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NEW SOUTH WALES DEPARTMENT OF
EDUCATION AND TRAINING

AWARDS CEREMONY, SYDNEY,
4 DECEMBER 2012

ON PRESENTATION OF THE AWARD FOR
MERITORIOUS SERVICE TO PUBLIC
EDUCATION

PUBLIC EDUCATION IN AUSTRALIA – THE
NOBLE DREAM:

A TIME FOR PLAIN SPEAKING

The Hon. Michael Kirby AC, CMG

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A TIME FOR PLAIN SPEAKING*

THE HON MICHAEL KIRBY AC CMG**



Michael Kirby with Ros Moxham (Fort Street High). Frances Brewer (Strathfield North PS).
Greg McLachlan (Summer Hill PS) 2012.

ACKNOWLEDGMENTS AND TRIBUTES

* Text on which was based an address in Sydney on 4 December 2012, on receipt of the Award for Meritorious Service to Public Education.

** Justice of the High Court of Australia (1996-2009); President of the NSW Court of Appeal (1984-96); Judge of the Federal Court of Australia (1983-4); Deputy President of the Australian Conciliation and Arbitration Commission (1975-84); Chairman of the Australian Law Reform Commission (1975-84).

I begin by thanking Aunty Gwen Griffin for her welcome to Country. I acknowledge the wrongs that have been done in our country to Aboriginal Australians. And our duty to repair and correct those wrongs and other wrongs in our society.

I acknowledge the presence of the Director General of Education, Michele Bruniges, and other leaders of our system of public education in New South Wales. I thank them for my award. More properly, it belongs to the outstanding teachers who offered me the precious gifts of education. I am no more than the voice of one of their pupils who speaks with gratitude and praise.

I am supported on this occasion by the contemporary principals of the three fine public schools that I attended between 1944 and 1955:

- * *Strathfield North PS (1944-48)*: I thank Mrs Frances Brewer, Principal of my original school for attending today. She is no stranger. On a number of occasions in recent years, including with my brothers Donald and David and my sister Diana (who also attended the school), I have returned on Open Days to revisit the familiar places, rekindle the memories and pay a tribute to my teachers. They were Miss Pontifex, Mrs See, Mrs Godwin and Mr Casimir. Their spirits are also with us on this occasion.

In July 2012, I attended and addressed students, staff, parents and citizens at the school together with my brothers. I took along my judicial wig. Temporarily I placed it once again on my head and then on the heads of the boy and girl pupils who presided in the assembly. Perhaps one day they or others will wear the trappings of public office. Everything is possible in Australia for the *alumni* of public education.

I witnessed the continuities and changes from my days. Then, there was but one Asian-Australian pupil in my class; Bobby Chong. He went on to become a

professor of biology in New Zealand. Now the school comprises many pupils from differing ethnic communities. We have grown out of the racism of 'White Australia'. In the concert that followed the assembly, a young Chinese/Australian, who had only arrived in the country weeks earlier, tried desperately to join in the song: '*I am. You are. We all are Australians*'. He did not quite know where to point. But he certainly tried to join in the endeavour. Soon he will know. His process of learning symbolises the journey that our nation must make, fulfilling now the opportunities of its geography. Public schools are the dynamic place that symbolise the changes and variety of the Australia of the future. They are the precious place where, for most Australians, the idea of an Australian community is nurtured;¹

- * *Summer Hill OC Class (1949-50)*: Then, from my next school, at Summer Hill PS, I am supported today by the current principal, Mr Greg McLachlan. His presence reminds me of the wonderful teachers and students that I met in the OC Class. The teachers were Mr Gorringer and Mr Redman (both of whom had fought, like many teachers, in the Second World War). It was Mr Redman in early 1949 who gave us the freshly minted copy of the *Universal Declaration of Human Rights*. It had been brought into effect the preceding December by an Australian - the President of the General Assembly of the new United Nations Organisation, Dr H.V. Evatt (another proud *alumnus* of public education). My other teachers at Summer Hill were Mr Warren Tennant and the Principal of the school, Mr Gibbons. Mr Gibbons had fought in the First War. He was the only officer of the Department to administer the cane to me. It was for the offence of tearing pages from a departmental exercise book. There was no due process and I am going to speak later to my lawyers about reparation for the lifetime of humiliation I suffered in that wrong! I mentioned it in November 2012 when I also spoke at the Open Day at Summer Hill PS. Once again, I saw the familiar classrooms and the now abandoned corner shop where I supplemented nutritious home packed meals with the forbidden fruits of confectionary. Still present at the school were the bright eyed students as had been my companions so many years before, both in the OC and general classes;²

¹ M.D. Kirby, "The Learning of Values: Memories of Strathfield North Public School", available on website.

² M.D. Kirby, *A Private Life*, (Allen & Unwin, Sydney, 2011) 13.

- * *Fort Street High School (1951-5)*: I also pay a tribute to Roslynne Moxham, the Principal of Fort Street High School. My secondary school is much in evidence on this occasion. Not only has Ms Moxham herself been rightly honoured today with an award for her own service to public education. The school jazz ensemble has added an accomplished upbeat tone. And senior students have acted as ushers, showing the face of one of the flagships of public education in New South Wales, wearing the familiar maroon blazers of my youth.

William Wilkins, one of the first headmasters of Fort Street School, quickly earned the approbation of the Board of National Education in October 1851 for the way in which he developed it as a 'Model School', created to bring a 'new era in the popular education of the colony'. As with my other schools, I return to Fort Street High regularly. I did so in August 2012 and addressed the students in an assembly held in the same Memorial Hall where I had once gathered to hear ancient judges so many decades earlier. In those days, the entire school had fewer than a dozen Asian-Australian pupils. Overwhelmingly, we were a reflection of White Australia. One of the exceptions was a brilliant pupil who went on to great distinction as a professor of paediatrics, chancellor of the University of New South Wales and Australian of the Year. I refer to John Yu. In our conversations, we have talked about the difficulties of being an outsider in those times. But the ethos of public education helped to afford him the confidence and dignity that nurtured his outstanding public career. Everywhere across this continental country there are similar stories.

The fact that Summer Hill OC class and Fort Street High were selective schools is irrelevant to the environment of my education. The values were exactly the same in all three schools. They rested on the great principles of the *Public Instruction Act* of 1880 (NSW), successor to the *Public Schools Act* of 1866 (NSW). Public schools were to afford education "to all children without sectarian or class distinction". Teaching was to be "strictly non-sectarian". Thus were born the three foundational principles. Public education in Australia would be free, compulsory and secular. And to these objectives were later added the pursuit of

the highest excellence and adherence to democratic and egalitarian principles. I am proud to have been raised with these values.³ I will always adhere to them.

REMEMBERING OUR HISTORY

It is right that when we meet in this place, named after William Wilkins. We should remember the commitment and aspirations of public education in Australia. It was a bold idea that spread across our country. We would become the first continent on earth that guaranteed education to every child: spreading the gifts of literacy, numeracy and capacity to all.

Some of the inspiration for this antipodean movement came from the creation of the National Schools in Ireland. There, the British, chastened by the loss of their American colonies, aimed to repair hostility by creating secular schools available to all children, irrespective of their religious traditions. At first, it had the support of all the churches. Although that unity disappeared in Ireland, it provided the idea for the Australian colonies.

Because of a blunder in the British colonial office, Wilkins was sent to New South Wales, a journey made doubly difficult by the ignorance about our geography then prevailing in England. He and his wife were put on a boat to Adelaide, assured that it would make no difference because he could ride to Sydney in an afternoon.

Because he was trained in England, he was at first resented by the local Board of National Education. They had expected a teacher trained by their counterpart in Ireland. Nonetheless, with the support of Governor Fitzroy, he soon made his mark at the Model School. His arrival coincided with the suspension (and later abandonment) of the transportation of convicts. Wilkins became a chief architect of public education. He had to face strident opposition from the churches. But with the support of Henry Parkes and others, he was a founder of the new system. He

³ A.J. Brown, *Michael Kirby: Paradoxes/Principles* (Federation, Sydney, 2011) 23.

became inspector of schools. Public education became one of the unifying forces of the moves towards Australian Federation, just as Parkes had expected.⁴ It is the cement of our nationhood.

Another idea was to be borrowed from contemporary British developments elsewhere in their empire. In the mid 19th Century, in India, decisions were made to promote use of the English language and to introduce public examinations. The later were to reinforce high standards and to avoid corruption, nepotism or favouritism. They too became a mainstay of Australia's system of public education. They remain so to this day. Although some degree of selection and specialisation has been introduced, to cater for the special needs and talents of pupils, admission to specialties is competitive. It is determined by transparent processes, not by parental wealth or external influence. Every step of my journey was made in this way. It is fully consonant with the values of public education, taught to us all. Only public schools receive all pupils, irrespective of ability, background or wealth. This is why public schools have not only children of the highest talent but also children with disabilities, learning difficulties and special needs. The greatest proportions of indigenous pupils are educated in public schools as are the children of refugees and first generation migrants.

I pay a tribute to the founders of our Australian system. It is time that we rediscovered the aspirations and idealism that lay behind that system. Its opponents and critics have for too long enjoyed an uncontested space in public discourse. Whilst competition and choice in education are healthy, the fact remains that the top schools in New South Wales, by HSC results, are repeatedly public schools, taught by public school teachers. Excellence and equal opportunity are the hallmarks of the system.

A TIME FOR ACTION

⁴ L.E. Gent (ed.), *The Fort Street Centenary Book*, (A.H Pettifer, Govt. Printer, Sydney, 1949), 13-14; R.S. Horan, *Fort Street* (Honeysett, Sydney, 1989) 12-24.

In these circumstances, all citizens should be proclaiming the need to strengthen the funding of school education in Australia, particularly in the public schools. We should all support the recommendations of the Gonski Committee. The time has come to call a halt to the drain of public funds to private and religious schools at the cost of the primary responsibility of the public purse for public education. In the OECD countries, proportionately, only Belgium and Chile exceed Australia's subventions for non public schools. There is an urgent need to rediscover our national priorities. We should do so through the prism of history, equity and national interest.

In particular, it is certainly time to speak up for the principle of secularism in education. A school should be a space where no child feels alienated. Differences of race, gender, culture, religion, disability and sexuality should not mark any child adversely in their school years. The only distinctions that should be supported by the public purse ought to be those derived from ability, talent and effort.

From my own experience, I know how sensitive a child is to points of discrimination. Never in my schooling did I experience homophobia or bullying at school. This is not true in all Australian schools. But it must be demanded in every school receiving public monies. The secular principle is under threat both by the expansion of poorly performing religious schools and by the Trojan Horse of the chaplaincy scheme that, over the past decade, has introduced non-expert religious advocates into public schools. The huge subventions provided by the Howard, Rudd and Gillard Governments to this scheme should be wound back. It is outrageous that religious organisations have been underwritten by the public purse to the tune of more than \$400 million when the educational needs of public schools have been neglected. It is doubly outrageous that this has happened at a time when some such religious organisations, with much success, have contested the availability of instruction in secular ethics as an alternative to a weekly hour of religion. Secularism is a protection for religious freedom. It divorces religion from the public space. What Thomas Jefferson wrote in 1779 remains true today:

“To compel a [person] to furnish contributions of money for the propagation of opinions which he disbelieves... is sinful and tyrannical”⁵

Supporters of public education need to be bolder in advocating, and explaining, the historical lessons that underpin the secular principle. Increasingly, it is at risk in our nation. The place to rebuild the principle, one of the great constitutional gifts of the British to Australia, is in our public schools. Secularism, I insist, protects people of religion as well as people of no religion. And public schools must be guardians and examples of this principle.

WITH THANKS AND PRAISE

I honour my co-recipients of the award from Meritorious Service to Public Education, Professor Richard Gill OAM and Ms Lila Mularczyk. Also the officers of the Department who have received awards for their faithful service this day. In receiving my award I remember and pay tribute to my teachers. To my fellow students. To the values we were taught that have shaped my thinking and the aspirations of Australia and its ideals. I cannot understand how those, including politicians, who themselves benefited by the inestimable gift of public education, can turn their back on its values for tawdry partisan and political gains. I will always support those values. They lie at the heart of what it is to be an Australian. Celebrating our diversity. Accepting our differences. Building our community. Defending the noble ideals of public education.

⁵ Quoted by Souter J. in *Johanns v Livestock Marketing Association* 544 US 550 at 572 (2005); *FCT v Word Investments Ltd* (2008) 236 CLR 204 at 249 [113].