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12 WENTWORTH SELBORNE CHAMBERS

UNVEILING OF PHOTOGRAPHIC PORTRAIT

WEDNESDAY, 26 AUGUST 2020

The Hon. Michael Kirby AC CMG

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© Photograph by Mariana Cook 2013

I pay respects to the traditional Aboriginal custodians of this land, something we never paused to do in my early days in the law.

I also pay respects to Mark Speakman SC, MP, Attorney-General for New South Wales. I thank him for honouring me and my old Chambers by coming to unveil my portrait. I also acknowledge the presence of

Cheryl Gwilliam, Chief of Staff of the Attorney-General. This is a rare time to acknowledge the strong and courageous steps that our politicians in federal, state and territory jurisdictions have displayed in tackling the COVID-19 crisis. Never in my lifetime have I heard so much praise of politicians. It is as if an episode of *Rumpole of the Bailey* was suddenly full of ringing praise for the judges

I express thanks to Dr James Renwick CSC, SC for initiating the tradition of displaying photographs of the notable former members of these Chambers. I will chance my arm by saying that there are no, or almost no, other chambers of barristers in Australia that could boast of so many members, former members and honorary members who have gone on to serve in so many posts of distinction as judges and in other public offices. I honour the recent work that James Renwick has performed as Independent National Security Legislation Monitor of the Australian Commonwealth. In this, and in other posts, he is maintaining the traditions of the 12th Floor.

I acknowledge the artistic skills of Mariana Cook, whose photograph of me will now adorn the walls of these Chambers. In the United States, where she lives, she is greatly respected. Her portrait titled *A Couple in Chicago* captures a young Barack and Michelle Obama in 1996. It is now displayed in the Metropolitan Museum of Art in New York. She has produced collections of photographs, including *The Faces of Science* (2005); *Mathematicians* (2009) and *Justice: Faces of the Human Rights Revolution* (2013). The photograph of me, now unveiled, was taken for the book on Justice. I am proud of the company I keep in that book. And grateful that my old Chambers have agreed to give Mariana Cook's photograph a permanent home for display.

When I was admitted to the NSW Bar on 28 July 1967, after 5 years as a solicitor, I went first to the 8th Floor of Wentworth Chambers. My room was adjacent to the redoubtable Gordon Samuels QC. However, I had the great good fortune to receive a number of briefs, including in the High Court of Australia, with Dennis Mahoney QC. It was therefore natural, when Ken Handley decided in 1969 to move to other Chambers for a larger room that I would make application to come to these chambers. I applied to take over Ken Handley's fine room facing Phillip Street on the South West corner of Wentworth Chambers. Happily, I was accepted. The room was well lit and afternoon sunlight flooded in. I was only two doors away from Dennis Mahoney from whom, both at the Bar and later in the Court of Appeal, I learned so much.

In 1969 there was no institutional link between the chambers in the Wentworth building and those in Selborne. There was no annexe on level 3 of Selborne. There was no chambers library or meeting facility. But there was a lively community, small in number but greatly distinguished:

Dennis Mahoney QC (1948)	Forbes Officer QC (1938)
David Rofe (1956)	Colin Allen
Dennis Cowdroy (1971)	M.H. McLelland (1963)
Moreton Rolfe (1964)	Morris ("Dusty") Ireland (1969)
Denys Needham QC (1949)	Neil C Campbell (1955)
Mervyn Finlay (1952)	Terence Naughton (1969)
Michael Kirby (1967)	Philip Powell QC (1955)
	A.J. Rogers QC (1956)
	John D. Traill (1962)

(showing year of admission)

On the Selborne Chambers side, then separate were:

Edward St John QC (1954)

Basil M Hogan E.D. (1946)

Robert McDougall (1974)

It was quite a dangerous step to join 12th Floor Chambers in those days. In fact it was rather like joining the Council for Civil Liberties. Once accepted, it was difficult to escape judicial preferment. Attorneys-General loved us – and still do, I trust.

The clerk was Norman Marks. He was a clerk of the old school. Unless special arrangements were made, his fees were paid as a percentage of one's income. Soon after, he retired and was replaced by Greg Isaac. Just before I departed the Chambers at the end of 1974, Greg Isaac was joined by Bob Rymer, then so young that he was called 'Bobby'. The clerks, messengers and other staff were, like the Floor members themselves, dedicated and hardworking. A whirlpool of workaholics. I pay tribute to Trish Hoff for the vital work of clerks to the success of barristers. I brought with me a wonderful secretary, Mrs Jennifer Seeley. She was later to depart with me to the Australian Law Reform Commission. Chambers were intensely busy. It was a happy band.

On most Friday evenings, Denys Needham or Mervyn Finlay opened the doors of their chambers and provided beverages of rare delight. Such was the power of propinquity that most of us on the Western side of the 12th Floor invariably turned up for the drinks, although David Rofe and Dennis Mahoney were usually in conference. Dennis Mahoney was providing income tax advice that cost the Commissioner of Taxation

millions, necessitating his elevation to the Bench which speedily followed. Friendship and good humour were the hallmarks of the Chambers.

At the time, there were no women members. From the 13th Floor, it was rumoured that a formidable young barrister, Mary Gaudron, medallist in law, was destined for higher things. Years later, as a Justice of the High Court, and the first woman Justice, she engaged as her associate, in her last year of judicial service Jenny Single, now Senior Counsel, who will offer the vote of thanks. Mary Gaudron told me this week that appointing Jenny was her one and only act of nepotism. Be warned, the formidable Gaudron DNA runs through her veins.

At a late hour on Fridays, amidst the laughter of the drinks party, I would hear the distinctive sound of a deep motor car horn in Phillip Street. I would offer excuses and dash away to join my partner, Johan. We would make for an Indonesian restaurant *Selamat Makan* in Darlinghurst. But no mention was otherwise made of Johan. He thinks he might have come to my 12th Floor chambers once only, during a quiet weekend. He was a love that dared not speak its name. It is a comment on those years (1969-1974) that he never met my colleagues in this place. Only today, 52 years later, we can join together to enjoy this event. The good old days were not always so good. That was how things were in those times.

When in December 1974, I was invited to accept appointment to the Australian Conciliation and Arbitration Commission, Michael McHugh urged me to reject the temptation. He said it would be the end of civilisation as we knew it. But Greg Isaac had an eye for the main

chance. “This is a big job, Boss. You cannot turn it down.” Proving once again that barristers should always take the advice of their clerks. One thing led to another. So here we are tonight.

I am glad that my brothers, Donald Kirby (long-time solicitor) and David Kirby (long-time barrister and Judge of the Supreme Court of New South Wales) are here tonight; David with his wife, Judith. And also my nephew, Nicolas Kirby, who is David’s son: a proud member of the 12th Floor Chambers, keeping alive the family tradition and fresh from the *Ruby Princess* inquiry.

The pandemic means that many who would have been here cannot be with us physically. I hope that a later occasion will arise when all who have survived from the far-off days of the 1960s and can join in celebrating the photographs and add further memories. For those who are no longer with us, their memories and war stories live on. For those who are still building their careers, a glorious future is theirs. May they enjoy, as I did, the good fortune of the 12th Floor Chambers - a cradle of Australian law and public life.



Michael Kirby and Johan van Vloten circa 1971