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Kevin Ross Murray: barrister and citizen soldier

By Philip Selth

Kevin Ross Murray was born at Casino, NSW, on 17 June 1930, the first child of William Henderson Murray and Josephine Agnes (Ford). He was a distant relative of the lexicographer Sir James Augustus Henry Murray, editor of the *Oxford English Dictionary*.

He was educated at Swansea Public School (where his father was a teacher), at the selective Newcastle Boys' High School and the University of Sydney (BA 1950). He studied Law from 1949 to 1956, but did not complete the degree. He was an active Union debater.

On 3 September 1955 at St Mary's Cathedral, Sydney, Murray married Noela Joan Drury. They had three daughters and a son. The marriage was dissolved on the application of Noela on 6 August 1978. Murray had a property, 'Norwood' at Goulburn, where he raised wethers and cattle. Here he married Lynette Jean Shannon before a marriage celebrant on 31 October 1987. She had two children from a previous marriage. It was to be a happy union.

While completing his articles with the firm Abram Landa, Barton & Company in Bligh Street, Murray undertook the Barristers Admission Board course and was admitted to the New South Wales Bar on 29 November 1957. He developed an extensive court room practice, initially in the common law and industrial jurisdictions, but with emphasis in later years on the criminal jurisdiction. He was to become 'one of the most colourful figures at the New South Wales Bar'.

Murray was a bully – to the bench when he could, his opponents and the many he considered beneath him.

'About middle height, somewhat overweight and remarkably energetic and rapid of movement for a person of his build', Murray soon became the counsel of choice for high profile defendants, and police, who had seen him, often unhappily, in court.

Contemporaries describe Murray's courtroom presentation 'as intense, passionate and sustained. He was very ready in expression, with a full, confident and relevant flow of words in a forceful vernacular



Kevin Murray in Darwin. Photo: NT News

accent. He was full of haste and energy, always red-faced and urgent, and spoke with an edge of indignation about what the police prosecutor or the opposing counsel was trying to do to his client, and a hint that the magistrate or judge whom he was to persuade was not acute in his thinking and was irrationally disposed against his client'. Murray was 'a master tactician and a consummate cross-examiner. He had the capacity to eke out the answers he wanted from reluctant witnesses. In criminal matters, he had the ability to capture, and captivate, a jury. It is fair to say he could hold a jury and, in committal proceedings, often the magistrate, spellbound! He was 'a formidable opponent. He gave no quarter and sought no boon'. One of Murray's juniors remembers him having 'a unique capacity to cross-examine for five minutes or so in a probing way, and once he worked out the witness he would move in for the kill. He never prefaced a question with 'Do you agree?', rather, he threw statements at the witness with devastating effect, but which on the transcript appeared with question marks'.

Murray was a bully – to the bench when he could, his opponents and the many he considered beneath

him. A newly appointed equity and commercial silk prosecuting in a Petty Sessions committal in which Murray appeared for the defendants, the law clerk Brian Alexander and the Narcotics Bureau officers Richard Spencer and Wayne Brindle, charged with conspiring with Terrence John Clark concerning the importation and distribution of narcotics, had 'a very unpleasant experience'. Murray was said to be 'rude and aggressive in the worst traditions of the common law bar'. Another senior colleague describes Murray as being 'probably the rudest counsel alive (and possibly the rudest man)'.

Coroner JJ Loomes had to remind Murray who was actually conducting the inquiry.

Murray was Geoffrey Chandler's counsel during the inquest into the deaths of his wife Margaret and Dr Gilbert Bogle by the Lane Cove River on New Year's Eve 1963. Murray's brief was to protect Chandler from allegations of being involved in the death of his wife and Dr Bogle. It was not in his client's interest to adopt his usual pugnacious approach to prosecution witnesses. However, typically, Coroner JJ Loomes had to remind Murray who was actually conducting the inquiry. In other high profile cases, Murray acted for Peter Kocan, who had fired a sawn-off rifle at the federal opposition leader, Arthur Calwell, outside the Mosman Town Hall in June 1966; for the television personality Charles (Chuck) Faulkner, charged with being an accessory before the fact to a robbery at Channel 10 at North Ryde in March 1966; and in November 1967 for Leonard Cosser, a professional wrestler ('Len Holt'), charged with conspiring to defraud the public through the sale of knitting machines. Although committed for trial, Cosser was back in the ring in April 1969 against 'Murphie the Surfie'.

In 1969 Murray appeared in the Sydney Central Court for Donald Kelly, a salesman charged with stealing cash and jewellery from a Maroubra jewellery store. In June 1961 Kelly had escaped from the Russell Street Police Station in Melbourne. The police claimed Kelly had admitted the theft. Murray told the magistrate that his client denied the allegations and wished to be married that Saturday and then go away on his honeymoon. Kelly was remanded

on bail. Presumably Murray did not know that Darcy Dugan was to be his client's best man at the wedding (or that he had committed a string of hold-ups and other crimes with Dugan and others).

Murray was counsel assisting the Public Service Board inquiry in September 1969 held into the compulsory transfer of Denis Freney, an English and history teacher, from Pittwater High School to Mosman High School because of the 'manner and timing' of his Teachers' Federation activities. Murray appeared in the Flemington Court for Leslie Lewis, a strapper charged with conspiring to administer a substance with intent to defraud to the racehorse 'Big Philou' before the 1969 Melbourne Cup and to 'King Pedro' in the Duke of Norfolk Stakes at the 1969 VRC autumn carnival at Flemington.

Murray, appointed a queen's counsel on 14 November 1973, was aptly described by one court reporter as being a 'stocky figure', a 'little florid of complexion and utterance'. Unlike other leading silks of his time, Murray was not one of soaring rhetoric (Tom Hughes), earthy appeal (Ian Barker), charm (Murray Gleeson) or of meticulous cross-examination (Alec Shand).

In 1974 Murray appeared for the Croatian crane driver Angelo Maric, charged with having placed bombs in two Sydney shops in September 1972, one of which caused serious injury to the proprietor. In 1977 Murray successfully represented Kevin Humphreys, secretary-manager of the Balmain Leagues Club (and president of the NSW Rugby League and chairman of the Australian Rugby League) at his committal for fraudulently taking moneys from the club for gambling. Murray represented Humphreys before the 1983 Royal Commission into Certain Criminal Proceedings Against KE Humphreys (the 'Wran Royal Commission'), which followed the ABC's *Four Corners* broadcast 'The Big League', which alleged that the then Premier Neville Wran had intervened in the prosecution of Humphreys. Murray was himself a witness before the royal commission concerning his instructions for the defence of Humphreys at the 1977 committal proceedings. In October 1983, represented by Murray, Humphreys was found guilty by a jury of various charges concerning his taking money from the Balmain Leagues Club.

Murray appeared for Kenneth Nugan when he and

his brother Frank were charged in May 1978 with conspiracy to defraud and (not for the last time) for the former NSW police officer Murray Stewart Riley, who pleaded guilty to a charge of conspiring to import 1.5 tonnes of cannabis from Thailand. Murray appeared for 'The Big Fellow', Arthur Stanley (Neddy) Smith, when charged in November 1978 with having goods in custody (cash), allegedly the proceeds of heroin sales. In January 1979 Murray represented some of those allegedly involved in a conspiracy to defraud the Department of Social Security (the so-called *Greek Conspiracy Case*). He appeared for the Narcotics Bureau officer Richard Spencer in 1980 on charges of conspiring to give information to the 'Mr Asia' drug syndicate boss Terrence John (Terry) Clark. In September 1984 Murray, appearing at committal for Choo ('Chinese Jack') Cheng Kui, the Bangkok/Singapore connection for the 'Mr Asia' drug syndicate, unsuccessfully applied to the Full Federal Court for review of the magistrate's decision in the committal proceedings to deny further access to a prosecution witness statement. Murray's junior recalls that watching the prosecutor, Frank McAlary QC and Murray was 'like watching two gladiators from ancient Rome. Battle honours were even.'

In 1988 Murray acted for the Annetts family at the WA inquest into the deaths of the teenage jackeroos James Annetts and Simon Amos whose bodies had been found near their abandoned utility in the Great Sandy Desert in April 1987. Murray was 'always willing to quip with members of the media, but with an arrogance which was obvious to all'. Although permitted to examine and cross-examine witnesses, the coroner declined to permit Murray QC to make a closing address covering the whole of the evidence. Murray, determined to 'follow every rabbit to the very end of its burrow', took the matter to the High Court. The High Court held that the coroner should reconsider the question whether the parents should be heard in respect of any matter arising out of the inquest, and pending that reconsideration should not make any finding or publish any rider. The case is a leading authority on natural justice.

In July 1989 Murray acted for the property developer Tibor Balog, managing director of Dainford Limited, before the NSW Independent Commission Against Corruption inquiry into the relationship between Balog, Dainford Limited and the Waverley Council

and its engineer/ planner. This was ICAC's first investigation. The *Sydney Morning Herald's* report noted that 'the brilliant and always combative silk' 'had put on more histrionics'. Nor had Murray endeared himself to the residents of the 220 units in Eastgate Towers at Bondi Junction, comparing their home to 'a vertical anthill' and 'a commune'.

Murray appeared in the 1990 Blackburn Royal Commission for Harry Blackburn, a police officer charged with a series of sexual assaults and other crimes. By this time Murray was dying of cancer, but nonetheless carried most of the burden of cross-examination. The commissioner exonerated Blackburn. Murray loved the English language. As one report put it, he 'positively throttles the native tongue'. Murray's flamboyant language was evident at the Blackburn inquiry. He told the commissioner, Justice JA Lee, that it was clear that Blackburn, a man of fourteen years unblemished service, had been 'treated like dirt'. He would not have been treated worse if he had 'piddled in the pickles at the Police Boys' Club Christmas Party'.

... 'he came to court each day with a cannula in his arm. Clearly he was dedicated to the cause of his clients'.

In July 1990 the president of the NSW Police Tribunal, Judge JH Staunton, commenced an inquiry into the shooting of the naked and unarmed Darren Brennan during a raid on his Glebe house by a Tactical Response Group police officer. Brennan, alone in the house (except, as Staunton noted, 'for his little pup'), was shot in the face by a police shotgun. Government criticism of the raid had led to the Police Association considering industrial action and TRG officers demanding the resignation of the premier, Nick Greiner, the minister for police, Ted Pickering, and the deputy police commissioner, Tony Lauer. Murray represented the TRG officers. Murray, who was to die before Staunton reported, was undergoing chemotherapy treatment. As one of those present noted, 'he came to court each day with a cannula in his arm. Clearly he was dedicated to the cause of his clients'.

Murray had strong views about individuals' rights,

and unlike many of his peers was happy to make those views public beyond the Bar Common Room. In 1974 he took the then unusual step for a barrister of writing a letter to the *Sydney Morning Herald* expressing concern about criminal law legislation which eroded 'civil rights' of the citizen. In May 1987 he wrote criticising the Labor government for 'attacking the rights of the community to judicial assessment' of compensation for injured workers. He instigated the extraordinary general meeting of the New South Wales Bar Association in March 1989 which led to it issuing a press statement critical of the failure of the federal government to appoint Justice Jim Staples to the newly created Industrial Relations Commission, which the association saw as interference in the independence of the judiciary.

One could fairly say that there was more than a touch of Henry VIII about Kevin. The chambers that he dominated had all the noisy rough and tumble of the Tudor court in which the sun shone if the king was in a good humour and dark clouds blocked the sun for all if he was not.

One of Murray's juniors remembers Murray being 'something of a nightmare to manage both in and out of court. This was the primary task of any junior sufficiently robust to last beyond one brief. Apart from keeping between Kevin and airline, hotel and restaurant staff there was the more crucial matter of his appearances, or lack thereof in court. A favourite practice once he got to know one, was for Kevin to wander off from a case for a day or so. One might regard this as a mark of trust but he would then reappear without warning at one's elbow and enquire, 'well, have you fucked up the case yet?' To be Kevin's junior was definitely a young man's pastime (and I emphasise both 'young', as in needing the money and experience, and 'man', as Kevin was certainly not all that understanding of the feminist winds of change starting to sweep through the profession). One could fairly say that there was more than a touch of Henry VIII about Kevin. The chambers that he

dominated had all the noisy rough and tumble of the Tudor court in which the sun shone if the king was in a good humour and dark clouds blocked the sun for all if he was not. He was a highly intelligent man and a particularly skilled advocate, with a great talent for cross-examination. He was capable of grasping black letter law when required but his forte was as an actor in the high drama of the jury. At a personal level, he was capable of being sensitive, sentimental and kind but also of being crude and even quite brutal with his friendships. He was a brilliant jury advocate of a stamp and style that suited the times, not least of all the practices of some investigators and a somewhat complicit attitude on the part of trial judges who were unwilling in particular to confront the abuses of the verbal'.

A newly briefed junior was called up to Murray's chambers one evening, expecting to be involved in research and discussion of relevant legal issues. Instead, he was offered a glass of champagne, and when he declined the offer was told 'that's your first mistake'.

A newly briefed junior was called up to Murray's chambers one evening, expecting to be involved in research and discussion of relevant legal issues. Instead, he was offered a glass of champagne, and when he declined the offer was told 'that's your first mistake'. Murray enjoyed 'a cool drink' on occasions. 'The danger sign was when his bottom lip would start to pout a bit - then he was in a state of social unpredictability'. He used to boast, accurately, that he had marvelous recuperative powers. After a night of hard drinking, he would be in court the next morning; quick witted, scaring witnesses, the bench and opposing counsel. Floor colleagues recall that each year Murray would organise a weekend and members of his chambers and wives were bidden to his country property: 'Saturday afternoon and evening drinks and BBQ and a bit of a 'recovery' on Sunday. Many 'floor wives' looked forward to the fixture with dreadful foreboding - the host was

known to develop roaming hands and an uninhibited vocabulary'. 'Whilst he was keen to offer financial advice, it was best to avoid taking it. He and a number of his colleagues got into all sorts of ill advised commercial ventures. As far as his professional fees were concerned, he felt that a fee should be spent three times: when the brief arrived, when the trial concluded, and finally, when he was actually paid. Financial management was not his strongest point.'

Murray had enlisted in the CMF's Sydney University Regiment on 14 March 1949, a year after the volunteer Citizen Military Force in Australia was reformed. He had been a sergeant in his school's cadet unit. (Murray's father had served in the regiment's predecessor, the Sydney University Scouts, in 1921 while attending teachers' college.)

Murray was commissioned as a lieutenant in December 1952. In 1953 he went on full-time duty for two years with the Australian Regular Army to help ease the officer shortage during National Service and hoping to serve in Korea. The Korean War ended in July 1953, but Murray 'gained valuable experience in man management and in administration as a full-time soldier' before returning to the SUR in June 1955. In 1960 the regiment vigorously campaigned for undergraduate volunteers. Hundreds of newly enrolled students were circularised, care being taken to contact only the eligible cases. 'But', said Murray, now the 2IC and co-ordinating recruiting, 'man is but fallible'. The letter he had received shows it: 'I am afraid there has been a slight misunderstanding concerning your letter inviting me to join the University Regiment. Much as I would like to do so, I regret it will be impossible. I am a girl.'

On 1 July 1964, the newly promoted Lieutenant-Colonel Murray began duty as commanding officer of the regiment he had joined as a private in 1949. The regiment's history notes that as 'Murray grew up militarily in the regiment, he earned a reputation as a skilful tactician'. He envied men who had been old enough to fight in World War II, and found it galling to see young men of his own age wearing ribbons of the Korean War and later those issued for service in Vietnam. Murray had a name as a disciplinarian. 'I could be accused, I suppose, of being an authoritarian. I've been accused of that in a

variety of circumstances. If a fellow was weak I had no regard for him.'

Murray was 'a colourful, sometimes abrasive figure' in the regiment. But he gave SUR 'three vigorous, successful years'. He preached initiative and innovation, to get more realities into military training. He had 'the ambition to just literally train the arse off those fellows - to extend them'.

The start of Murray's period as the regiment's CO coincided with the introduction of the Second National Service Scheme - conscription - to strengthen the Regular Army and to build up a reserve of trained troops in the CMF. The rapid expansion of the regiment meant more officers and NCOs were needed. Murray achieved this by 'a significant innovation', the SUR Vacation Training Camp for Officers. Murray's aim was 'to make the standard of training of all officers produced by SUR as close as possible to that of the regulars. After all, we may be required to serve side by side with our regular colleagues at any time'.

Murray, disappointed at missing out on going to Korea, was not going to miss out on Vietnam.

In 1965, acting initially without the approval of either the army or the Australian National University, and in competition with the CMF's Canberra-based 3rd Battalion, which had a drill-hall on the campus, Murray established an ANU Company of the SUR. Murray's term as CO SUR ended on 30 June 1967 when he was posted to Eastern Command's Staff Training Wing. In January 1971 Murray was awarded the OBE for his work in building up the strength of the SUR and promoting interest in military service in other universities and colleges. He developed strong links with overseas armies, in particular with the SUR's 'sister' regiment, The King's Royal Rifle Corps (later The Royal Green Jackets).

Murray, disappointed at missing out on going to Korea, was not going to miss out on Vietnam. Lieutenant-Colonel Murray, Officer Training Group, Eastern Command, CMF served in Vietnam as a CMF observer

between 17 February and 2 March 1968, attached to 2nd Battalion, The Royal Australian Regiment, based at Nui Dat. After the maximum period of sixteen days, he was asked to stay on temporarily and help out with a serious backlog of court-martial work. But Army Office refused permission, and instead sent up an officer from Australia. Murray claimed that there was 'quite a bitchy, almost jealous approach' towards CMF men by the regulars, who did not want them to be in Vietnam long enough to qualify for repatriation benefits and campaign ribbons.

His style was probably more like Major-General Ritchie-Hook in the works of Evelyn Waugh.

A former member of the SUR, and later a barrister, remembers Murray being referred to by the soldiers as 'the pig'. He was in command, and 'all jumped when he required it. In fact, I have never seen a CMF or reserve commander who was as effective as he was. He was not tall. He was plump, and bore a remarkable similarity, both physically and in temperament, to Napoleon and General Patton. If Kevin had ever had the chance to command a military force in war, he would probably have become as well-known as Pompey Elliot, and others like him. This opportunity however was to avoid him; he had to content himself with preparing for war, but never actually waging it'. A passionate reader of military history and biography, a lover of good jazz, he was not 'the sort of general who ponders gravely over maps and reflects at length on the best course to take. His style was probably more like Major-General Ritchie-Hook in the works of Evelyn Waugh'.

On 1 May 1972 Murray was promoted colonel and appointed to the Command Staff Training Unit, teaching and preparing officers for the examination at the Canungra Jungle Training Centre. On 30 June 1973 he was appointed chief of staff (CMF), 2nd Division. On 1 July 1974, promoted temporary brigadier, he took command of the 5th Task Force, serving in that role until 1976 when it was disbanded as a result of the reorganisation of the CMF, which was renamed the Australian Army Reserve. Promoted brigadier as of 26 January 1976, on 1 December 1976 Murray became commander of the Royal NSW

Regiment, which had all Army Reserve infantry battalions of the 2nd Military District [NSW] under its command - except the SUR and the University of New South Wales Regiment, which were in the Training Group.

On Murray's service file there is an intriguing handwritten note written on chambers letterhead:

Assistant Comd

Dear John

Cesar's [sic] Legions revolted for one basic reason

NO BLOODY PAY

For Christs [sic] sake this is intolerable

Yours as a mercenary

Kevin Murray

Comd RNSWR

On 1 July 1978 the newly promoted Major-General Murray assumed command of the Second Division [the Army Reserve in NSW]. On 1 January 1982 Murray was awarded the AO (Mil.) 'for service to the Army Reserve' and posted to Army Office for duty in the office of the chief of the Army Reserve. On 1 April 1982 Murray was appointed chief of the Army Reserve. Murray was not well suited to the political and diplomatic milieu of Canberra; 'he was better suited to command jobs than staff jobs'. Murray retired at the end of March 1985 and on 1 July took up the position of honorary colonel, SUR, succeeding Sir Roden Cutler. To his and the regiment's dismay, Murray's term was extended, after a fuss, by only a year, and in July 1990 he was succeeded by Chief Justice (and Lieutenant-Governor) Murray Gleeson. Murray's forceful views against the 'neglect' of the Army Reserve, the causes for which lay 'squarely on the shoulders of many of the senior officers of the army', and the appointment of Regular Army officers to command Army Reserve formations, had been held against him. WV Windeyer, who commanded the SUR in the period 1973-1976, noted that 'General Murray remains the regiment's most distinguished peace time soldier; he had a great love of the regiment often remarking what it had done for him. The refusal of those in charge of such matters to reappoint him was a most unfortunate mistake.'

While dying of melanoma, Murray lived life to its fullest, giving a curry lunch party for all his friends at his home in Newtown when he should have been in hospital, to the amazement of his treating oncologist

While dying of melanoma, Murray lived life to its fullest, giving a curry lunch party for all his friends at his home in Newtown when he should have been in hospital, to the amazement of his treating oncologist who attended the party.

who attended the party. Murray died at home on 31 March 1991, survived by Lynette, two daughters and a son.

In the funeral eulogy given by Barry O'Keefe QC, Murray was fairly described as 'a dominant character ...whose presence was always felt'. Murray had a 'gift with words, a sense of fun, an ability to laugh at himself and the world. ... He was big and tough, yet at the same time gentle and soft hearted. In court he could be a bruising cross-examiner, a Nemesis who would pursue a witness until he got the admission he was seeking. Yet he was gentle and generous to a fault even with those, perhaps especially with those, whom the world would judge as undeserving.... He did cases that won him the headlines and earned for him an enviable reputation ... and substantial fees. ... He was exuberant, extroverted and gregarious. He shared the good times, his successes, with all. He loved the limelight ... He loved his uniform. He loved the silken gown. He revelled in the trappings of the mess and of the court But, he was also a very private person. Family life was removed from the public arena and shielded from the glare of the arclights.'

After a military funeral at St Mary's Cathedral, Sydney, on 4 April, which he had meticulously planned, Murray was buried at the Northern Suburbs Lawn Cemetery.

Endnotes

I am grateful to Lyn Murray for graciously lending me several boxes of Kevin Murray's private papers.

I also acknowledge with thanks the help given me by a number of Murray QC's colleagues, some of whom are quoted in the note above, as well as the assistance given me by past and current members of the Sydney University Regiment. I am also grateful to the assistance given me by Lisa Allen, The Bar Association's librarian, for her help in tracing unpublished judgments for cases in which Murray appeared.

In addition to the press, royal commission records, law reports and other sources, I referred especially to:

New South Wales Bar Association records.

Murray's service file: 'Murray, Kevin Ross' NAA B2458, 279192: 9844997.

Ivan DE Chapman papers, ML MSS 7043.

Ivan Chapman, *Sydney University Regiment: The first 80 years*, Sydney, 2001 reprint.

Janet McNaught, *And so they came The history of the Haning Murrys from Roxburghshire, Scotland*, Lismore, 1986.

Kevin Murray QC, 'Fears on criminal law changes', *Sydney Morning Herald*, 27 March 1974, p.6.

Kevin Murray QC, 'Compo: decades of effort down the drain', *Sydney Morning Herald*, 25 May 1987, p. 14.

Brigadier AR [sic] Murray OBE, ED, QC, 'The Reserve and the Core Force', *Pacific Defence Reporter*, June 1978, pp. 54-56.

Obituary: 'Lawyer, soldier and raconteur', *Sydney Morning Herald*, 1 April 1991, p. 2.

Evan Whitton, 'The courtroom life and varied times of Kevin Murray, criminal lawyer', *Sydney Morning Herald*, 3 April 1991, p.13. Although I used this article as an aid to find information about Murray, I have not quoted from it - I do not agree with Whitton's assessment of Murray.