

LIONEL MURPHY - JURIST AND MAN

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Lionel Murphy – Jurist and Man

Michael Kirby

When a public figure dies, his fellow citizens should gather to consider his achievements. In the presence of the reminder of death, they should for a time pause in their conflicts and differences.

When a friend dies, those who knew and loved him, should come together to speak in his praise. They should reflect upon the lessons in his life for their own. And they should remember their own mortality.

Lionel Murphy – Jurist

I am here to speak of Lionel Murphy, the lawyer and the man. As a jurist he was, by any account, unique. As a man he was a warm and loving person whose generous spirit and optimism brightened our Commonwealth.

Where other lawyers sourly disdained an international perspective in law, he saw in it the hope of humanity. He perceived the urgent need to develop and contribute to a world legal order. In times of nuclear weapons, he realised that the survival of all of us requires the elevation of the rule of law to a global dimension. There was no parochial, provincial lawyer. His was not a crippled conception of his chosen discipline. Where littler people laughed at his aspirations, he disdained a modest perspective. For him, the law remained, to the end, an idealistic, almost romantic, instrument for achieving peace and justice, at home and abroad.

Where other lawyers were blinded in their search for legal principle by the dazzling jurisprudence of England, Lionel Murphy roamed over a wider field. His sources were deeper and even richer. They helped liberate his mind. By the processes of serendipity and lateral thinking, these deeper sources led him to brave and new ideas. They were ideas often seen as threatening because of their unorthodoxy or originality. He used his independence, as a judge, to advance those ideas.

Where others were indifferent to science and technology and their implication for our law, he devoured scientific literature. Rightly, he saw this as the great engine of our time.

He once told me that the only Imperial bauble which could tempt him, was Fellowship of the Royal Society (FRS). Sadly this did not come his way. But in tribute to him, scientists named a new found supernova – sparkling in a far away galaxy – after him.

Where others were indifferent to the operation of the law in society and contemptuous of the frank acknowledgement of policy in judicial decisions, he faced those issues boldly, as in future will be a commonplace. He had a passion for justice for the underprivileged that can be sadly rare amongst lawyers at the top. And he had the courage to do something about it. Happily he also had the personality to influence those about him to move to the same directions.

Where others saw the rules of procedure as a harness shackling their originality and their effort to do justice, Lionel Murphy saw them as they are: man-made obstacles. At least in the highest court of our country, they could and should be adapted as justice, principle and modern needs required.

When lesser spirits were indifferent to injustice in the law, he spoke out with abundant humanity. He was an authentic oracle not for all it is true – but for the opinion of the tolerant, liberal, civilised and caring members of the Australian community.

Internationalism, technology, philosophy, humanitarianism, courage, these were his professional touchstones. They were present in rare combination.

Lionel Murphy – The Man

And this brings me to Lionel the man. At all times that I knew him, he was a loving and charitable man. Blood not water ran through his veins. Most people here knew him as a public figure. I knew him as a dear friend.

He would telephone. And that warm familiar voice would talk with enthusiasm about a principle of law; offer encouragement or instil optimism; urge forward the thrust of reform – believing, with another evangelist, John Wesley that 'these things shall be'.

Never in all the years I knew him, did I hear him utter a single uncharitable word about those who hated or assailed him. Even in the recent years of trial, he was full of charity and kindness. His concern was not for himself – but for others, for Ingrid, for his family and for principle, as he saw it. His injunction to us today would be, I am sure, to set aside entirely petty hatreds and recriminations. It would be to lift our sights to the way in which we can all, individually, each one of us, contribute to a kindlier and more sensitive world.

Lionel Murphy had enthusiasm in the old Greek sense. When I spoke to him, shortly before he died, he was full of courage and light. It is true that his warm and resonant voice had lost some of its power. His prodigious energy was flagging, but he had lost none of his optimism and dedication. And none of his faith in the law, in the independent judiciary and in a better world.

Lionel Murphy was a public figure for our time. The human body dies. The enigma of life and death is not unravelled. But the powerful, restless spirit of this special man is still with us. It is out there in the galaxy with his super nova. It is here in our country, liberated from the law books. It is here in this hall, with us – his friends.

The above address was delivered at the State Memorial Service for the late the Honourable Justice Lionel Murphy on 27 October, 1986. □