

Lionel Murphy : An appreciation

David Neal

Lionel Murphy's contribution to Australian legal culture spanned a great gulf. If one recalls the days before 1972, when Garfield Barwick dominated the legal landscape and Ivor Greenwood was Federal Attorney-General, there was little space or comfort for the sorts of people and issues that the Legal Service Bulletin has devoted itself to since 1974. A wide and seemingly uncrossable gap separated powerful, establishment legal figures such as they were, from the small group of legal workers who occupied a narrow ledge and sought to advance an alternative vision about the role of law in Australian society. That gap still exists but it seems more crossable now; the ledge seems a bit wider and more secure; much more is possible than before. Lionel Murphy played a major role in the changes.

I remember the early days at Fitzroy Legal Service. It was chaos. We were working away in there one night early in 1973, just after the Service opened. Lionel Murphy just walked in out of the blue. Remi recognised him and told one of the other lawyers to sit down quickly and pretend he was a client so we'd look busy. We were very impressed that he'd visit the dungeon (i.e. the basement of the Fitzroy Town Hall). He simply looked and listened and was very encouraging . . . Murphy was an inspiration and encouragement to the legal aid movement.

Lou Hill: Fitzroy worker

Fitzroy Legal Service had opened in 1972, just after the 1972 election. Although legal aid had been in the 1971 ALP platform nothing very specific had been planned for it so far as those around him recall, but it was an issue close to Murphy's heart. It seems that his ideas for the ALAO had begun to take shape post-election. He visited Washington in January 1973 and talked to legal activists like Ralph Nader and visited storefront law offices. The storefront idea excited him. Murphy was surprised and pleased on his return from that trip to find that this idea

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had already been taken up in Australia at the Fitzroy Legal Service and that lawyers he knew, like Geoff Eames and Jim Kennan from the Victorian ALP, were involved.¹ He addressed a 1973 public meeting of legal centres people at the Fitzroy Town Hall and told them that their model was exactly what he wanted the Australian Legal Aid Office (ALAO) to be.

This news was a bit of a bolt from the blue too. No one else knew much about this new entity, the ALAO, or what it was. He wanted a national shopfront system and he wanted to by-pass the legal profession.

I remember Barry Jones rang up Fitzroy [Legal Service] one night. I think he was in Murphy's Office. He asked me how much we needed. I said \$10 000 and we got it.

Phil Molan: Fitzroy worker²

That was a very radical thing to have done at the time. Lionel wanted to break the grip of the profession and promote an innovative, national scheme. He saw Fitzroy Legal Service as a potential model. He gave the grant straight to them, not through the profession, without strings attached. He liked to encourage non-conformity.

Laurence Maher: Murphy staff member

Harkins (from the Attorney-General's Department, subsequently head of ALAO) called and said Murphy wanted to get Fitzroy Legal Service people into the ALAO. He wanted me to get a group of likely people together in my chambers. Harkins came; there were about ten or twelve people. They told him they wanted autonomy and he told them that the public service structures had to operate. They got no takers. Eventually one of the people, Lou Hill, joined up.

Geoff Eames: Fitzroy worker

Murphy invited Eilish (Cooke) and me to Canberra just after ALAO started. He brought everyone in for a conference. There were about 50 to 60 people from all over Australia, mainly senior people from the Department. Eilish and I raved about Fitzroy Legal Service and changing the world and storefront law. It fell on pretty barren ground. I was sitting between Murphy and Harkins. There was a sort of embarrassed silence and then one guy stood up and said that was all very well but they had some serious administrative matters to work out. He said he was worried about what colour filing system they'd use. Murphy said, 'I don't believe this.' Then one of them, Harkins or Murphy, just blew up and we got some more serious discussion.

Geoff Eames

Sirs,

I am pleased to be able to inform you that I have been able to approve a grant of assistance of \$20 000 on behalf of the Australian Government to assist the Fitzroy Legal Service as a 'pilot' legal aid scheme. You wrote to me on 11 July 1974 seeking assistance.

The grant is intended to assist the Service with the payment of the salaries of a full-time lawyer and secretary-typist and with administrative expenses. I commend the members of the Fitzroy Legal Service for the initiative and enthusiasm they have displayed. My firm impression from meeting with yourselves and other members at the Fitzroy Town Hall is the extent to which the Service has operated with the support of volunteers from all sections of the community including the legal profession. I hope that the Service retains its emphasis on the participation of volunteers.

Lionel Murphy
Attorney-General of Australia⁴



PHOTO: PAUL WRIGHT

It is areas such as Sunshine where people who need lawyers live. Many of them are unaccustomed to seeking the aid of the law. The problem of reaching people in need, of bringing law to the people — constitutes one of the great obstacles in providing a system of legal aid readily and equally available to all. It is to overcome this problem that the Australian Government has established this office in the Shopping Centre in Sunshine, where it will be easily accessible to the people who live and work in the area. In this office the ordinary citizen will feel at home. He or she can approach it as confidently as he or she can enter the local supermarket. I shall be closely following the progress of this Office and others like it to see how far they overcome the obstacles in the way of delivering legal services to those who need them.

Lionel Murphy³

I invited Murphy to come and speak at a sort of annual general meeting of the Legal Service Bulletin in around January or February 1975. There were about 30 people there. He talked enthusiastically about what the Bulletin could do. He was really encouraging and supportive. I remember later he cited the *LSB* in a list of references in one of his judgments. I think that was the first time we ever cracked the Commonwealth Law Reports.

Bryan Keon-Cohen — *LSB*

The right to counsel derives from the disadvantage of being unrepresented in a judicial system which claims to dispense equal justice in accordance with the rule of law.

Lionel Murphy⁵

Lionel Murphy did not get the same sort of media prominence for his 'raid' on Fitzroy Legal Service that he did for his ASIO visitation. Both were characteristic of his direct, personal style. But the visit to Fitzroy was in

some ways more remarkable for the way in which he so easily crossed the divide between Australia's principal legal officer and the then very marginal activities of some young, radical legal workers in a far-flung corner of the legal empire. Murphy did not let social distance, aloofness or weight of business (and at the time the number of projects he had undertaken was phenomenal) keep him from seeing at first hand what was being done in one of his areas of personal commitment. His energy, curiosity and charisma at once bolstered and tapped the enthusiasm of the fledgling legal aid movement to which he made major contributions in terms of recognition, financial and moral support, and entrees to the highest levels of policy making. As the vignettes try to show, the assistance did not flow in only one direction. Fitzroy Legal Service and the people then struggling to work their ideas into a material form gave Murphy a model to work with in shaping the ALAO. The ALAO did not turn out the way Murphy intended but the enormous growth in federal financial involvement in legal aid, the growth of a national legal centres movement, and the existence of this journal represent a very significant change in the Australian legal culture since 1972. More than any other individual, Lionel Murphy symbolises the ideas and aspirations of that alternative legal culture. More than that, his direct contributions to the development of legal aid in the early 1970s stand as one of his finest achievements. It is fitting that the *Legal Service Bulletin* should pay him tribute.

Like many others who admired Lionel Murphy, I never met him personally. For a public figure, he did not seem remote or distant: you don't meet too many Attorneys-General or High Court Judges around places like the Fitzroy Town Hall or at the Fitzroy Legal Service these days. His personal qualities crossed the power gulf. Like many of the other non-powerful people who attended the memorial service at the Sydney Town Hall, I appreciated his preparedness to put his body on the front line and do things directly for ordinary people, especially in legal matters, and most especially in legal aid. If I may presume, I would like to speak on behalf of those people — the ones who did not speak at the Sydney Town Hall — who have been the beneficiaries of Lionel Murphy's contribution. They include many thousands of people who have received legal assistance from the agencies he did so much to foster. They include thousands of progressive legal workers who have found a place to carry out their work in the spaces and structures which he initiated and/or supported — places like the *Legal Service Bulletin*, the law reform bodies. And they include many thousands who share his ideal that equality before the law must be more than a rhetorical flourish. On behalf of these people — thank you.

REFERENCES

1. See Neal, D., 'Ten Years After: The Victorian Centres' in D. Neal (ed.) *On Tap, Not On Top: Legal Centres in Australia 1972-1982*, Legal Service Bulletin, 1984.
2. The real figure seems to have been \$2000 in 1973 as an interim grant. A grant of \$20 000 followed in mid-1974.
3. Speech by Lionel Murphy at the opening of the Sunshine ALAO Office in the Western Suburbs of Melbourne, 6 May 1974. (1974) 1 *LSB* 7.
4. (1974) 1 *LSB* 110.
5. Murphy J., the lone dissenter in *McIntosh v R* where the High Court denied that a defendant charged with a serious criminal offence (in this case rape) has a right to representation.