

2960

UNIVERSITY OF WOLLONGONG
SOUTH-WESTERN SYDNEY CAMPUS
LIVERPOOL

14 FEBRUARY 2018

UOW: OPENING A NEW LAW CAMPUS

The Hon. Michael Kirby AC CMG

UNIVERSITY OF WOLLONGONG
SOUTH-WESTERN SYDNEY CAMPUS
LIVERPOOL

14 FEBRUARY 2018

UOW: OPENING A NEW LAW CAMPUS*

The Hon. Michael Kirby AC CMG**

AUSTRALIA: BEAUTIFULLY DIFFERENT

I acknowledge the indigenous people of this land. I remember the many wrongs done to them, including by the law. The campus of this new Law School should be dedicated to repairing such wrongs. The first settlement in this region was established very soon after Governor Phillip and the First Fleet established the penal colony of New South Wales at Sydney Cove in January 1788. The first constables followed out to Liverpool quite quickly. The first bricks of the original courthouse were laid in 1824. The arrival of people who so quickly felt the need for law, order and for legal rights and duties is a remarkable story. The fact that it has taken nearly 200 years to inaugurate a law school here shows that lawyers generally do not like to rush important things.

* Remarks at the opening of the new UOW Law School in the Great South-West Sydney Campus at Liverpool, 14 February 2018.

** Justice of the High Court of Australia (1996-2009); President of the International Commission of Jurists (1995-8); Gruber Justice Prize 2010. Honorary LLD (UOW) 2016.

I was present in 1991 when the first campus of the University of Wollongong (UOW) was opened by that great judge, Sir Anthony Mason. In February 1987 he had been newly installed as Chief Justice of Australia. He was to lead the High Court of Australia in a golden era of legal re-expression and change. This included the change in the law relating to the land rights of our indigenous peoples, in the *Mabo* case.¹

Little wonder that Australia's distinctive Aboriginal community suffered disadvantages in education, health, housing and political participation. The law had deprived them of economic and property rights that could have helped change their lives. We should never forget that those old laws were finally re-expressed by a court of unelected judges. Judges learned in the law. The law must constantly evolve and adjust. Judges and lawyers play an inescapable role. They make the common law and sometimes they can re-make it. I hope that this new Law School will play its part in affording better protection for indigenous identity and rights in Australia. And opportunities for indigenous students. They are an essential part of the unique beauty of Australia that we must honour and advance.

I also acknowledge the beauty of the native Australian wild flowers, displayed in a prominent position at this ceremony. We should never take them for granted. They are also special and distinctive. Joseph Banks, who accompanied James Cook in his voyage of exploration in 1770, recorded his admiration and astonishment at the beauty of the flora and fauna of the Great South Land. The display of native flowers and shrubs reminds us of the role that nature has played in their preservation and survival. On this hot day in Liverpool, we realise our

¹ *Mabo v Queensland [No.2]* (1992) 175 CLR 1.

need, especially in the driest continent on earth, to adapt our lives to nature. The leaves of Australia's native flowers are arranged around the stem to catch the maximum amount of water so as to feed the plant. Life-giving rain and dew are captured as they fall, to nourish the beauty of the flowers peculiar to our nation. They are hardy and strong: survivors that bask in the sunshine. Yet the waratah and the banksia (the latter named for Joseph Banks) present a display that mixes delicacy and fortitude. The people of Australia, and their lawyers, must also be strong. Justice is beautiful. But it needs the life-giving waters of education, training and example that this Law School will bring to this region and its people through to the South-Western regional campus of UOW.

We do not advance indigenous rights and needs in Australia by denying the acknowledgement of the contributions that have also been made to Australia's growth by "those who come across the seas". Although many of the actors who have contributed to this new law school are Australian-born, three of the leaders have come here (as most of our families ultimately did) from overseas countries far from here. They have made Australia their home.

I honour the Vice-Chancellor of UOW, Professor Paul Wellings CBE, originally from the United Kingdom. The South-Western Sydney campus has been a dream of his. It will be a crucial legacy of his service. We need leaders with dreams and talents to make them flourish.

I also acknowledge Professor Theo Farrell, Executive Dean in the Faculty of Law, Humanity and the Arts. He has given this new campus his entire support. I also thank the Dean of the School of Law (Professor

Colin Picker), from the United States of America. He has accepted the challenge of leading the UOW Law School into this new chapter in its institutional life. His enthusiasm is infectious. His commitment to early achievements is inspiring.

JACK GOLDRING'S STUDY OF LAW STUDENTS

Present at the foundation of the School of Law in 1991, was the inaugural Dean of Law, Professor Jack Goldring. His enthusiasm for the new Law School and his determination to make it distinctive and innovative was obvious to all at that time.

In 1991, I had known Jack Goldring for 25 years. We had both been participants in student politics at the University of Sydney. Each of us played a part in the Students' Representative Council of the University of Sydney. In the 1960s it offered the only Law School in the State of New South Wales. Each of us gave the Vice-Chancellor of our day a hard time. That is definitely a role which the students of this campus must continue to play. Their voices and demands will ensure the creation of a new, equitable and successful institution.

After our university days, I was to work with Professor Goldring at Macquarie University. He was one of the inaugural professors in law there. I became Chancellor of that University. Later still, Goldring married the daughter of Sir Richard Kirby, Sue Kirby. Accustomed to occasional nepotism in universities, some thought we had become related. A fine lawyer and influential judge, Sir Richard Kirby, was not related to me. He said that he did not mind being called my father; but

deeply resented being taken as my grandfather! He was to serve as Chancellor of UOW.

An important body of research undertaken by Jack Goldring, whilst Dean of Law at UOW, related to the characteristics and background of law students in Australia. He was intrigued as to the values of such students. This was because, like me, he accepted the teaching of our great law teacher, Professor Julius Stone, that, in the legal profession, the values espoused by judges can sometimes affect their legal decision-making.² This was heresy in some legal circles at the time. However, its realistic message has been increasingly understood and accepted in the intervening years. Values in: Values out. Law is not an ordinary occupation. Law provides its professionals with rare opportunities to influence the rules by which a society lives. This is why Jack Goldring wanted to know the composition of the cohort entering Australian law schools. In successive surveys, he turned up some surprising data.³

According to Goldring's research, law students in Australia tended to come from parental backgrounds which were more wealthy, and more religious and conservative than average. They mostly derived from wealthy suburbs of the metropolis and private or religious schools. The majority generally had conservative political and social dispositions, which flowed into their values as law students and legal practitioners. Inevitably, Goldring suggested, these values influenced them in later life

² Julius Stone, *The Province and Function of Law* (1946), Maitland, Sydney and Julius Stone, *Legal System and Lawyers Reasonings*, Maitland, Sydney (1964).

³ J. Goldring, "Admissions Policy" in *Legal Education in Australia* (1976), 30. Discussed J. Disney et al *Lawyers*, LawBook Co., Sydney, 1977 139-142. See also E.S. Anderson and J.S. Western, "Notes on a Study of Professional Socialisation" (1967) 3A & NZ J of Soc. 67 and *ibid*, "Social Profiles of Students in Four Professions" (1970) 3 *Quarterly Rev of Aust. Education* 1.

when they became judges, politicians, officials and leaders of society. It was unfortunate that Goldring's appointment himself as a judge terminated his research. I hope that it will be revived and scrutinised in today's society.

Throughout most of my service in the judiciary, I was surrounded by lawyers of great ability and integrity but with family and social backgrounds similar to those Goldring had described. For most of my service on the High Court of Australia, I was the only Justice whose entire school education had been received in public schools. This was despite the fact that approximately 66% of Australians are educated exclusively in public schools. Having education in schools that draw on the profile of the entire community has consequences. If my description as the "Great Dissenter" in the High Court of Australia was even partly warranted (and not simply intended to be disempowering) it may have been connected with the different values I received at home and from my early schooling.

However that may be, I hope that the South-Western Sydney campus of UOW Law School will take to heart the original research of Foundation Dean, Jack Goldring. I do not think it will be difficult in the Liverpool region of Sydney to attract enrolments from a wider range of students in the cohorts of race, indigenous status, gender, sexuality and disabilities. Since 1991 I have made regular visits to the Law School on the Wollongong campus. I have been impressed by the non-privileged characteristics of most of the students and by their attitudes. The School of Law at UOW has always been rigorous, upholding the highest professional standards. I know this because I selected two of my law clerks (associates) to serve in the High Court of Australia from UOW

Law. They were Elisa Arcioni and James Goudkamp. The former has proceeded to teach law as an Associate Professor at the University of Sydney. The later was recently appointed Professor of Law at the University of Oxford.

If anything, I expect that the student recruits to the South-Western Sydney campus of UOW will be even more diverse in general background and attitudes when compared with the Wollongong campus.

When I was invited to participate in this launch, I was offered a chauffeur driven car to bring me to Liverpool. I declined and insisted on travelling by train, as I will on the return journey. Apart from anything else, doing so saved UOW a lot of money, needed for this campus. Of the many well-deserved perquisites I enjoyed in my High Court years, all but one have faded away. The last one remaining is my free *State TravelPass*. So I came to the South-Western region of Sydney today by train.

The passengers on my train were of virtually every ethnicity on the planet, including large numbers of Chinese, Indian and Arab-Australians. This is the population that the new Law School will serve. With excellent transport facilities, it will hopefully attract those who currently miss out in aspiration, opportunity and places for law school education. Already 2000 students travel from this region to UOW's main campus for their studies. Almost 7000 UOW *alumni* have their homes here.⁴ In their families many are, and will be, first time university students. So this development is not only important for UOW and for legal education. It is also a great opportunity for a growing area of Australia that has sometimes been neglected in the past.

⁴ P. Wellings, "World-Class Education for a Booming Region" in *UOW, and the Great South West*, 2018, 2.

In a sense, the earlier failure of the established universities to tap the potential of, and to offer new opportunities to, the South-Western Sydney region is surprising. I am assured that UOW regards it as highly desirable that other Australian universities should offer courses and other services here. Doing so would build up a community of tertiary students for whom providing accommodation, eating, transport, library and other facilities should become more attractive to the private sector. The hope must be to attract and retain students in this region. To do this, the courses offered will need to address the engagement opportunities and needs for lawyers in and around Liverpool. Those opportunities and needs will not necessarily be the same as those in the Sydney CBD. To some extent, at least, the legal needs of this region will be distinctive, as will the students, their families and potential future clients.

OUTREACH TO STUDENTS

Whilst awaiting the commencement of this launching ceremony, I visited the student 'pods' that catered for the first intake of students at this new Law School. For UOW, this is an exciting day. For the students, it will probably be (in some respects) overwhelming. The small class format; the well located classrooms; the state of the art technology; the proximity of the campus to their homes and residences; and the great saving in travel cost and time will be beneficial and advantageous. For all concerned, this is an important innovation. It is vital that it should succeed. The intake of students has been carefully scrutinised to avoid raising hopes and expectation unfairly. Law is a difficult and challenging occupation. So is the teaching of law and the studying of it. Of those

who embark on the journey today, in this place, UOW has great expectations.

In the study of law, it is vital that the students who start their journey today should be questioners and joiners. They should question the law that they are taught. They should join university activities and volunteer for programs that help fellow citizens in the quest for the right directions and away from crises and challenges.

When I attended law school in the 1950s I asked insufficient questions. I never asked why Aboriginal Australians were denied land rights. I never asked why women, seeking divorce, had to prove jurisdiction in the court by reference to the domicile of their husbands. I never asked why Australia had introduced, and continued, the laws underpinning the 'White Australia Policy'. I never raised my hand to challenge the unjust and discriminatory laws against LGBT citizens, like me. So the new law students of 2018 must be more questioning. They must embrace an attitude that challenges unjust laws and works towards equal justice for all.

The students of today, to whom I now speak directly, must not make the same mistakes as I did fifty years ago. They must ask questions. They must challenge assumptions. They must engage with law reform and universal human rights. Undertaking a university course involves more than turning up at classrooms. It will be important for the first cohort of students in this new Law School to join student societies. The Law School itself should foster and encourage the availability of such engagements. Getting involved in student activities is not only enjoyable. It allows the student to taste and contribute to a wider range

of university life, beyond the lectures and the examinations. My own life taught me that one does better in results if one is engaged in helping others.

As I watched the diverse Australian school students boarding and leaving the train on which I travelled to this event, it struck me that the creation of this new Law School in Liverpool should also potentially provide reciprocal benefits to the students, the region and the nation. From those who enjoy significant advantages, much is expected. By remaining largely near their homes and in their local environments, the students will not only imbibe the wisdom of their course. Inevitably, they will contribute and spread some wisdom in return. They will offer new ideas to their families, to co-workers and to friends.

In this way, UOW and its South-Western Sydney Campus Law School will provide the healing balm of law and justice in Liverpool and its region. It will allow the water of justice to reach the very stem in this community. Out of this engagement, the flower of a greater justice in our society may bloom. One that is hardy, strong, adaptive and beautiful. I hope that this will be so for Aboriginal Australians. For women. For Australians of every race, culture, religion and belief. For the well-off and the less well-off. For people living with disabilities. And for people of different sexual orientation and gender identities. When that happens, the lawyers who emerge from this Law School will be able to proudly go forth to contribute to a safer world and to human rights for all. Equal justice under law is the goal. It is a noble, not a mechanical aspiration. It is the dream here in Australia; but also throughout our region and the world. It is with that hope and expectation, that I launch UOW School of Law in the Great South West of Sydney.

May the students who embark on the study of law today, in this new facility, dedicate themselves to serve also the vulnerable and needy and to uphold the principle of equal justice for all. When in a further thirty years this event is celebrated and our actions here remembered, I hope they will say that we set out on our journeys full of hope, and we fulfilled the great expectations that were placed in us to make a difference in our world for law and justice.