

Dinner for  
The Honourable Justice Michael Kirby AC CMG  
SPEECH by His Honour Mr Tom Pauling AO QC  
Administrator of the Northern Territory  
Government House – 16 January 2009

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Your Honour - welcome to dinner in this delightful house.

Over the next few weeks, leading to your slightly premature retirement, there will be speeches of gargantuan proportions listing your astonishing achievements. They are indeed formidable.

Study of your CV is both inviting and forbidding. Inviting, because it discloses the extraordinary range of topics and endeavours not devoured so avidly by a single mind since, I suppose, Dr Johnston. Forbidding, because there is too little time to even skim the surface of your erudition, scholarship and contribution to the international community.

You have become known, probably by your own making, as The Great Dissenter. Indeed you sent me a copy of a speech you gave defending, if not glorifying, such a title.

You are a complex and fascinating man. But I will leave it to others to solemnly intone your life history. They will probably start with Fort Street Boys High School. But, if I may, I would like to provide a personal memoir.

We first met at a pre-conference dinner in 1979, outside Perth at a place called El Caballo, where Andalusian Horses danced and the mulled wine froze in your hands in the bitter cold of that night. We

shared a table with a Judge of the Cours de Cassation Paris. Who was that Judge? - Judge D. Olivier. And what was that conference? - The 3<sup>rd</sup> National Conference of Law Reform Agencies.

You went from the Australian Law Reform Commission to the Court of Appeal in New South Wales and though I read about you, our paths did not cross. However, you and I clashed on many occasions in The High Court and even when you have pinned me, as a lepidopterist may pin his latest butterfly, I always felt that I had six other justices to convince of the justice of my case.

I merely instance Eastman where, for the purity of constitutional thought, you would have cleared the Territories' goals of all the felons without remorse from them or you. There were, of course, cases where you seemed to be my only ally.

Not that you do not have a keen interest in the outcome of the criminal process. You are the Patron of the famous 'Criminal Lawyers Association of the Northern Territory' (CLANT).

You and I have been to quite a few CLANT conferences over the past twenty-five years, beginning with the conference in the tremendous traditional Balinese surroundings of the Hard Rock Hotel at Kuta Beach, where guitars said to have been used by icons of rock, such as Janis Joplin and Bruce Springsteen, festoon the walls.

You were a key-note speaker. Your speech according to the program was on the human genome. It may have had a catchy title like "*the life of the human genome after Mabo and Wik*", but that's not what you spoke about.

Having collected you at a late hour from Denpasar Airport and taken you to the Hard Rock, with a dazzled Sir Anthony Mason, you declared you intended to walk around Kuta. Tessa insisted I accompany you.

I showed a little alarm. Neither you nor she may have noticed that you were wearing this bright yellow jacket or, if they did, they had not connected it to the fact that elections were in the wind (as they are again) and red indicated support for Megawati Sukarnoputri and yellow for Golkar. I said nothing and feared anything.

It was a fascinating hour-long walk, Michael. Our discussion was open and generous. I am not surprised you felt confident in the company of CLANT to talk about you and Johann and the prejudices you experienced and the need to state your case.

There were more conferences of CLANT, including at Port Douglas soon after the Bali bombing, where in a theatrical piece you, as the new Lord Chief Justice, bucketed my judicial performance as Lord Chief Justice Goddard in the trial of Craig and Bentley.

But at the last conference in Bali, in my theatrical role as Attorney-General opening the conference, I got so excited that I suggested you might become the Patron of CLANT at which you rose indignantly and shouted “I am the Patron, is this a coup d’etat?”

For those at this table it is a coup of a different sort to share your company so close to 2<sup>nd</sup> February. Therefore, friends, I propose a toast to Michael Kirby – “a courageous and great Australian”.