directions for change and improvement towards greater justice. And all that brought me to the final chapter, which I wrote specially for this book.

Most of my life I had to hold my tongue about my sexual orientation, although it was something that I did not choose and could not change. It was like gender, skin colour, Indigenous status. For most of my life it attracted many of the same prejudices. And much hostility. To some extent these issues have been resolved in Australia and elsewhere, by the abolition of criminal laws and the equalisation of civil laws such as marriage. But prejudice still lingers.

Up to the early 1990s, when I came to the door of this courtroom as President of the Court of Appeal, it was a given I would make no public reference to my sexuality or to my partner, Johan van Vloten. I would be left alone if I observed that requirement. There was I, the second most senior judge of the State, obliged to disguise a feature of my being. I had to adopt a code even in dialling and answering our home telephone

number. So nobody would discover Christmas parties at our home in Rose Bay, required the removal of all photographic and other evidence of Johan's existence. Be in no doubt, that this was done because it was required. If we had not done this, I would never have received any of the judicial appointments that came my way. Some people knew or guessed. But people remained silent. Including me.

It was ultimately my partner, Johan, from the Netherlands, who insisted that we should not go along anymore with this charade. In the High Court the issue of whether Johan would receive a travelling allowance, and other benefits provided to spouses, and de facto spouses was taken to a vote of the Justices, my colleagues. The proposal only succeeded in 1999 by my voting, out of necessity, to resolve the matter. You will not find this decision mentioned anywhere in the *Commonwealth Law Reports* or *Annual Reports*. These were the matters that proceeded behind closed doors. But in this book, I concluded, that the time had come, and more than come, for me to put the record straight (if I can use that expression).

I am sure that some readers of these pages may feel uncomfortable or uneasy about mention of this issue in a few of the chapters, and especially in the closing chapter expressly devoted to Johan. Be in no doubt that these were wrongs, upheld beyond time, by our legal system. Against wrongs of this land we need reform. We need judges and advocates of vigilance, kindness and scientific knowledge.

There are many stories of the struggle for justice and equality in the world in this book. But in the end, I turned the searchlight on myself. I hope that in my last chapter, and elsewhere I have explained why I did this. In ceremonies of judicial welcome and of judicial retirement, including in this

room, I was silent. I observed the old convention. Now, this issue is regularly mentioned when new judges of today honour their families and their partners. This is not, of course, the whole of the story of a human life. There are 750 pages on other themes. There are many old fashioned legal topics. My partner Johan van Vloten has sustained me throughout my life. This book affords an occasion to say thanks to him and to others.

So I pay my thanks to the Governor-General; to the Chief Justice of Australia; to the Chief Justice of New South Wales; to judicial colleagues; and to Dr Paul Vout KC; to the assembled legal profession; to my publisher; and to the Court and publishing staff. I thank my personal assistants, the late Janet Saleh and to Sarah Conquest, who proofed and typed up these Chapters years ago and sometimes waited for the moment of truth. And I thank my family and my partner Johan van Vloten. Thanks was a long time coming. It is not the whole story. But it is one chapter. And in this book, it is told for all to read and all to judge.