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Leaders Walking Eight Abreast

Communities in Control Conference: The Lucky Country Conference
Melbourne, 26 May, 2014

Presentation by

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Former High Court Justice; human rights activist; leader

It is wonderful to be in this hall with so many representatives of civil society.

The mark of our freedom as a people is the extent to which we engage with each other, take part in building a civil society. I've always myself been engaged with community groups, and that's not always the case with our judges, because their backgrounds and their lives are often rather different from mine.

But I regard it as a great privilege to be here.

I believe that you can analyse leadership until you're blue in the face, but it won't really create leaders. I think it's something that emerges from our life's chances and experiences.

What I want to say is I grew up in the suburbs in Sydney, I had a fairly orthodox sort of life, I went to the local public infant school, the local public primary school and to a public high school in Sydney.

During virtually all of the time I served on the High Court of Australia I was the only one of the seven justices who had been educated entirely in public schools.

I think that did give me a slightly different approach to the problems of the world and of the people who came before the court with their problems for resolution, in accordance with law.

You just looked at things slightly differently if you had gone to the primary school and soon after the Second World War, people turned up, little kids turned up at the school without shoes.

Some were truly poor, some were truly rich – it was just a mixture of all branches of Australian society.

Now I've been thinking of how to approach the topic that has been set for me, and I thought though with some concern about the immodesty of it, that I would take you walking through six different experiences of mine, and six different people that I have worked and interacted with over my lifetime.

Some lessons that I learned, which may be of some help and may answer the question of leadership in our society, and how we can make our society a better place, by the leadership that we offer it.

The beginning of my experience with leadership of course was with my wonderful parents, a loving family. My brother reminded me this week: "Do you realise we never once went to a restaurant with our parents when we were young?"

It is an interesting thought – that we just ate at home, we six ate at home, and we talked with each other. That's how it was back in the 40s and 50s, a very sort of simple life, but wonderful for your brain expansion.

There was something very peculiar happened in our family. My grandmother, my father's mother, married for the second time, and the man she married had fought at Gallipoli, he had won medals there and on the Somme, he'd been decorated at Buckingham Palace by King George V.

But he threw away his medals and he became a communist. Not only did he become a communist, but he became the national treasurer of the Australian Communist Party.

Back in the 1940s, that to some people was not a particular good look.

My grandmother was a marvellous, very well read woman, and she and her sisters were great friends of Jessie Street. Jessie Street was of course Lady Street, she was the wife of Sir Kenneth Street, but she was a great feminist and

so were my father's mother and sisters. They were people in a hurry to make a change.

So I grew up going to their home, and I would see scattered in their home a publication called *Soviet Union*, and it was a publication which was coloured, but the colour looked a little bit odd.

It was basically Agfa colour that the Soviet soldiers had stolen from the Germans at the end of the war and taken back to Russia. It made everything look apricot, so that the whole world of the Soviet Union appeared to be folk dancing in apricot.

But my grandmother's second husband soon was on the receiving end of the Communist Party Dissolution Act 1950. This had been promised by Mr Menzies – to ban the Communist Party, to stamp them out.

The enactment was extremely perilous to him, he thought he was going to be arrested. It was challenged in the High Court of Australia by unions and also by the Communist Party, and to the utter astonishment of the communists – who of course thought of the judges as the running lapdogs of the capitalist class – the majority of the High Court of Australia, in one of the most glorious moments in Australian law, by five justices to one, upheld the challenge.

They held that you can deal with communists for what they do, but you can't deal with them for what they think and believe. The law doesn't allow you to reach so far as to enter the minds of the communists. That is the restriction on the power of the Federal Parliament.

That decision was then challenged in a referendum, and at the beginning of the referendum campaign, the rudimentary polls that were available at that time told the Labor Party – led by Dr H B Evatt – that if you challenge this, you

challenge this, you'll go down in a screaming heap. The referendum will get up and you'll have mud on your face. 80% of the polls said don't do it.

But Dr Evatt, who had been a judge of the High Court himself before he went into parliament during the war, took up the challenge, went to court and won the case.

So the first lesson – one of the earliest lessons in my life, was to respect people for what they do and what they believe, even if you don't quite understand it, and even if you disagree with it.

That the mark of a free society is diversity and differences of opinion, and that we must guard that all our lives. And stand up for principles as Bert Evatt did, even if it's risky and even if you might lose. Sometimes in life there are things you just have to do, because not to do them is to surrender and you shouldn't surrender, you should never give up.

So they were two very early lessons I received, it was a good thing to live in this environment, where there were people who I knew were greatly hated especially by media interests, yet who I knew as human beings and as wonderful admirable strong and principled people.

Then when I went to school and to university, I began to think about my society and about the changes that should happen in it.

At university I began for the first time to meet some Asian people, because we had the Colombo Plan at that time, and we began to get people who are coming to Australian universities, who seemed to be rather defying the White Australia policy – which was the principle of our country and which both sides of politics supported.

Also we began to get concerned about the Aboriginal people of Australia.

I mean originally Australians thought Aboriginals were ignorant nomads, who if they didn't simply die out would be totally absorbed in our population and that would be that.

So in my years at university and subsequently when I became the solicitor who did work for the student council I went up to Moree with the buses, which fundamentally we were sort of imitating the Americans at the same time.

They'd had buses which went down to the south, they had buses that went out west, and we went to Moree and Walgett.

At Walgett the students had gone hand-in-hand with local aboriginals – this was around 1965 – and they'd gone up stairs in the cinema. Aboriginals were not allowed to go upstairs in the country cinemas in New South Wales. They were allowed to go downstairs because there was vinyl there. Upstairs there were velvet cushions, and aboriginals were not permitted to go up there.

Well the students said they were going to have none of that. They grabbed them by the hand, they went upstairs and then they were charged with trespass. So I was a young solicitor, we went up and we went to Walgett and so I went straight to the top of the Bar, and I got Gordon Samuels, later my colleague in the Court of Appeal and later the Governor of New South Wales.

To go up to defend the students and the students got off lightly, with what was called 556A; that meant no convictions were entered.

Within weeks the cinemas had dropped their rule, so the students really won and they stood up for what they believed in. We also began to stand up to the end to the White Australian policy. And it has to be remembered it was the government of Harold Holt that began the process to end white Australia.

The Coalition government of Harold Holt began the process and it was finished by the government of Gough Whitlam. But it was very much alive and well when I was at school.

So the lesson that I learnt from that experience was – push the envelope, try to see things that others are not seeing, and try to be ahead of the game.

A person who taught me the importance of that was a student named Peter Wilensky. Peter Wilensky was always ahead of the game, he was Jewish, his family had come from Poland, they'd only just escaped the Holocaust.

But because of that experience I think, he was always an enemy to any form of discrimination. He taught good lessons to me and to others.

Then I went into the courts, and that was a difficult time in my life, because in the courts to which I was appointed, I was generally younger than the other judges.

I was listening to Jane (Caro) speak, and listening to the discussion of patriarchy. Well if you go into an established court with aged gents, who are all gents and all judges ... boy, you found patriarchy incorporated.

Very good people, very, very clever people, absolutely uncorrupted people. But people who see the world through the prism of their experience.

But there was a wonderful judge there, Robert Hope. He later did the Royal Commission for the Whitlam government, for the Hawke government into Asia. He'd been the president of the Council for Civil Liberties – it is a very good thing to have judges come from the Council for Civil Liberties.

Most of the lawyers that I worked with in the New South Wales Council for Civil Liberties, in the language of Mortimer, they got their trotters in the trough. They all became judges, they all became members of the establishment.

But they took with them the burning idea that there were disadvantaged people in society and that it was the duty of the law to protect the vulnerable and the disadvantaged.

So in those years, and my times in the court, I learned to respect and engage with those you have to work with. It's no good trying to change the world for the better if you're simply fighting all the time. You have to somehow try to win over.

I found a very simple solution when I was appointed president to the Court of Appeal. Every Friday morning I served raisin toast and coffee, because the way to the collegial empathy and interaction with the other judges was to feed them up.

And through that engage with them on the issues that were before the court at the time, and to set a good example.

If you're going to be a leader, you just have to set a good example and you have to work harder, you have to work harder. We may not all love Maggie Thatcher, but she was somebody who set an example in enterprise, energy and communication.

You just have to try to do that, and you have to think of new ways to do old things. You have to think of the new technology that's available in order to make your effort at leadership successful.

Then I went to the High Court of Australia, now that wasn't the most happy time in my life. During those years there were times when I was all on my own (through lone dissenting opinions).

However I soon found a solution to that, and the solution was kill them with kindness. Kill your opponents and people who are critical of you with kindness. I'm not sure Jane would entirely agree with this and maybe it isn't always a

successful strategy, but I found that it was good to deal with people in a respectful way and to kill them with kindness.

First of all it was the high moral ground, and secondly it used to drive people crazy. You may remember that a senator who is in the papers again today (Sen. Bill Heffernan), once attacked me in Federal Parliament on a completely false and erroneous basis.

He ended up apologising. And when he did, I accepted it. Kill them with kindness I say. It's often a strategy that works.

Then in more recent times, I've become involved in international activities, and if there's time in questions we may have time to talk about this.

The international activities on the HIV AIDS epidemic, trying to spread around the world, and it's not easy, the paradoxical principle that the most effective way to fight HIV, is to reach out and engage with the groups that are most vulnerable to HIV.

It's the AIDS paradox, that if you simply penalise and criminalise and stigmatise and hate and isolate, then the epidemic gets worse. If you engage, if you involve, if you participate with those who are most at risk, as we did in Australia from the very beginning, then you can make headway in fighting the epidemic and help ensure it doesn't spread.

So thinking globally, reaching out and not being ashamed of idealism.

I'm still idealistic, after so many years in public offices, I think it's important for people who are idealistic to be unashamed about it.

To speak up for the cause of the betterment of humanity, to speak up for the cause of the United Nations, to speak up for Eleanor Roosevelt's Universal

Declaration of Human Rights which I received in 1949 soon after it was brought into operation at the end of 1948.

To be authentic about your values, and if you are a liberal, “small l” liberal person, there are plenty of small seat conservatives around. Speak up for the things that you believe in.

There's a very good exemplar of this in the present UN High Commissioner for Human Rights Narvi Pillay.

Narvi Pillay came from South Africa. She told me that the first time she ever saw a judge's chambers was when she was appointed from the Bar in South Africa to be a judge of the International Criminal Tribunal for the former Yugoslavia.

The first time she went inside a judge's office was when it was her own office. Because she grew up in South Africa under the apartheid regime.

She has been a fantastic High Commissioner for Human Rights, I've worked closely with her in the recent work on North Korea. She is courageous, she is strong, she is willing to take risks, to speak up for things that will be hated by some nations.

But she is strong for principle, and she is a wonderful leader, and so by the way is Ban Ki-moon the UN Secretary General.

Amazingly this man who came up through the ranks of the civil service of the United Nations and the civil service earlier of South Korea, is a man who is willing to pin his colours to the mast, and stand up for what he thinks is right.

Lastly though there is a matter where, at first, I did not show leadership. It was a matter where I myself was involved, and that was the issue of sexuality.

Now I've always thought – more so in recent years – that in the issues of human sexuality there's a great deal that can be learned by the LGBT community from the earlier struggles of the women's movement.

Because the enemies are often the same. The same patriarchal attitude and the same unwillingness to accept that people don't necessarily fit into their stereotypes and people have to be themselves. They have to be authentic.

Now in the years when the HIV epidemic came along, both my partner Johan and I began to get involved in the HIV epidemic in different ways.

He became an Ankali (volunteer), I don't know if there's an equivalent body down here in Victoria, the Ankalis are like buddies. They're available to people who are living with HIV.

In those early days, before the antiretrovirals, people living with HIV suffered greatly and many, many died.

We'll in a few weeks, in mid July we'll have the biggest conference that we've ever had in Australia in the International Aids Conference here in Melbourne. When 20,000 people will be here to examine where we are in the HIV epidemic.

But I go back to the very beginning, I go back to 1985 when this strange new epidemic was about. My partner became an Ankali and Jonathan Mann the wonderful first leader of the international effort against AIDS (with the World Health Organisation) asked me to join the first global commission on AIDS, and I became involved in that.

In a way that was a sort of code language for my sexuality, and Johan's sexuality.

But even in those days we sailed under the radar, if people telephoned our home, he would not pick up the phone. If I telephoned the home, I had to dial first let it ring twice, stop, then ring again and he would pick it up.

People have said to me: “Well you weren't very courageous, you weren't showing much leadership at that time, why didn't you stand up against this appalling situation?”

Well the answer is that that was just how it was. Anybody in this audience who is my age, knows that was what you were expected to do. You can analyse it as much as you want to and say it is irrational.

You could say that having to be ashamed of who you are and having to be ashamed of something you didn't choose and couldn't change is ridiculous, it has to stop at once.

But it wasn't going to stop any time soon back in those days.

The plain fact of the matter is that if I had, in those days stood up and if my partner had stood up, there's no way I would have been appointed to the positions that subsequently came to me. I was appointed to them because I was willing to play the game of denial and the game of pretence.

The notion that some people, a small minority, were gay, was terribly offensive to some people.

It was specially offensive to some religious people, and they taught that there was an inclination to evil and that you should be thoroughly, completely, absolutely ashamed of yourself and keep it thoroughly to yourself.

But we went along doing things in the gay community and going to functions, and Johan was cleaning the toilets and making the meals and painting the apartments of people who were living with HIV. So many of our friends died in those bad days.

But then round about 1997, by which time I was on the High Court, Johan – who is from the Netherlands ... now I don't know how many of you know people from the Netherlands, they are very difficult people!

But he said to me one night, he said: "How long do you think you're going to be in public life?" I said: "Oh well my father's still alive (and he lived to be 95 or 96)... I've got a long time, I've got an awful long time".

He said: "Well, we've got to stand up." I said: "Oh maybe we'll wait till the end of the High Court years, maybe we'll postpone this a little."

"No, no we've got to stand up, we've got to stand up for the benefit of the young people. We've got to make an example, we've got to break the stereotypes, we've got to shatter the ignorance, we've got to confront the demons that rattle around in the brains of these people."

"Oh do you think we might leave it," I said.

"No, no, no leaving it, that's it, we're going to do it."

And so we used a technique, which even I think had a certain style about it. In *Who's Who* I have an over-lengthy entry and in it: "February 11 1969, P for partner, Johan van Vloten".

That was ultimately found out by one of the Mr Murdoch's media and the responses were predictable, but it was done. It was good and it should be done by everyone.

You know I still know judges who are not open about their sexuality, I still know professors and garbage cleaners and others who are not open about their sexuality.

It's an oppression, it's an ignorant, stupid, unscientific oppression, now that we know about the facts, the scientific facts. But there are still some people out there, including in the churches, that would be happy if we just kept it that way.

Well that game is over, I have very constructive dialogue with my partner Johan about the churches.

He says to me: “I don’t understand for a minute how a person as intelligent as you can take any of that stuff seriously.”

I say: “No, well I'm not going to leave my religion, I'm not going to let old men in frocks take my religion away from me, and I'm very happy with my religion.”

But he says: “Religion has always been horrible to women, it's always been horrible to people of colour, and it's been particularly horrible to gays.”

But I say: “It will never change unless people stand up”.

If every gay person in our country suddenly stood up, tonight, the whole shabby charade would be over.

We have made progress, but not enough, there's still progress to be made, and there's progress to be made overseas and we have to be leaders in Australia, we have to be a good example to the rest of the world.

We've fallen behind many other countries, we've fallen behind Argentina, we've fallen behind Uruguay, we've fallen behind Spain and Portugal. We have to catch up and be leaders in this matter.

So they're the lessons I've learnt.

Respect those who stand up for what they believe. Stand up yourself to principles, even if it's risky. Push the envelope and try to see things that others are not seeing. Respect and engage with those you have to work with and try to

win them round. Set a good example to them, and work harder so that they will respect you. Try to think of new ways to do old things. If you can't win them over, kill them with kindness.

Think globally and don't be parochial. Never be ashamed of idealism and be authentic.

And above all to thine own self be true. To thine own self be true. Stand up to what you know is right, make a fuss and cause trouble.