

LODGE UNIVERSITY OF SYDNEY

DINNER, MASONIC CENTRE, SYDNEY

11 MARCH 1983

FREEMASONRY, REFORM AND THE FUTURE

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The Hon Mr Justice M D Kirby CMG  
Chairman of the Australian Law Reform Commission

MASONS AND REFORM

I am glad to be given the opportunity of speaking to the Masonic Lodge of Sydney University, the University in which I spent my formative years of tertiary education.

The Oration by the third historian of the Lodge, Worshipful Brother E K Stewart<sup>1</sup>, recalls the Jubilee of the Lodge and indeed its establishment when Lodge University of Sydney was consecrated in the Masonic Temple on 24 October 1924. On that occasion, at the establishment, there were present members of the Masonic Order who held the highest offices in government and in the judiciary. Sir George Fuller, then the Premier of New South Wales, was present at the consecration, as was Sir William Cullen, Chief Justice and Lieutenant Governor of the State and Chancellor of the University.

In 1974, at the Jubilee, members present included the Right Honourable William McMahon, later Sir William, twentieth Prime Minister of Australia, and the Honourable Sir Bernard Sugarman, President of the New South Wales Court of Appeal. The Masonic Order has always been strengthened by the participation of leaders of the community. Nowhere has this been more so in New South Wales than in Lodge University of Sydney. The professions have decorated the Lodge. Government and the judiciary have always taken part in it.

You will understand that as a humble Irishman, non-Mason and Anglican of Ulster origins, I thought I should prepare myself for this address by dipping into the pages of a book on the Masonic society offered by the Reverend E Cahill SJ, Professor of Church History and Social Science, Milltown Park, Dublin. Writing as recently as 1959 in his book 'Freemasonry and the Antichristian Movement', Father Cahill commences with the explanation:

Freemasonry, child of the Protestant pseudo-Reformation, took its rise in England after the middle of the 17th century.<sup>2</sup>

This reference to the Reformation is particularly apt. We meet in the 500th year of the birth of Martin Luther, who was one of the principal Fathers of the Reformation and by all proper account a great reformer. It will be of interest to you to know that in a recent issue of the Advocate, publication of the Catholic Archdiocese of Melbourne, it is recorded that Catholic and Lutheran Bishops have recommended that 1983 should be used by Catholics and Lutherans to meet in study and prayer to focus on the common elements of their Faith.<sup>3</sup> It has taken half a millenium for the Churches to get together but, seemingly, it is now happening.

Back to Father Cahill. In the introduction to his book, he offers a rather startling conclusion on the relationship between the Catholic Church and Freemasonry:

Freemasonry is the central enemy of the Catholic Church. The partial de-Christianisation of France, the unification of the German states under an anti-Catholic hegemony (1871), the temporary destruction of the Papal monarchy, the Portuguese Revolution, the constant upheavals and revolutions in Spanish America, the rise of Bolshevism, have all been worked mainly under the guidance and with the aid of secret societies of which Freemasonry is the source and centre. Today we behold the apparently strange phenomenon of the most capitalistic government of the world (that of the United States of America) aiding and abetting in its disruptive and tyrannical measures the anti-Christian government of Mexico, which is avowedly Bolshevist in principle and name, and openly professes a close alliance with the Soviet Government of Russia. We see, too, the capitalistic press of the world engaged in a conspiracy of silence or misrepresentation regarding the Mexican position. But these phenomena cease to be strange when we recollect that the capitalistic press, the USA Government, the Mexican Government and the Russian Soviet Government, apparently antagonistic to one other in many ways, are all equally Masonic, and more or less under Masonic influence or control.<sup>4</sup>

These are bold claims. They are written, I remind you, not 500 years ago, nor even 200 years ago. They were written in 1959.

As a sign of the speed with which our world is changing and of the way in which the circle turns and what is once unacceptable becomes inevitable and even desirable, most Masons and indeed reformers, can reflect together on the developments earlier this year in Catholic attitudes towards the Freemasons. In January 1983 it was disclosed that Catholics will be able to become Freemasons without fear of excommunication. They will do so under a long-awaited revision of the Canon law published under the authority of the Pope. The President of the Vatican's Law Reform Commission, Archbishop Rosalio Jose Castillo Lara, was reported as saying in Rome that the new code would be promulgated on 25 January to come into effect after three months. We are therefore on the brink of a major reform of the Canon law of the Roman Catholic Church.

The new code contains 728 Canons, 89 of which refer to penalties. The list greatly reduces the number of offences leading to excommunication. It replaces the first code of Canon law which was published in 1917. The code has been revised to include reforms adopted at the Second Vatican Council. Only eight of the 42 Acts leading to excommunication, which were first set down in the first Code, remain. Catholics face excommunication for heresy and schism, ordination of a Bishop without the authorisation of the Pope and apostasy — the abandonment of one's faith or vows. But the important point for present purposes is that the long prohibition on Catholics joining the Freemasons is to be removed. That which was a legitimate cause for expulsion from the ranks of the Church is now entirely permissible. Freemasonry has been condemned by many Popes, beginning with an edict by Pope Clement XII in the early 18th century. Clement condemned Freemasonry on the grounds of its naturalism, demand for oaths, religious indifference and possible threats to the Church and the State. The Freemason's Society, based on the principles of brotherliness, charity and mutual aid, claims more than six million members around the world. Now, with the movement of reform, Catholics may openly join its ranks.<sup>5</sup> The Grand Secretary of the Freemason's Grand Lodge of Victoria, Mr Don Plasted, was reported as saying that Freemasons regarded the revised code as a step forward. He asserted that Freemasonry had never opposed the Catholic Church.<sup>6</sup>

#### FREEMASONRY AT THE CROSSROADS

This is the way, then, of reform. That which was forbidden becomes permissible. Changing times, changing attitudes, changing ways call for changes in law, whether civil law or Canon law. So it is in Australia. So it is in the law of our country in dealing with many of the problems which confront it today. Amongst those problems, the most vexed surely include those of bio-ethics. These are the problems of the response of the legal system and the social order to the great technological, medical and surgical developments. These developments present many challenges to perceptions of morality.

For their resolution, they require the participation of the Church, of canon lawyers, of Masons and of lawyers and good citizens. In observations on the future of Masonry, Foster Bailey, in his book 'The Spirit of Masonry',<sup>7</sup> suggests that Freemasonry is at the crossroads.<sup>8</sup> He says that Masonry cannot justify itself in the future by serving itself today, nor will the glory of its past hold men to it in the days to come. His conclusion is that Masonry must serve humanity or die. He points out that the Freemason's movement is not a material quest but a spiritual one.<sup>9</sup> He asserts that new values are emerging and new tasks are appearing, and that Man the Thinker will rule the world. It is Man the Thinker who must confront the problems of bio-ethics. These are certainly problems worthy of the best minds of the Freemason's movement. They are about spiritual and social values. Tenets of Freemasonry have always included a concern with morality, with charity and with obedience to the laws. We will certainly need to concern ourselves with morality. We will need all the charity we can muster. As to the laws, they are too often silent, obscure or irrelevant for the problems of bio-ethics. This therefore is a task worthy of the Masonic movement : to assist in the development of laws apt for the modern spiritual dilemmas of our time.

#### MASONS AND BIOETHICS

It is ten years since the decision of the Supreme Court of the United States in Roe v Wade.<sup>11</sup> That was the decision which extended the permissible circumstances of abortion in the United States. There are now 1.5 million abortions performed each year in that country. Twenty five percent of surgery is abortion surgery. Public opinion has changed. The common law did not characterise abortion as murder, for the foetus was not regarded as a 'person'. But it did recognise a serious offence of killing an unborn child after 'quickening'. In the United States, in response to the controversies about abortion, a Human Life Bill was introduced into the Congress in 1981. It would declare that human life begins at the moment of fertilisation.

Such a declaration might solve at least some people's perceptions of the wrongdoing of abortion. But where would it leave the problem of in vitro fertilisation? That process (test tube babies) is developed from the fertilisation of human ova. Typically, more human eggs are secured than will be needed. The eggs are fertilised and some are excess to use. Are these to be put back in the uterus of the donor? Are they to be frozen? Are they to be thrown out as excess to a scientific experiment? Are we to permit the fertilisation of one woman with the egg of another?

Even those who are not so concerned about these developments express anxiety about the farming of foetuses for the purpose of providing tissue for transplanation. Should, for example, the law countenance the development of a foetus solely to provide a tissue-typed pancreas for a recipient? Is it acceptable to relieve the pain and suffering of an adult human being, to produce a foetus purely and simply as a source of transplant tissue?

Some of the most difficult problems that have confronted the law and bio-ethics in the last couple of years have come before courts in England:

- \* In one case, the decision had to be made whether the court would order an operation to be performed to save the life of a neonate baby born mentally retarded but with an obstruction that required operation. The parents and their doctors concurred that the operation should not be performed and that the child should be allowed peacefully to die. The Court of Appeal of England ordered that the operation should be performed.<sup>12</sup>
- \* In another case, Dr Leonard Arthur was tried, ultimately for attempted murder, of a baby boy, John Pearson. The child was severely mentally handicapped. The doctor had ordered a regime involving no food, simply water and sedatives. That the child died. A jury acquitted him. But the debate about this 'treatment' of the child continues.<sup>13</sup>
- \* In a more recent case, the Court of Appeal of England had to decide whether there was a cause of action for 'wrongful birth'. Could a severely handicapped child sue his parents' doctors on the basis that they should have advised pre-natal tests and abortion. The case was dismissed on the ground that no such cause of action was known to English law.<sup>14</sup>

At the other end of life there is the problem of suicide. This was illustrated in the present week by the death of Arthur Koestler and his wife. Should the law countenance help to people suffering pain who wish to die? Are there ever cases where medical practitioners should be encouraged or permitted to help them? What of the people in a hospice or those too old and senile to make their own decisions? Should the law and the courts step in to insist upon the sustaining of life? Is the duty of the law to protect any life or is there a quality of life which only should be protected and does this involve the right to die?

Examining these issues is to lift a stone that has hidden many difficult and painful decisions that are daily made in our hospitals and health care services. Upon them the law has often spoken with a muted and sometimes irrelevant voice. Those who believe in the Rule of Law will assert that clearer guidance should be given by the law where matters of life and death are concerned. Such guidance will not always be possible where decisions must be made by busy judges in the midst of other pressing duties. It is more likely that such guidance will be found through law reform bodies. These bodies, which have sprung up throughout the world of the common law, bring together expert, lawyer and citizen. They provide the opportunity for social consultation and the development of a consensus without which our laws and practices are built on shifting sands.

I hope that as individual human beings, as citizens and as Masons, many of you will interest yourself in these perplexing issues of our time. Those who seek, in Freemasonry and religion, the purposes of life and the meaning of death, are confronted today with still more acute dilemmas than ever before. In their resolution, our society will need all the help it can get.

#### FOOTNOTES

1. E K Stewart, Oration by the Third Historian, 25 October 1974, in K R Cramp & Ors, The History of Lodge University of Sydney, 1924-1974, Sydney, 1974.
2. E Cahill SJ, Freemasonry and the Anti-Christian Movement, Dublin, 1959, 1.
3. The Advocate (Melbourne), 9 December 1983, 5.
4. Cahill, viii-ix.
5. The Age (Melbourne), 21 January 1983, 3.
6. *ibid.*
7. F Bailey, The Spirit of Masonry, London, 1957.

- ibid, 122.
9.       ibid, 126.
10.       Encyclopaedia Brit Micro ('Freemasonry'), p.302.
11.       Roe v Wade, 410 US 113 (1073).
12.       In Re B (a Minor) [1981] 1 WLR 1421.
13.       Noted (1982) 56 ALJ 139.
14.       McKay v Essex Area Health Authority & Anor [1982] 2 WLR 890. See discussion  
J Finch, 'No Wrongful Life' (1982) 132 New LJ 225; The Lancet, 20 March 1982,  
691.