

KIM SANTOW MEMORIAL SERVICE

John Sheldon, Master of Ceremonies

Opening of Proceedings

We are met together in remembrance of the Honourable Justice Kim Santow: to give thanks for his life and service to our country, especially in the law and education and the arts, and for the benefit of his friendship and his gift of inspiration.

For modes of Faith let graceless zealots fight;
His can't be wrong whose life is in the right:
In Faith and Hope the world will disagree,
But all Mankind's concern is Charity.¹

The man we honour this evening signally embodied the virtues extolled in these words of Alexander Pope. He espoused no single 'mode of Faith', yet any religion would gladly welcome the adherence of one who displayed, as he did, so many of the qualities to which they aspire. Among his formative influences the Quaker² traditions of the Friend's School which he attended in Hobart were important. Kim's avoidance of programmed worship and his belief that action leads to greater spiritual understanding are firmly rooted in this tradition. Quaker mysticism can be found in social and political activities; its witness is outwardly directed. What better example of this than the life we celebrate today – a life committed to the betterment of the society in which he lived in many spheres of activity. Despite the important positions which he held and the honours which he received, he remained essentially a humble man and the simplicity of this ceremony aims to reflect this and accords with his own wishes and those of his family. The speeches will be largely personal reflections; details of his distinguished career are provided in the biographical note in your programme. I now call upon Professor Gavin Brown, Vice Chancellor and Principal of this University, for some words of welcome.

Introduction to the next three speakers

Anyone who peruses Kim's non-legal speeches will be struck by their originality and their wide-ranging intellectual background. They also have a quality of surprising us by taking new directions. His mind seems to be constantly travelling through his vast library of stored knowledge, lighting upon whatever is relevant and pursuing its lead. As Neville Cardus said of Franz Schubert, 'he is never still, always he is setting out on a journey.' In any one of his speeches Patrick White can rub shoulders with Nick Farr-Jones, Dante's 'Divine Comedy' with Alan Bennett's 'The History Boys', Hans Blix with Mel Gibson and Shakespeare without any sense of incongruity. A speech entitled 'Music and Social Justice' which he gave at the opening of the Musicological Society Conference in 2005 contains a penetrating analysis of the extent to which an artist has a duty to engage with social issues; the examples of Furtwangler and Shostakovich as collaborators with tyrannical regimes are analysed carefully and the conclusions are, it

¹ Alexander Pope, *Essay on Man*, 305 ff.

² Kim attended The Friend's School in Hobart before going to Sydney University. The current school website states: 'Friends schools support the development of persons who are creative thinkers and peacemakers, and confident humanitarians, contributing to responsive and responsible public leadership in the world.'

seems to me, eminently fair. At Sancta Sophia College where I was privileged to hear Kim address the students on a number of occasions, his words were always aptly tailored to his target audience. In his most recent talk he made many telling points about the position of women in the commercial world, drawing on his wealth of experience in this field of law. It was couched in plain language – yet behind it all was the distillation of profound legal thought. The girls were spellbound; it was an experience which they will carry long in their memories.

Kim may be fairly described as an educator: first and foremost in the home where the intellectual upbringing of his sons was of prime importance. This was obvious to those of us who taught them; the school played its role, but the boys had already been prepared and moulded by influences at home. Simon, William and Edward show great promise in their chosen careers and they will shortly pay their own tributes to the profound influence of their father in shaping their lives. Those under his tutelage in the firm of solicitors where he worked³ bear witness to his excellence as a mentor. It is not surprising to read that for most of his time as a judge he served on the Education Committee of the Supreme Court making, according to the Chief Justice, ‘an invaluable contribution’. As well as what he achieved as Chancellor here, his commitment to education underpinned all the positive direction he gave as a Trustee of Sydney Grammar School and as chairman of the Board; he was especially active in expanding the school’s scholarship scheme to allow a large number of boys to be educated there with little or no payment of fees. It is with great pleasure that I can now make public a recent decision of the Board of Trustees to fund a new scholarship to be named in memory of Kim which will be needs-based and will involve full remission of fees. It was fitting that his last public statement was an article in the Herald reflecting his deep commitment to making the best education available to as many as possible.⁴ Kim’s view of the education of the young, especially with emphasis on its ethical purpose, tallies very much with Plato’s ideas in the ‘Republic’; there is need for beauty and harmony in education, because beauty and harmony and rhythm in nature correspond to and produce grace and harmony in the soul. There was something Socratic about Kim’s extraordinary intellectual curiosity and his resemblance to Socrates goes well beyond the fact that they both had three sons.

Kim added an international dimension to the bodies with which he was associated through a strong personal network which included England, the United States and Asia as well as Australia. While lecturing and working overseas, he established contacts and friendships which proved of great value over many years. He also followed with keen interest the careers of alumni who were part of the brain drain (or as Kim more elegantly described it ‘that Australian diaspora of enormous talent’) and worked with Bryan Gaensler, among others, to promote the idea of a system of return scholarships to bring back this talent even for limited periods to our shores.

I now invite Stephen Chipkin to address us; he was brought to Freehills by Kim from London in 1982 and they worked as colleagues for 12 years; he and his wife Lucy are close friends of the family. He will be followed by Kim’s sons Edward and William.

³ over 30 years at Freehill, Hollingdale and Page

⁴ A penetrating study of charitable status in law will be found in ‘Charity in its Political Voice – Tinkling Cymbal or Sounding Brass?’, a speech delivered when Kim was Judicial Visitor in University College London in July 1999

Introduction to the University Graduate Choir

Professor Bashir has spoken of the love of Bach which she shared with Kim. Edward has mentioned how 'The Well-Tempered Clavier' provided him with strength and solace during his final battle with his life-crippling illness. It is in accordance with his wishes that the organ music of Bach frames these proceedings and it is also most fitting that the University Graduate Choir will now perform two works by the great master.

Introduction to the next two speakers

Dr Pierre Ryckmans needs little introduction in this University where he was Professor of Chinese from 1987 to 1993. He is known to a wider audience as Boyer Lecturer in 1996 and as a translator of Confucius under his *nom de plume* Simon Lees. He was not only one of Kim's literary giants, but also a long-standing friend. 'Let me not to the marriage of true minds admit impediments.'⁵ He will speak to us shortly but first a personal tribute from Kim's eldest son Simon.

Close of Formal Proceedings

'Lee and I have shared everything'. In those six words in his court farewell Kim summed up all that his beloved wife meant to him. It is the record of a truly marvellous marriage; it also means that so much that has been said here in praise of Kim has its inspiration and counterpart in Lee. She was as much his guiding light as he was hers. We cannot contemplate her loss but we rejoice that such love as theirs existed in this imperfect world.

On behalf of the family I would like to thank the University of Sydney for providing the facilities for this evening's ceremony. Kim loved this hall and there is no other place more fitting to celebrate his life and work. We thank Her Excellency and the Vice-Chancellor for their presence and their gracious words. We thank all the speakers. We thank the University Graduate Choir for their fine contribution – and also the organist and carillionist for adding so much to the dignity and significance of the occasion. The family are deeply moved by the presence of so many of Kim's friends and colleagues who are here tonight and wish to record their gratitude.

*In the time allowed by a ceremony such as this it is impossible to do more than touch upon Kim's life and work. When he received his award in the Order of Australia the citation was for his service to the judiciary and the law, to education governance and to the arts.

*Stephen Chipkin has given us some telling insights into his legal work, including his uniquely important contribution to corporate law. As a solicitor appointed to the Supreme Court bench he not only brought with him a vast amount of practical experience in this branch of equity, but eminently fulfilled the condition laid down by Sir Anthony Mason that one so appointed needed 'An intellectual capacity to acquire in a relatively short time the requisite legal skills appropriate to judicial work.' Kim was drawn to the Law by the inspiration of his uncle, a distinguished Hungarian judge who died in Buchenwald, a victim of Nazi barbarity. His father also encouraged him along this path, and even saw his potential as a future judge. Kim has stated that as a judge in equity he

⁵ Shakespeare Sonnet 116

‘drew upon the metaphor of a public hospital, engaged in a healing operation under a constrained budget ... that operation had to be conducted with as much humanity and individual concern as the traumatic encounter allows, necessarily with an eye to efficiency and cost but not sacrificing fairness.’⁶ That Kim practised what he preached is borne out by the words of the Chief Justice: ‘Your behaviour in court, both as a trial and appellate judge, was characterised by your patience with counsel and unrepresented litigants and your determination that all parties should have their opportunity to state their case fully.’⁷

* Kim’s love of literature, so amply attested in his speeches, was complemented by his love of art and music. He served energetically for nine years on the board of the Art Gallery of New South Wales, contributing many good ideas continuing his association through membership of the Council of VisAsia, more fully the Institute of Asian Culture and Visual Arts. This was a cause dear to his heart. Set up in 2001, its purpose is to ‘promote greater understanding and appreciation of Asian art and culture in Australia.’ He was very influential in the establishment and maintenance of the Arthur Boyd Bundanon Trust to which he was a generous benefactor. He also served on the board of the Asia-Australia Council of the University of New South Wales and of the Sydney Opera House. His service in other fields includes what he did for the business community; one example of this was his membership of the Takeovers Panel from 2001 to 2006. An important paper which he delivered to the University of Melbourne in 1999 outlined his creative vision for a fresh constitution of that body. In a special obituary notice in the Sydney Morning Herald⁸, members recorded that he ‘was instrumental in establishing a revitalized Panel and subsequently made a major contribution’ to its work. The field of medicine was likewise a beneficiary of his involvement. This may be attributed in part to *pietas*, since it was his father’s influence that inspired him to compare his concerns as a judge with those of a caring doctor. It is not surprising then that his philanthropy found practical expression in the unstinting service he gave as a member of the board of St Vincents Hospital. As a patron of the Malcolm Sargent Fund for Children with Cancer, he did much to promote the public battle against this grievous illness; there is some irony in the fact that the disease against which he fought so valiantly was finally to claim his life.

During the weeks following Kim’s death, the written tributes which have poured in contain one abiding theme, a theme which has been manifest throughout this evening’s proceedings, and that is the way he has touched the lives of so many, often in a profound and transformational way. The following words of Albert Schweitzer would be echoed in the hearts of many and may serve as a conclusion:

‘I always think that we live spiritually by what others have given us in the significant hours of our life. Often, indeed, the significance of these hours comes home to us as we look back, just as the beauty of a landscape or of a piece of music strikes us first in our recollection of it. Much that has become our own in gentleness, modesty, kindness, willingness to forgive, in veracity, loyalty, resignation under suffering, we owe to people in whom we have seen or experienced these virtues at work, sometimes in a great

⁶ Remarks at my Farewell from the Supreme court of NSW 14 December 2007

⁷ Address on the Retirement of the the Honourable Justice G F K Santow AO by the Honourable J J Spigelman AC Chief Justice of NSW Banco Court Sydney 14 December 2007

⁸ SMH April 14 2008

manner, sometimes in a small. If we had before us those who have thus been a blessing to us, and could tell them how it came about, they would be amazed to learn what had passed over from their life into ours.' How true this is of Kim, a man of real charity and humility. Our loss at his passing is great but remembrance of him remains with us as a source of strength and inspiration.

* These three paragraphs were omitted on the evening owing to shortage of time.

John Sheldon
1st May 2008