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“WHAT MAKES A MAN A MAN?”

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TELEVISION INTERVIEW

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The Hon Michael Kirby AC CMG

INTERVIEWER: What makes a man a man in your opinion?

Michael Kirby: Well now hang on. I think there's a hidden assumption in that question. It's an assumption that I would question. It's an assumption that there's just one definition of a man. I don't accept that at all. I've known men who are “real men” who had a real feminine side to them. I've known other's who have been really “butch” and yet have been very feminine people. So I really question whether you can just put people into a box and say “well you're a man and you're a woman”. That's been part of our problem and it's a problem with some of the Churches, “Adam and Eve not Adam and Steve”. So I really question the assumptions in the question. But having said that, my special image of a man is a person who has strength, courage, determination and an ability to gets things done and to be a leader. That, certainly, is an aspiration of manhood that I have always embraced.

INTERVIEWER: That is in fact something that you have achieved, a fantastic career, you've (it's not over) it's not over of course not, were those the guiding principles that you had?

Michael Kirby: They were always the things that I was taught. I was encouraged at my schools, public schools in New South Wales, Australia, to be interested, to be engaged. I was encouraged in my later life to be a joiner. I've always been a joiner. Get into organizations. Try to make the world a better place. I think it may have come from going to Methodist Churches when I was a boy. Try to make the world better and kinder. It's what I've done all my professional life. But that's just me as a person. I've never specifically thought “well you're doing this because you're a man, get out there and do it”. That's just not my image of myself or of maleness. Maleness is very varied.

INTERVIEWER: Indeed, I'm interested in the formative years, the very early years of your childhood. What were the sorts of influences from your

family, your father especially, men around you, what were the sort of influences that you recall?

Michael Kirby: I was lucky I grew up in a loving family in the suburbs, the Western suburbs of Sydney in Concord. I had loving parents. Young parents. My father is still alive. He's ninety-four and he's still driving. So people who are waiting for my State funeral have got a long wait. I had loving siblings, two brothers and a sister and we're still very close. We meet generally every Sunday night, if I'm in the country. My father cooks a dinner. He's great on vegetables, "vegies". We should all be "eating more vegies" he says. I think that's good advice. Even at his age of ninety four (and mine of seventy one) I still take his advice. That's the sort of father and mother and family I had.

INTERVIEWER: Do you think you would have turned out differently had you not had that kind of family?

Michael Kirby: Probably. I think you have to face the fact that you've got to be lucky in the genetics and parental stakes. If you have good intelligence and good teachers, good skills, good opportunities. There's so much in life that depends on chance. People would say to me, when I was welcomed to one court after another "Your Honour's appointment to this court was inevitable". Well nothing's inevitable in life. You've got to have a lot of chances. And then you've got to seize your chances. That's what I've tried to do in my career and in life. And you've got to be lucky with your family. And then in finding somebody, a partner, who will put up with you. You know, there are some horrible old churches out there, who don't believe in this. They would have deprived of my long relationship with my partner, Johan. Well they've got to go and get psychotherapy and get real. That's something you've got to tell men. Men have got to seek, as women have got to seek, for partners, lovers, friends. It's very important for your wellbeing and for your achievements in life.

INTERVIEWER: Can you tell us briefly how you met Johan and how that relationship began?

Michael Kirby: My meeting with Johan was by chance. My first relationship was with a very handsome Spaniard. I went with him to New Zealand. And then he decided to go on with his journey around the world. He was twenty-four, I was twenty eight and he just left. I was devastated.

But eleven days later I went to one of the relatively few gay venues in Sydney at that time, 'The Rex Hotel', the famous or notorious Rex. There I met Johan. My first immortal words to him (because of a book I was reading) was 'What did you think of von Ribbentrop' [the Foreign Minister of Nazi Germany]. Now he [Johan] was Dutch. I thought he was German. So he thought 'Why do I always meet these crazies in this place?'. But eventually we went in search of a coffee shop. The coffee shop had closed down. So he came back to my apartment in Kirribilli and we've been together ever since: forty one long years.

INTERVIEWER: But at that stage this was a very private, nobody knew about your sexuality, was that a problem at that stage for you?

Michael Kirby: I'm not sure people didn't know. I mean the law in particular, but Australian society, suburban Australia, is full of gossip. People gossiped away I'm sure. You wouldn't hear it yourself. Lawyers are great gossips, great gossips, and therefore you would get people talking about me. But it wasn't sort of 'out there' and in their face. It took a while for us to put it in their face. Actually, in the end it was Johan, who said "Well you owe it, we owe it, to the younger generation to stop this ridiculous charade". And so we did.

INTERVIEWER: At what point did you tell your parents about your sexuality?

Michael Kirby: I told my father very soon after meeting Johan because very soon after meeting him, [Johan] came to our family home. Then subsequently we drove overland, as a lot of young Australians did in those days. Living together with a person in a kombi van, is a real test for a relationship. Interestingly, once when we were in Sri Lanka, four Germans, two men and two women who were also in a kombi van came and they saw our kombi van. They said to the women in their kombi van, they said "Aber. Zwei Männer!" ["Two men!"] How can it be so clean?". But I don't think that was a matter of an aspect of maleness. I think that was an aspect of Dutchness. The people in the Netherlands are just so clean. Everything has to be polished and tidy. But, anyway, that was the way we found our relationship. It's strong as a rock. Strong as a rock.

INTERVIEWER: I'm curious, how your father responded to that? {He was....} I mean did you have any reservations about telling him?

Michael Kirby: Not really. He had given me the most exquisite help in my sexuality by giving me a book, 'The Guide to Virile Manhood'. It was by the Family Planning Association I think. It showed boys with penises, diagrams of penises. There were no photographs of course in those days. They were uncircumcised. And because, like most Australians of my generation, I'd been circumcised, I wondered what this curious thing was. I'd never seen it and I'm still a bit puzzled. But anyway, he [my father] reacted pretty well to it. My siblings reacted very well to it. They're all very intelligent professional lawyers, my sister is a nursing sister. To my mother it was never verbalised until just before she died in 1998. But when it was verbalised she said "Well what do you take me for? You've been bring Johan here for thirty years, every Sunday night. I didn't come down in the last shower". So sometimes you find different ways to explain things. But I know of some people whose parents have rejected them. Often so called 'religious people'. They really need to get over it. But in my case my parents were very loving and supportive.

INTERVIEWER: And stay with that subject for a bit longer, what are some of the things, you've mentioned a few of the things about your father that one could say 'were aspects of him being a role model' for you, are there any others on a kind of more intellectual level or a more intangible level, other than vegies.

Michael Kirby: Within the family, my father was young and he was a good looking man. He was very energetic. He wasn't deeply into sport and I've never been deeply. None of us have ever been really deeply into sport. But he always had a very good rule in the family and his rule was "I'll always forgive, if somebody says, I'm sorry. Then you have to accept it". He'd seen in our large extended Irish family, unforgiving attitudes. It's very common for Irish people to bear grudges and to bear them from generation to generation. But my father always taught us if one of says "well we're sorry", then that's it. It's over. And I've, we've, always done that. Basically that's my attitude to people outside the family too. If they say, they're sorry well it's over. You just forget about it. Bearing grudges is really a poison in your system. You've got to get over it [hurts and wrongs].

INTERVIEWER: We were talking before and this brings us to that subject, that's of course a very you know Jesus'y thing, it's a very Christian attitude,

but it's a humanistic attitude too. What are your sort of spiritual benchmarks, where do you fit in.

Michael Kirby: I was sent originally to the top of the street, where there was the Wesley Methodist Church. They sing good hymns in the Methodist Churches. Charles Wesley wrote great tunes. But then when I was a bit older, I was able to cross Parramatta Road and I went to the Anglican Church, which was our denomination. So I was brought up in a Protestant Christian community. I'm very comfortable with that. That was how I was brought up. My partner Johan says "I cannot understand how such an intelligent person can take any of this stuff seriously. All these old men in turbans writing things. They've always hated women. They've hated people of colour. And they've hated gays. I can't understand how you have anything to do with them". "Give them away", he says. Well, I don't give them away. I believe the basic lesson of spirituality, that was taught by Jesus, is a good lesson for life. And at least in the Anglican Church, you've got to admit, that's the one big Church in the world in the Christian denominations, that's talking about women's roles and women as priests. And talking about gays in the Church. The others have sort of closed down the shutters and aren't talking about it. They've got a lot of problems as a consequence.

INTERVIEWER: Speaking of women, what is, what kind of relationships do you have with women?

Michael Kirby: I think I have good relationships with women because I've felt the pain of discrimination and injustice. That therefore makes me more understanding of what it is to be a women or what a women's life is, in Australian society today, in comparison to many countries. Of course we've made a lot of progress in Australia. But there are still glass ceilings. There are still barriers to women's advancement. That is something that a gay person can understand because they've suffered the same sort of attitudinal blemishes and defaults in their life. 'What is a woman? What is a man? Well, get over it. There are a lot of varieties and diversity. But there has to be a place for all of us in creation and in our society. So that's something I share with women.

INTERVIEWER: Do you have any friends that perhaps people would be surprised to have at your dinner table?

Michael Kirby: We don't have very many dinner parties. I mean, we're really very, very unfriendly people Johan and I. We just enjoy each other's company. We still hold hands; I mean there's something a bit weird about that after forty-one years, still doing that. But of course gay people can't hold hands in public. So we sort of make up for that in private space. He's very interesting because he reads a lot of history. Actually, to tell you a secret, I'd rather read history than read law. But I've got to do a lot of reading in my professional work. He reads the history and then he tells me about them. We've had a very long conversation. He said to me on that first night, "what will we talk about, given where you're coming from, where I'm coming from?" We haven't had a problem. So as to dinner party guests, well we have a circle of close friends. We sometimes invite them. Not often enough. We often go to their places. But we're party poopers really.

INTERVIEWER: I suppose my question is really about some people that you might call friends, who we would be surprised to hear 'you call them friends'.

Michael Kirby: It depends on your level of surprise. I mean some people would be surprised if I had the Lord Chief Justice of Northern Ireland at dinner. So, you've got to get over your surprises in life. In my work on AIDS for example, I've had quite a lot to do with sex workers. They've given me insights that I really didn't appreciate. They've told us in meetings on AIDS, very intelligent and engaged people: "We don't want to have a Singer sewing machine to go back to the village. We want to get on with our work as sex workers. But we don't want to have police and others harassing us. And we don't want to have people arresting us because we've got condoms on us, which are essential to protect us". So it gives you a different insight into life. Largely I think through my sexuality and specifically through the AIDS epidemic and my work in relation to the AIDS epidemic, I've met a lot of interesting people: injecting drug users, men who have sex with men. All the vulnerable groups are a bit on the outside. So that's something, I suppose, most judges don't meet. But I've met them and they're some of the most engaging, intelligent and beautiful people I've met.

INTERVIEWER: You've had a, and still have, a wonderful career and tremendous contributions to public life and you've had a wonderful family life, you know, you grew up in a loving family. In all of that I'm sure there must have been difficulties and challenges?

Michael Kirby: Yes, there have been difficulties and challenges. They largely relate to my sexuality. I had a very good brain and I had very good education and I had very good chances in my professional life. But there was a period where, in Australia, you had to play the game ‘Don’t ask, don’t tell.’ That meant you had to sort of keep things a big dark secret, including for a time, from the people you love most dearly in your family, in your blood family. But even that in my case we sort of got over. I was very involved in the AIDS epidemic before we made our public announcement about our sexuality. AIDS was sort of code language. Everybody knew. So I thought, well if you’re going to gossip about me, I’ll give you something to gossip about. But there were painful times, growing up as a young person and being told that you’re weird or that you’re a “poof” and that you’re outside the Kingdom of God. That is not an easy journey. But I was a pretty robust type and I had lots of supports. Now, many people are not robust. They don’t have lots of supports. So that’s why I wanted to send a signal “I’m here to support you”. Gay people are not just hairdressers and actresses. They’re people in every walk of life, up to the level of a Prime Minister. And they’re garbage collectors and they’re all ranges of life. Get over it. It’s like being left handed. Would you punish people for being left handed? They tried to make my brother Donald, who was left handed, write with his right hand. My mum went up to the school and said “don’t you dare”. Well that was the attitude of my parents too about sexuality.

INTERVIEWER: You said ‘you were pretty robust’, how do you mean that, can you give us an idea of how a young **Michael Kirby** dealt with some of those issues?

Michael Kirby: Well I never had a ‘walker’. A lot of gay people, sort of pretend. I wasn’t completely in your face; but I never sort of pretended that I was actually a straight person. It’s difficult to do that in the suburbs of Sydney. If you’re living in a suburb and you’re living there, (we’ve lived in our place for about thirty five years) then people will draw inferences. It’s good that they draw inferences but it’s also good that it’s out on the table. So now we go to functions with the Queen, with the Governor General, with the Prime Minister and it’s good for them, as well as good for us. We’re pretty tough cookies. We’ve had to be. We’ve been tested in the furnace and we’ve come through.

INTERVIEWER: What about when you were, thirteen, fourteen, fifteen?

Michael Kirby: That was hard. But you know, I never felt, basically I never felt I was weird. See I was a clever little boy. And about the time I was thirteen or fourteen, the papers were full of the Kinsey Reports. Doctor Kinsey in Indiana in the United States (a very unlikely place) was doing research. He'd been the big expert on bees and suddenly he decided to be the big expert on human sex. So he started to reveal that there's about 10% of human beings who have sexual inclination to their own sex. There's a much bigger number who have a sexual engagement with their own sex, about 30% in their life. And there's about 4% of men who are exclusive. I just realised, well I'm one of that 4%. So I've just got to get over it and get on and live my life and make the best of it. And I never really felt wicked or evil or nasty. But sadly that is what a lot of religions still go around saying. In the age of AIDS, that's a really bad message because it humiliates people, causes stigma and puts them outside the messages that protect them and protect society.

INTERVIEWER: So you were really kind of a tough kid in that respect, emotionally and spiritually?

Michael Kirby: Yes, I wasn't out there in the back blocks or behind the school fence bashing people up. But I was internally. I was pretty strong and I put that down to my intelligence, my reading, my teachers who were wonderful teachers, wonderful values, secular values in public schools in Australia and also my loving parents, siblings. All of this was sort of, I never thought I was second class. But I know that a lot of people, probably most young gay people, especially if they're in rural and regional areas, they often feel that they have no supports. And that's essentially why Johan and I took our step. We're a support, We're there for you and there's lots of other people, leaders of the professions, who are there for you.

INTERVIEWER: I'm interested in this only because it seems to me that you, while you recognised and you were made to recognise by some people at that age that you were different, it didn't bother you that you were different because you had other things to shore you up.

Michael Kirby: Yes, I think the fact that I was being very successful at school, that sort of made me feel good. In fact when I was at North Strathfield Public School and I did well, which I was always striving to do. They would put a little crown on my book at that time. I would take that home and I would say to my Mother "I came first, I came first". And once I

said “I came second” and oh that was a very bad look. But they [my parents] weren’t oppressive. They didn’t sort of hound me to come first. But they were very supportive. Not everybody has these chances, genetic and familial, in life. So we’ve got to realise that just as ‘a man is a man’ well there’s a lot of [different] men. My brother was sometimes mistaken because he’s a bit softer than I am, for being gay. He would always have to say to people “I’m not gay, I like boys with tits”. So you can’t tell on their face. People saw me, they would say “oh well there’s a really good strong straight man”. Well, get over it. I’m a gay poof and you’ve got to face that fact.

INTERVIEWER: What about now looking back on your life, I mean are there some people that you continue to admire and respect, what sort of people are they?

Michael Kirby: They’re people who stand up; I admire for example Martin Luther, who stood up against the whole world. (There was a debate recently as to who was the most important figure of the last millennium. It was a debate whether it was Martin Luther who took on the whole of the Catholic Church, or was Guttenberg who invented the printing press. Well they were two great men and they were both Germans. They stood up. Luther wasn’t unflawed because he was also a bit anti Semitic, which was a big problem. We came to see that in the events of the Holocaust. But he [Luther] stood up for the rights of conscience and truth as he saw it.) That was always a model before me. There had been plenty of models. It’s strange that when you ask ‘who are the people who I look up as leaders’ they would be people like Bishop Jack Spong, Archbishop Desmond Tutu. People who have stood up and spoken out. Straight men who have spoken out for gay people in the Christian Church. We need people who will do that, because there’s all sorts of pressures to bite your tongue, to be silent. Well I’m for speaking up and standing up and speaking out and supporting the vulnerable and helping them. Everyone has rights. Human rights are not just for the gifted few. They’re for everyone.

INTERVIEWER: Let me ask you about the things that you know, we all have in our lives, disappointments of some kind. How do you deal with disappointments, I mean significant ones?

Michael Kirby: Yes well, I mean ‘death’ for example is a terrible blow. I really never felt the pain of death until my grandmother died. Then my

mother died and that is a terrible burden for every human being to carry and to be contemplating it and knowing it is coming. Knowing you are powerless, is almost unendurable. You need a lot of love and support at such a time. How do you cope? Well, you just need to support each other. In a sense it's the unarguability of death that makes it acceptable. You go through that phase. The valley you walk through is a valley that comes ultimately to acceptance. So that's how I coped with that problem. Lovers who walked out, well that Spaniard walked out on me [in 1969], I still send him emails. We're still in touch and he sends me messages saying "You didn't mourn for long enough, you only mourned for eleven days". It is true. I was very lucky in that respect. So how did I get over it? Well I went out there. I started looking again. I found and I was very lucky. People who would deprive another human being of a loving partnership of forty one years, well they really are cruel. They're either ignorant or cruel. I'm willing to accept that some might be ignorant. But they've got to know more gay people to realise that that is a really stupid position to take.

INTERVIEWER: Is there anything in your life that you would have done differently if you could do it again, short of regrets. Let's not talk about regrets?

Michael Kirby: Maybe I would have been more open and 'out', as they say, earlier in my life. I mean I wasn't ever really secretive, in the sense that I didn't have many maskings to prevent people knowing. But I wasn't in your face. If I'd been in your face there is a question as to whether I would ever have been appointed a Judge. Would I have been appointed to the Court of Appeal? Would I have been appointed to the Law Reform Commission? Would I have been appointed to the High Court back in 1996, when I was appointed? In a sense I played along with society's game. But that game's over now. I hope that what has happened in my life, will make it easier for the next generation. Don't think that all prejudice against gay people has finished. It has not. Surveys have shown we've got better in Australia over racism, than we have over homophobia. In a way, talking to you and speaking on this programme and trying to be honest and in your face is part of the therapy that society needs to counteract the misinformation that is given to it by so called religious people.

INTERVIEWER: So if I could put it sort of crudely, what advice would you give to young men who are you know, feeling the pressure of a) not

knowing their sexuality and b) feeling that they have to do something about it and they don't know what to do, they're afraid.

Michael Kirby: I'd give them the advice to do what I did when I was in that situation. I didn't know of any gay venues. I mean we're talking now about the ancient times. This is really back in the time of the ark; I'm a bit of a dinosaur. But I then raised it with somebody who had been a client of mine who was being prosecuted for breaching censorship laws. I'd acted for him for the Council for Civil Liberties. So I sort of raised it with him, because I knew he was a sort of person on the fringes of society and he would know. So he introduced me to this other gay guy [who] took me to the hotel. It was **he, who** took me to the Rex Hotel, **where** very soon afterwards I met through **him**, Demofilo, the Spaniard. And then I met Johan. I was a big loss to the gay community and the gay venues because I was, I mean I was so, such a good catch, I was snaffled up very quickly. And then I just became a sort of homebody holding hands and eating meals together: boring, really boring!

INTERVIEWER: So you suggest networking amongst, if you can, for these young men, they should find people who are like-minded.

Michael Kirby: Yes and if they're gay, they'll soon find it. If they're bi-sexual, they'll find it. I mean there's quite a few people who are bi-sexual in society as Kinsey disclosed years ago. We've got to get rid of the patriarchy and the attempt to force people into a box so that they can't be themselves. They should explore themselves: explore their inner soul and their being. I mean this is not a dress rehearsal, as they say. This is the real thing. We only have a limited time. And we should all seek love. That's the most important thing in my opinion. The most important word is 'love'. The greatest of these is love. Love includes sexual love and sexual expression. We shouldn't be embarrassed to talk about it. It's a reality and therefore it's part of our lives. People should be quite determined to explore that aspect of their personality.

INTERVIEWER: Thank you very much.

OTHER: Love is a good place to stop.
