

Chapter 55

Johan van Vloten: An Ode on the Law's Capacity to Reform

I met Johan van Vloten on Tuesday 11 February 1969. We were both getting uncomfortably close to our 30th birthdays. Every gay man of our generation knew that this was the moment when one ended up “on the shelf”. I had been born on 18 March 1939 in Sydney. Johan was born, a month later, on 23 April 1939 in The Hague, the Netherlands. Each of us was therefore perilously close to the big 30: marking the beginning of genteel old age. On that hot February night, each of us was pretty desperate, as we asked ourselves whether to venture out, searching for the long awaited soul with whom to share our lives.

I had virtually no romantic attachment until 6 months before I met Johan. In July 1968 I took up with a handsome young Spaniard, Demofilo Solera, then aged 24. He was a newcomer to Australia. Some members of his family in Spain, I understood, were a trifle too close to the unpleasant government of General Franco. He had sampled the gay life in London. And now he was exploring Australia. We had met at a dance party in Petersham, an inner suburb of Sydney. After an on again off again acquaintance, Demo had come with me, at Christmas 1968, on a holiday to New Zealand. However, shortly after our return to Australia, on 28 January 1969, he announced that he was continuing his odyssey, to take up life in Melbourne. I got my marching orders. I accompanied Demo to the Central Railway Station in Sydney to farewell his train. Loneliness descended on me again.

I looked out of the windows of my new apartment in Kirribilli, overlooking Sydney Harbour, that night in February 1969. I saw the sparkling lights of Sydney all about. Like most others of my age in the same predicament, I thought “surely someone out there would welcome a person as brilliant and attractive as myself”. This was the thought that took me to the “Bottoms Up Bar” in the Rex Hotel in Kings Cross, Sydney.

Johan's journey that evening – to one of the few gay venues in the mainly hostile world of Sydney – had been more down to earth. There was no broken heart of love scorned. We were both newcomers to the gay scene in Sydney. Yet the same quest for love took us on our separate journeys, leading to the Rex Hotel. In the years since February 1969, Johan and I have often speculated on what our lives might have been like if we had not met that night. You do not know it at the time, but chance and propinquity play vital roles in the events that can lead to a lifelong relationship.

Neither of us was accomplished in the opening gambit that broke the ice. I least of all. However, Johan came home with me to my apartment in Kirribilli. He saw the little ferries plying their silent journeys across the famous harbour. He admired the Sydney Opera House, then still under construction. He studied the Sydney Harbour Bridge,



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close up. We did not realise it then, but, in a moment, in the twinkling of an eye, our lives had completely changed.

Johan allowed a day to pass before returning to the scene of the crime. On 13 February 1969, he knocked on the door of my apartment. With only short interruptions when one of us was overseas, we have lived together since that moment. We brought our different life experiences to the relationship. I was then a young lawyer with a very busy legal practice. Johan's life was still indelibly marked by the bitter experiences that had occurred to him and his family on the other side of the world. His birth was followed, soon after, by the German occupation of his homeland. His father had been seized in a raid and taken to France to help build Hitler's Atlantic Wall. His mother, with her three infant children, was moved by the occupying power to Nijmegen, near the German border. His schooling was interrupted. The economy was shattered. After the War, one of the few jobs that wanted Johan was with the Royal Netherlands Merchant Marine. His first post was as a cabin boy.

Johan's father had walked back from France to the Netherlands. Their neighbours began speaking about the collaborators. Although there were brave resistance fighters, there were also many stories of betrayal. Thus, Johan's growing up was quite different

from the calm, stable life of family and education that I had experienced in Australia. However, Johan was smart and a voracious reader. When the captain of one of his ships found this junior crew member reading the book *Brighter than a Thousand Suns: The Story of Hiroshima and Nagasaki*, he told Johan that he should pursue promotion and ambition. Well-meant advice; but easier said than done in the circumstances of the post-War Netherlands.

Eventually, Johan came to Australia as a migrant in 1963. Thereafter, he was never out of work. In the manner of those halcyon days of opportunity in Australia, he eventually rose to be the Paymaster for New South Wales of the Australian Broadcasting Commission. He was always very smart with mathematics. He was also restless, as I soon learned when we turned our relationship, after less than a year, into an adventure.

In mid-1969, Johan insisted that we should take a year out of the routine of our lives. He proposed that we should follow many other young Australians of that time. We should travel by road “overland” from Singapore to Europe. This was not a predictable career move for either of us. But it proved to be an adventure that helped to reinforce our relationship. The journey in a Kombi van allowed us to explore our mutual interests in history, music and literature. These pastimes were interrupted with reading books, listening to music and buying *The Economist*, if we could find a copy on our long journey across the World.

When I told my colleagues at the Bar in Sydney of my plan to embark on this journey, one of them, Michael McHugh, later my judicial colleague in the Court of Appeal and on the High Court of Australia, sought to dissuade me. “This will ruin your practice. People will regard you as unstable and footloose.” But I persisted. We were unrepentant. The first overland journey was in 1970, and a second similar journey followed in 1974. On each occasion, we returned to Sydney after a year of explorations, including of ourselves. Me to my chambers in Phillip Street; Johan to his work with the ABC. In those well-mannered times, no one asked me about any companion I might have had on my journey. This was the age of “Don’t ask. Don’t tell”. For me, it was a time of secrets, shame and silence.

Observing these rules was not difficult for me. At law school I had learned about the criminal laws that targeted queer people. However, Johan had been raised in a country that had abolished such laws in 1811. True in the Netherlands, there were social restrictions and hostile religious expectations. However, there was no danger of criminal prosecution just for being gay or challenging the law. Johan always objected to the Australian code of silence expected of gay people. But he inferred that it was important for my career that our sexuality should not be talked about openly in polite society. My family was eventually supportive of me. His family was supportive of him. Both of us thought that such ancient and widespread prejudice would far outlive us. A combination of events ultimately brought us to change our minds.

In November 1974, I was appearing alone, as a barrister, in an important case in Melbourne before the Full Bench of the Commonwealth Conciliation and Arbitration Commission. This was the national industrial tribunal, a place of considerable status and power. The presiding judge in my case was Justice [later Sir] John Moore. He was a shy and reserved man; a good judge. The case concerned an industrial dispute that threatened the entire State of Victoria with the loss of its supply of electricity. I was

briefed to appear for all of the employee unions that were threatening to strike for higher pay and better working conditions.

I must have done my job skilfully because the parties promptly settled their differences. The danger of industrial action receded. And just before I was about to leave the hearing in Melbourne, I received a request from the presiding judge's clerk, inviting me to call on Mr Justice Moore in his chambers. This was unusual. But without beating around the bush, Mr Justice Moore said: "I have been authorised by the Commonwealth Government to enquire whether you would entertain an offer of appointment to be a Deputy President of the Arbitration Commission?". I was shocked and said that I would need to consult my family. This was a totally unexpected development in my life. I was engaged as an advocate in many industrial and other cases. My practice was really taking off. I immediately consulted Johan, my parents and my siblings. The decision had to be made quickly. My barristers' clerk, Greg Isaac, said to me: "You cannot turn this down, Boss. This would be a great opportunity. It involves the same salary and status as a Federal Judge. Take it."

Still, the same professional colleagues who had earlier cautioned me against the repeated overland journeys returned to their now familiar themes. Michael McHugh told me that I had an outstanding career ahead of me. This appointment would be a "siding". It would be the end of my legal career. I would never be heard of again. He eventually even hinted that it would be the end of civilisation. Only Johan, who had seen close up the stressful features of my life as an advocate, looked at the issue from a personal point of view. "It will make your life calmer and happier. It will offer you fulfilment on a wider stage." So I took it.

Things happen fast in such matters in Australia. Immediately, I had to return my briefs, to the glee of the legal colleagues who inherited them. I had to sell my room at Wentworth Chambers on Phillip Street; to say farewell to my fellow advocates; and to inspect the new judicial chambers with friends who would become my colleagues in the Arbitration Commission: Justices Elizabeth Evatt and Mary Gaudron. I clearly anticipated that this would be a career-changing move. So it proved. In the last days of December 1974, I was welcomed in Sydney to my first post as a Judge. Johan predicted that it would mean that we would see more of each other than had been possible to that time. I warned him that the overland trips were now a thing of the past. The welcome ceremony took place. It was the first of several judicial welcomes from which Johan discreetly absented himself. Neither of us complained about that. It was just part of the "deal" society imposed upon us, if I wished to participate in public office. We had to keep to ourselves. We were not to be open about our relationship. But otherwise, we were not dishonest. In a way, the code of secrecy strengthened our relationship. I thought that this was the beginning of the rest of my life.

Learning of my appointment to the Arbitration Commission on the nomination of his colleague the Minister for Labour (Clyde Cameron), the Federal Attorney-General in the Whitlam Government (Lionel Murphy QC) invited me by letter to accept appointment as a part-time commissioner of the newly established Australian Law Reform Commission (ALRC). I agreed. The post was to coincide with my appointment to the Arbitration Commission. This was provided for in the Act creating the new ALRC. It would vary the diet of my industrial work. Johan offered only encouragement.

Then, in early January 1975, I received another invitation from Lionel Murphy. This time he wanted me to call on him in his ministerial chambers in Sydney. At the Bar I had quite a close professional relationship with Neville Wran QC in industrial cases, where he was an accomplished leader. He was, at the time, a member of the Upper House in the New South Wales Parliament. However, I had been briefed in a number of important constitutional matters on Lionel Murphy's nomination. My contact with Lionel Murphy was not close; but I knew he was a close friend of Neville Wran. I do not know, but I inferred, that they had discussed Lionel Murphy's search for a judge to fill the position of inaugural chairman of the Law Reform Commission.

I duly went to see the Attorney-General. He told me that he had authority to invite me to accept appointment as the first full-time chairman of the Law Reform Commission. At the time I had only just moved into my new chambers as a judge. I was enjoying the challenge of my new office. So I was reluctant. But now it was necessary, once again, to consult Johan and my family. The Law Reform Commission was new and uncertain territory; whereas the Arbitration Commission had predecessors dating back to 1904. Once again, the nay-sayers were pessimistic. However, I accepted the position. Johan's only thought was how this might increase the pressure of work once again, because it involved leadership of a completely new federal body. But he also saw the exciting opportunity that this presented.

When I accepted in his Sydney chambers, Lionel Murphy called for a bottle of champagne. He offered congratulations and a toast: "To Mr Justice Michael Kirby. His first step towards the High Court of Australia". I took that prediction with a grain of salt. Johan, at home, became enthusiastic for the new post. I reflected at the time how precious it was to have such a faithful companion. Just imagine how difficult it would be to make such lifetime decisions without the opportunity to discuss the matter with a partner whose only thought was for my interests and opportunities.

My life in the Law Reform Commission was happy and famously busy. It involved working hours longer even than I had undertaken as a barrister. I was working with wonderful colleagues who were, or who later became, some of the leaders of the legal profession in Australia: Mr [later Sir] Gerard Brennan QC; Mr [later Hon] Gareth Evans QC; Professor Alex Castles; Mr [later Hon] John Cain; Professor [later Sir] Zelman Cowen QC; Mr [later Sir] Maurice Byers QC, leading judges, barristers, solicitors, academics and others. It was a most creative interval in my life. It was very busy; but exciting.

Of course, Johan complained that he saw less of me in this new post even than he had during my life as a barrister. However, opportunities arose on many occasions for me to broach, in a general way, the law reforms that were being introduced in several other countries, with a legal system similar to Australia's, concerning criminal laws against queer people. In the context of the general challenges of law reform, I thought it was possibly an advantage to have an officeholder who knew that the law was sometimes oppressive, irrational and lacking in justice. I certainly had a reform motivation. My appointment made me less complacent than I would probably have been, had I been heterosexual, rather than gay. My legal training and general education had left me full of admiration and pride about the law. However, in our daily interactions, Johan never hesitated to speak bluntly about what he saw as the double standards and occasional

hypocrisy of the English and Australian legal system. A great export of the English to their Empire. But not so splendid for Aboriginals, women, coloured people and gays.

After a decade of service in the Australian Law Reform Commission, Neville Wran QC, by this time the Premier of the State of New South Wales, sent an official to see if I would be prepared to accept appointment as the President of the NSW Court of Appeal. The approaching vacancy for that office was the retirement of Mr Justice Athol Moffitt, due in August 1984. I had anticipated that, after a decade in the Law Reform Commission, I would be returning to the Arbitration Commission. I was perfectly comfortable with that prospect. However, the NSW Court of Appeal, in its then brief existence of 20 years, had already established an enviable reputation for legal brilliance, diminished only by its equal reputation for unpleasantness on the part of many of its judges towards the lawyers and other advocates appearing before it.

Once again, I consulted Johan and my family. By this stage in my career they appeared ready for any step I favoured. Yet, news came to me, in the weeks immediately before the announcement of my appointment was due to be made, that two of the senior judges of the Court of Appeal, whom I knew personally and regarded as friends, considered that my appointment was intolerable. This was not only because I did not have the usual judicial preparation for appointment to that court, but also because I was a “faggot”.

I recounted this apparently well-founded rumour to Johan. I kept it from my parents whom I knew it would deeply hurt and make them anxious for what might lie ahead if I were appointed to the post. Because the provisions of the *Crimes Act 1900* (NSW), criminalising gays, had then only recently been repealed in New South Wales, there was by now no explicit or implicit legal impediment to my appointment to the second highest judicial post in the State. On Johan's advice, I ignored the rumour mill. We resolved to rise above it. The possibility of exposing Johan and me to unpleasant calumny would not divert us. One day, we thought, people would be ashamed of condemning others for a feature of their nature that they had not chosen and could not change.

Once again, a Welcome Ceremony was conducted, this time in the beautiful Banco Court of the Supreme Court of New South Wales. My parents and my family attended. Once again, Johan absented himself. No reason, he said, to “set the tongues wagging”. Johan was inclined to regard criminalisation of gay men as primitive and a special feature of Anglo-Saxon and some other societies. However, the rumoured hostility of the narrow-minded simply added to our incentives, and for me, to succeed in my new role of President of the Court of Appeal. “Kill them with your ability and with kindness” was Johan's advice. So, gladly, once again, I took it.

I held my post in the Court of Appeal from 1984 to 1996. I was concurrently President of the Court of Appeal of Solomon Islands from 1993 to 1996. Once again, no reference was made on that appointment to my long-time partner: neither by me nor by the Attorney-General of Solomon Islands, Julian Moti, who was fully acquainted with my domestic situation. Johan was simply absent from the celebrations at Honiara. He was essentially a non-person. Sadly, he was becoming used to that status.

In 1996, the step that Lionel Murphy had predicted many years earlier came to pass. The Attorney-General of the Commonwealth (Hon Michael Lavarch) telephoned my

chambers in Sydney to offer me a seat on the High Court of Australia. On this occasion, I did not delay my response for family consultations. Yet, once again, Johan absented himself from my Farewell Ceremony in the Court of Appeal. On my Welcome to the High Court of Australia in Canberra, on 6 February 1996, Johan attended the ceremony with my parents and family. At his first attendance on this occasion, in my speech on my Welcome, I did not refer to Johan by name. However, for the first time, I referred to my debt to: "My family and loved ones, who sustain me in all that I do". "Some debts", I declared, were "too intense, enduring and private for words or a public occasion such as this". My sister-in-law, Judith Kirby, who was sitting next to Johan gave him a dig in the ribs at this point saying: "That's you. You're on". However, the elliptical words were also intended to tell any who had spread gossip, that we knew what they were up to. Soon the occasion for a greater change arose.

Appointment as a Justice of the High Court of Australia is, basically, the highest honour that a professional lawyer in Australia can receive. At the time the offer came to me, Johan had visitors from his family in the Netherlands staying at our home in Rose Bay. As well, by one of those unexpected coincidences that arise in life, in the weeks immediately before I took up the new office, my long remembered friend from 1968, Demofilo Solera, came back to Sydney. A few weeks before my welcome to the High Court he joined Johan and me in our first journey of inspection to the High Court in Canberra. When I had met Demo in 1968, the High Court, in Sydney was housed, at its seat, in small courtrooms of the Darlinghurst Court complex. To that time, the only occasions when Demo and I had been anywhere near the Darlinghurst courts were in attending a gay cabaret in a nearby hotel.

By the time I was appointed to the High Court of Australia in 1996, a magnificent new building had been erected for it in Canberra, beside Lake Burley Griffin. Now, a few days before beginning my duties on the Court, I arrived at the door of the Canberra edifice, accompanied by Johan van Vloten and Demofilo Solera. We three went together upstairs into the inner sanctum of the court, dark with the evening gloom. The court officer accompanied me into the space that would now become my main workplace until the conclusion of my judicial service in February 2009. Demo always liked Johan. However, Demo complained that I "had not mourned long enough" when I began my relationship with Johan two weeks after Demo had departed for Melbourne in January 1969. There was a strange paradoxical irony, in the fact that, knowing nothing about my new appointment, he had returned to Australia for a visit to the places he had known in 1968 and 1969. Now, we were all together at this special time in my life with Johan. A large change had come about in the intervening years, including in community attitudes to sexual minorities. In part, this was a consequence of the spread of scientific research and a political and community evolution, that coincided with our lives and in the countries in which we all lived.

Growing up in the Netherlands, after the War, Johan had witnessed the declining power of narrow religiosity. In Australia, I had attended public schools whose obligation was to provide education that was "free, compulsory and secular". In Johan's case, his parents had elected to send him to a local school which was "zonder Bijbel" (without Bible) rather than "met de Bijbel" (with the Bible). Whereas I honoured my upbringing in the traditions of the Church of England (Anglican), Johan would have none of it. He

said that an aspect of Netherlands society that he most applauded was the radical shift away from religiosity. He had held no expectations that such radical changes would occur in his lifetime. Least of all in Australia. But change they did. He never ceased urging me to embrace the change fully. He was agnostic. He urged me to cast aside religious “superstitions” and embrace rationality and total secularism.

After the research of Alfred Kinsey in 1940s and 50s had disclosed, as an attribute of evolution, the relatively common variations in human and other sexual conduct, it became, for Johan, compelling and irrational to condemn homosexuals based upon ancient scriptural texts. Still more for lawmakers to impose criminal penalties on adult, private, consensual, sexual conduct. The changes in the Netherlands were well ahead of the changes as they slowly unfolded in Australia. The “opening up” of marriage for queer people occurred in the Netherlands in 2000. It grew out of the modern culture of the Netherlands. This was built on honesty, candour and a vigorous rejection of perceived religious hypocrisy. In my own attitudes and those of my family, it became noticeable how plain speaking, even in the sense of confronting others expressing religious hostility to sexual minorities, spread to us all. My own home became a kind of Netherlands’ household. To those accustomed to the polite and reticent dialogue of English and Australian culture, such directness can sometimes be bracing. Yet it was catching. It converted our Anglo-Irish Protestant Kirby family to a Netherlands sharpness: an impact of Johan’s personality on all of us.

Repeatedly, Johan urged me to withdraw from involvement with religious bigotry. When I pointed to the admirable history of the Anglicans, involving diverse, even contradictory, religious practices, supposedly to accommodate the Protestant and Anglo-Catholic traditions, Johan was unconvinced. He complained about the hostility of many Christian leaders in Australia towards sexual minorities. For Johan this hostility was not only unscientific. It was irrational. And it was alien to what he took to be the central religious instruction of Jesus: to love God; to love one another; to seek reconciliation; and to forgive each other for their “trespasses”.

Over time, I came to see the merits of Johan’s criticisms. When a local Anglican priest in my parish in Sydney wrote to me and urged me to repent, to terminate my relationship with Johan, and to seek forgiveness for my “abominations”, I declined. “This would not only be very unkind to a partner of 50 years”, I wrote back. “It would also cost me an awful lot if it got to court.” The stubborn unwillingness of many religions to become acquainted with science might be humorous, if it was not so cruel and harmful.

Johan’s attitude to religion did not mean that he lacked a moral compass. On the contrary, he was kind to the needy and helpful to those who were suffering. In 1984, a great catastrophe fell upon the queer community in Australia and elsewhere with the advent of the HIV pandemic. Johan was not content with lamenting the injustice of this. He rolled up his sleeves and became an *Ankali*.¹ This was a project, created in Sydney, to provide support for people living with HIV and AIDS. Johan went to their homes. He cleaned their premises; prepared meals; re-tiled bathrooms; and talked gently with his “clients”. He gave respite care to their partners who needed a break. He invited me to come “as a handbag” to the regular dinners of the *Ankalis*. Half of them were gay; half were straight. I was just an observer. Johan showed professionalism and never breached

1 [Editor’s note: an Australian Aboriginal word for “friend”.]

the rule of confidentiality. As a couple, we lost 15 close friends to the AIDS pandemic. The Bobby Goldsmith Foundation (BGF) – a companion to the *Ankalis* – made Johan and me Patrons of their continuing mission. I made speeches. He did the work.

Through most of our lives together, Johan hid his face from the world. Looking back, I realise that this was a large sacrifice. Our social circle was little more than our families and a few close friends. For him, his banishment from society brought a lonely life. He could not have made a bigger social sacrifice than he did for me. Let there be no doubt that if he had not been willing to do this, in the atmosphere of those decades, I would have received none of the judicial and public appointments that came my way. We both knew this. Effectively, he turned his back on the world so that I might enjoy my aspirations. He telephoned me at work using a dialling code so that nobody would get the surprise from hearing a deep voice with a Dutch accent. When I offered our home for Christmas parties for the staff of the Law Reform Commission, and later in the courts, it was Johan who did the catering and hid our photographs and personal items from display. It was he who had to bear the occasional hostility of neighbours and unexpected, belittling encounters. He had no contact with my work or university colleagues. He gave up an engaged life that most people took for granted. He did this for me.

Johan shared remotely the joys and successes of my professional lives, in conversations with me at our home and in contacts with our respective families. The personality of this intelligent, amusing, well-read, good-looking man was substantially surrendered on the altar of my success. He never complained. Yet it is hard to imagine that many would have been prepared to make the sacrifices that he made. To those who later criticised this sacrifice of a normal open life, we knew that, had it not been made, I would have received none of the public appointments I received. This was the “deal” that was imposed on gay people in those days. If I was silent about my sexuality, and Johan was invisible, I would be promoted on merit. But politicians and others responsible for making high appointments depended on Johan and me to remain invisible and silent about this aspect of our lives. It is not a coincidence that, in those days, there were no openly gay judges or gay politicians or gay business people. The price of my success was paid in the coinage of living a hidden life. That was just the way it was. It is how it still is today in many countries of our planet and some parts of Australia.

Johan accepted the price of this practice; but he refuted it. Anyone with doubts about his realism should look at the situation in Australia and elsewhere. Many religious schools, even in Australia, insist on teaching their “religious principles”. Sexual minorities “are an abomination”, as declared in *Leviticus*. Their enemies demand the right to dismiss queer teachers and other employees, without protection from anti-discrimination laws. The political leaders who support exceptions from such laws insist, even today; “Don’t ask. Don’t tell” and “Don’t say gay”. This should not remain part of the reality of our world. It is often people like Johan who still pay a price to be let alone, dreaming that one day they can be open about themselves, as the majority can enjoy without question.

Johan and I began to emerge from the silences of hiding our realities when the AIDS tragedy struck. A talk at a Catholic college about these realities resulted in strong condemnation by the avid proponents of silence and shame. In court, occasional

homophobic statements by colleagues about the so-called “gay lifestyle” had to be endured. Attempts to secure equal treatment of Johan in partner entitlements, enjoyed by all other spouses and partners, were forced to a vote in the High Court. The request for pension equality was resisted by some judicial colleagues and by the government, apparently for political reasons. Some people could just not tolerate the reality of queer lives.

In 2002, in the Federal Parliament, a savage attack on me, utterly without foundation, was made by an obsessive politician blinded by hatred against gays. Although this attack was later withdrawn and an apology was expressed by the Senate, the scars of such events were left on me; and especially on Johan. To witness the distress that media and other attempts to belittle our relationship caused to Johan, my patient, private and faithful partner, was hard for me to bear. Gradually, decent fellow citizens and supportive colleagues (but not all) began reaching out in friendship. They expressed condemnation for the wrongs. Still, this was the actuality of our lives. Inevitably, it drove Johan and me closer together. And as society changed, we began to emerge from the shadows of our earlier years together.

Then, rather slow off the mark amongst similar countries, Australia moved to adopt same sex marriage. The lead did not come from the courts, as it had elsewhere. It came, as had the end of the criminal prosecutions, from Parliament. Even at this stage, an extra obstacle to the adoption of same sex marriage was imposed by politicians. A virtually unique requirement of interposing a voluntary postal ballot of elector opinion was demanded as a special precondition to the adoption of marriage equality for gays. Eventually, equality was endorsed by 61.60% majority of Australians who cast their vote. Johan and I voted for the change. But Johan was most reluctant to vote at all. He said that the one big lesson that the people of the Netherlands learnt from their occupation in the Second World War years was never willingly to cooperate with those who belittled or oppressed minorities.

After the vote on gay marriage was counted; the principle of marriage equality was endorsed by citizens; and the law was reformed, we decided that it was time for us to get married. We held a civil ceremony at our home in Sydney. There was a small group of friends to watch us exchange our promises. It occurred exactly 50 years after we had met: on 11 February 2019.

The day, and the hour were the same 50 years on. And it was not far from the place where we had first met. “Just don’t have any references to God, or religion in the ceremony”, Johan insisted. I edited Archbishop Thomas Cranmer’s wonderful language in the *Book of Common Prayer* to delete all invocations of the Almighty. The prosaic language of the *Marriage Amendment (Definition and Religious Freedoms) Act 2017* (Cth) had to suffice for our purposes. After 50 years together, even a day later, we did not feel any difference. After all we had gone through, we did not really need a paper from the government to affirm the legitimacy of our relationship. It had been tested in the fire of our experiences. Our solemnisation of marriage was not a gift from the Almighty or even from the Parliament of Australia to make us whole. We had been tested in untold ways. A new milestone had been passed.

To any who feel that these words on Johan may have portrayed a persisting sense of anger or sadness at wrongs done to us and our relationship, I must assert the strong

sense of realism we feel about the impediments we have eventually overcome. They made us what we were; and what we became.

We both recognise the many blessings that we have enjoyed. We never had to fight in a war or kill enemies. We never risked our lives in military or other service. We had always enjoyed the love of our parents, siblings and families – in Australia and in the Netherlands. We have enjoyed generally good health and fine medical care. We had always undertaken work, received income and paid our taxes. We saw our expanding families grow and develop in admirable and happy ways. We have enjoyed close friendships, mostly shared, with a small group of people. We both read constantly and widely. We love discussing history, ethics and politics. We have tried to learn from their lessons. We love similar music and shared poetry, some of which we both know by heart. We avoided infection from the two pandemics (AIDS and COVID) that afflicted many during our lifetimes. We still greatly enjoy each other's company and sense of humour. Johan did very well with his mathematics and sense of investment, in the sale of successive properties, including the apartment at Kirribilli where we first met. He has even become used to my many absences at work; sometimes welcoming them.

Despite all, we remain optimistic about the future of our planet and our species, although this optimism has certainly been shaken in recent times. We have both welcomed the advances in human justice and dignity that have occurred in our lifetimes. We count ourselves fortunate that we live in a generally free and just country and that we are citizens of Australia. It is a blessing to have a peaceful home and to live in a society that changes its government peacefully and not infrequently. We are both afraid of the dangers of nuclear weapons, climate change, mass migrations, and extreme religions. We anticipate the possible promises and dangers of artificial intelligence. We have both seen big advances in many but, not all, countries in the attitudes towards indigenous peoples, women's and children's rights, respect for racial and cultural differences, for the variety of human sexuality, disability and we hope for the achievement of larger freedom, as the UN Charter promises.

So, we count our blessings. And we appreciate the important part that the rule of law, uncorrupted, professional courts and lawyers and universal human rights play in our own lives and those of our families and society. We feel an obligation to ensure, so far as we can, that the future will be better than the past. Despite the usual misgivings, we are both generally optimistic. We are grateful for the blessings of life, love and the pursuit of happiness.

This is a book full of speeches, articles, essays and other writings by Michael Kirby. Most of these contributions were conceived and delivered in days that ended with a return home to a peaceful environment with much evidence of the strong traditions of egalitarianism, order, warmth and tidiness of the Netherlands, where Johan grew up. It has left an indelible mark on him, on me and those who have come to know and love Johan.

It is only right that Johan should have the last word in this final essay of this large collection. Over many years in the shadows and in more recent times in the open, others have come to know his personality – and the blessings I have enjoyed in his love, companionship, intelligence and sense of humour. I hope this long continues.

On 11 March 2024, Macquarie University in Sydney did honour to each of us. By resolution of the Council of the University, it decided to name a beautiful new Law School building “The Michael Kirby Building” after me. It also decided to name the principal theatre inside the entrance as “The Johan van Vloten Theatre”. This was an unusual gesture, at least in an Australian university and in a Law School – inevitably a serious place. As a competitor architect declared with the naming: “I love it”.

Johan was invited to give an address on the occasion of the opening. It would be his first public speech. So far, it is also his last. In the presence of the Chancellor (Dr Martin Parkinson AC), the Vice Chancellor (Professor Bruce Dowton MD), family, judicial colleagues, academics and students, this is what Johan said:

I AM EVERYONE

Johan A van Vloten

It is generally wise for people like me to leave speeches to their partner. In my case he is used to it.

Mind you he never received First Class Honours for brevity. That is my department. Perhaps today he scores a Pass.

Still, this occasion demands a few words from me.

Today is a unique moment in my life. When I migrated to Australia from the Netherlands in 1963, I did not imagine that an event like this could occur ... Dreams come true.

I must first express thanks to Macquarie University.

To the Council and Law School. And its students.

In the future, in a sense, I will spend every day with the law students. May their dreams also come true.

I can hear some of the students asking ... who was he?

I have none of the usual qualifications.

In a way ... I am everyone. Ultimately, the law is for everyone.

Law does not exist only for lawyers, judges or even law students.

Law exists for all people.

It is essential for a just society ... and a safe world.

It is vital for minorities of all kinds.

My hope for all the lawyers who use this building and lecture theatre is that their lives will be blessed with success. Service to others. Mixed with love.

Michael and I did not ask for ... or expect ... this high honour.

But on behalf of us both ... I express our grateful thanks.

Injustice passes. Dreams come true.