

ROYAL AUSTRALIAN INSTITUTE OF ARCHITECTS

BICENTENNIAL CONFERENCE

AUSTRALIAN MYTHOS

"AUSTRALIAN MYTHOS - LAW AND LIBERTY"

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The Hon Justice Michael Kirby

What does it matter if we have prosperity and lose our liberty? What is the value of beautiful cities if the souls of the people living in them are not free? Would it not be an empty boast that our streets were clean, our trains ran on time and our environment was pleasing, if we lived in fear of a knock on the door and the barrel of a tyrant's gun?

This is where law, judges and lawyers play a part in my concept of Australian society. It is true that present day lawyers inherited the fruits of the long struggles of the English people to assert their liberties and to secure government answerable to the people. It is also true that, on receiving this inheritance, they were so dazzled by its beauty

and strength that they often lacked the imagination or the courage to innovate and experiment boldly, adapting the inheritance to the needs of their new environment. Our legal culture is still largely derivative. Although things are changing, the basic fabric of our law, of court dress, of court rooms and trial procedures is still overwhelmingly and unmistakably English.

The rules and institutions were, from the start, insensitive to the rights of the Australian Aborigines. The result has been - as urban and provincial Australia extended into this vast land - the destruction of Aboriginal self respect, culture and law. Only now are we attempting a national reconciliation with the People of the Land, who lived in harmony with it for 40,000 years before the coming of the strangers.

For the future, there is much to be done:-

- * An effective contribution by Australia to world disarmament, without which everything, all the beauties of the world, may be swept away;
- * A revision of our constitution to assure us of basic human rights, safe-above the whims of transient majorities;
- * An assurance of access to the courts and to the law so that the rule of law is a proud boast and not a mere shibboleth;

- * Increased retention of the young in educational institutions of learning and scholarship suitable to an age of space flights, microchips and biotechnology;
- * A rise of national awareness of things spiritual: so that we reflect upon the purposes of life, escaping sometimes the hurdy-gurdy of unrelenting secular hedonism;
- * An answer to drugs, drunkenness, unemployment and despair amongst the young;
- * A heightened concern for the poor and the old and disadvantaged in our society;
- * Greater attention to the environment which we have all too often laid bare and to the grazing animals frequently left to die in the vast inland sea that turned out to be inhospitable desert;
- * An increase in the diversity of our media, remembering that diversity of the voices of information and opinion is the protectress of freedom;
- * Heightened research and investment by our business entrepreneurs to ensure the maintenance of our now declining standard of living; and
- * A true acceptance of the philosophy of multiculturalism and of the right to be different, whilst living together in the one Australian nation. An end to stereotyping of minorities and a respect for each and every precious individual.

If all this seems a tall order, consider the vigour and self assurance with which in January 1788 Governor Phillip embarked upon clearing the first settlement and commencing the long process that became the modern history of Australia. On the road since the sails first entered Sydney Cove, we have made many mistakes. But the text of the first church service, a few days later, taken from the Psalms is still apt:-

"What shall I render unto the Lord for all His benefits towards me?"

We, of the present generation, should render thanks. But we should do so with a resolve to right the wrongs of the past and to proceed with more originality than those who have gone before but with equal steadfastness. There is no nation on earth that brings together people from so many diverse cultures. In truth, multicultural Australia is a microcosm of the world of the future. Here we are building in the sunshine a privileged part of the global village. If we fail in Australia, the ideal of a peaceful and tolerant world community is doomed and the prospect for humanity is bleak. But if we succeed in our beautiful land - reinforced by our institutions and laws - we shall be a sterling example to the people of the world and worthy inhabitants of this great continent.