

HIROSHIMA DAY, SYDNEY SQUARE

6 August 1985

"LAWYERS AND THE NEED TO BRING NUCLEAR WEAPONS UNDER THE
EFFECTIVE CONTROL OF INTERNATIONAL LAW"

SUMARY OF SPEECH BY JUSTICE KIRBY

EMBARGO: TUESDAY, 6 AUGUST, 1985 8.00 A.M.

SUBJECT: LAWYERS' CONCERN ABOUT NUCLEAR WEAPONS
GROWING
NON-PROLIFERATION REVIEW "VITAL", SAYS KIRBY.

SYDNEY, TUESDAY

Justice Michael Kirby today urged attention by lawyers and other citizens to the need to bring nuclear weapons under effective control of international law. He said that there was a growing concern about nuclear risk amongst Australian lawyers. He said that it was increasingly recognised that this "brooding issue" needs to be tackled "effectively" whilst there is still time.

Justice Kirby is the former Chairman of the Australian Law Reform Commission. He is the President of the New South Wales Court of Appeal and a member of the Executive of the CSIRO. He was speaking on Hiroshima Day in Sydney Square at a civic function organised by the Sydney City Council and attended by community representatives. The function, an annual event, commemorates the detonation of the first atomic weapon over Hiroshima, Japan in August, 1945.

GROWING LEGAL INTEREST

Justice Kirby said that until recently lawyers, like other citizens, were inclined to put the "nuclear issue" out of mind. However, he said that there was growing evidence of concern in the legal profession:

"This week, suitably enough, the Australian lawyers

gather in Melbourne for the Australian Legal Convention. Hundreds of lawyers will be examining the intricacies of administrative law, security law, criminal law and tax law. But in the end, what does it matter if we get these right but overlook the need for law to harness the greatest danger to international law and order - the power of nuclear weapons to destroy all the beauties of civilization, and all that mankind has achieved. A realisation of our risks and a moments reflection on the proportional importance of issues - brings home the message. The absence of effective laws on this subject is just the latest manifestation of the Nero tendency - fiddling away on minor themes, whilst ignoring (or insufficiently attending to) the dangers that Rome will burn."

OTHER JUDGES SPEAK OUT

Justice Kirby said that in May he had addressed the conference of the Australian Law Students' Association in Hobart on this theme. Without exception he had found the young lawyers interested in and concerned about the impact of the law on nuclear safeguards. He said he was not alone -

* Also in May, Justice Richard McGarvie of the Supreme Court of Victoria had spoken at the Law Institute of Victoria on the "global epidemic" of nuclear weapons and the responsibility of lawyers to alert the community to the risks of nuclear catastrophe and the needs to take steps to avert it.

* Justice Elizabeth Evatt would this week chair

a session on nuclear disarmament law at the Australian Legal Convention in Melbourne.

* A non-political group, Lawyers for Nuclear Disarmament had been established and had attracted lawyers from all parts of Australia:

"I agree with Justice McGarvie. It is vital that the danger of a global epidemic should be perceived and our people rescued from the risks that attend apathy and indifference. We must make the paying of attention to this fundamental world problem respectable and a perceived task of high priority. It should not be regarded as odd or even radical to express concern about the nuclear risk and to devote attention to the ways of effectively avoiding it. That path will lead ultimately to effective and enforceable international laws and controls. Such laws should not be dismissed as a pipe dream. Technology forces mankind together. Global problems require global solutions", Justice Kirby said.

REVIEW OF TREATY

Justice Kirby said that the bipartisan support of successive Australian Governments for the Nuclear Non-Proliferation Treaty should provide an appropriate basis upon which Australian citizens could unite on this issue. He said that in September, 1985 there would be held in Geneva the Third Review Conference of the Nuclear Non-Proliferation Treaty. He said there

were reports of some countries considering withdrawal from the Treaty because of the failure of the super powers to take steps to reduce their stock-piles of nuclear weapons.

"We have reached a watershed. The issue is whether the Nuclear Non-Proliferation Treaty leads on to a general regime of international control and nuclear disarmament (reducing and ultimately removing the risks of nuclear destruction). Or whether we are to end up in despair and living on the knife edge indefinitely. Who can doubt that unless there is effective international law and control, a mere accident or some deranged fanatic will put at risk the future of us all. That is why, remembering the victims of Hiroshima and Nagasaki, we should learn from their suffering. Those who do not learn the lessons of history are condemned to repeat its misfortunes", Justice Kirby concluded.

NOTE ON SPEECH

The above speech will be delivered in Sydney Square (next to the Sydney Town Hall) at a ceremony to mark Hiroshima Day organised by the Council of the City of Sydney. The speech by Justice Kirby is scheduled to commence at 7.30 a.m. There are other speakers including a representative of Japan. For further details contact Alderman Stan Ashmore-Smith, Sydney City Council, telephone (02) 20263.