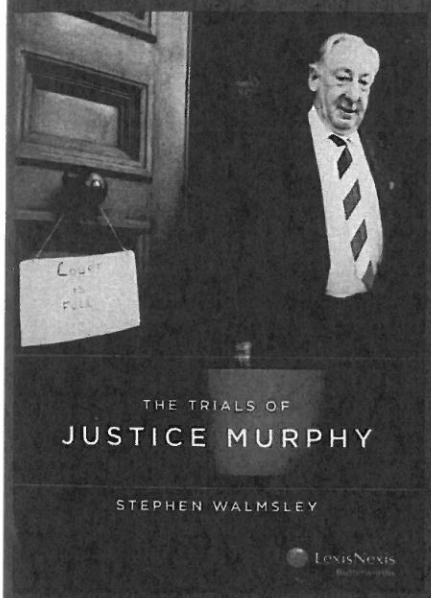
Book review:



The Trials of Justice Murphy

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Review by: Mark Thomas
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Justice Lionel Murphy, a High Court judge for eleven years, was charged, in sensational circumstances, with the commission of two criminal offence; the ensuing trials and appeals/inquiries captured national attention. The key phrase allegedly used in one offence, "what about my little mate?", entered the legal lexicon Australia-wide at the time.

This book fairly examines the intriguing circumstances of the two charges (attempt to pervert the course of justice), which involved two then pillars of the legal community (Chief Magistrate Briese, on the one hand, and Judge Flannery, on the other). The author, exhaustively probes the Crown case, which turned on the question of whether the Crown could prove that Justice Murphy intended to influence each judicial officer to assist one Morgan Ryan, solicitor, (who was facing trial in connection with various criminal offences), to secure a favourable outcome in Ryan's case.

For the criminal lawyer, there is much to be interested in: not the least of which is trial strategy and client management—in Justice Murphy's first trial he gave evidence, against the advice of his then counsel, and called extensive character evidence (including from Justice Kirby, then President of the NSW Court of Appeal), which produced days of cross-examination by the Crown (Mr Callinan QC), himself soon to be a Justice of the High Court.

Justice Murphy was found guilty of the Briese allegation in the first trial; secured an appeal through a misdirection as to character, and won the second trial, having ditched his trial counsel (Alec Shand QC), and gained the services of the redoubtable Ian Barker QC. Justice Murphy did not give evidence in the second trial but delivered what was then still possible in NSW—a dock statement, which permitted him to address the jury without being cross-examined. He also did not call any character evidence, thus producing a markedly slimmed down version of the first trial. He won, and the Crown declined to pursue further charges against him. However, he died not long afterwards, shortly after sitting on the High Court for the last time, in Sept 1986, leaving behind a young family.

Did Justice Murphy get away with the commission of two crimes? Or was it simply a witch hunt? Or something in between? The book provides, fairly, a balanced assessment of the matter, but, in the wash up, at least to this reviewer, provides a strong foundation for an argument that the case against Justice Murphy on both counts was very light.

Finally, it interesting to note that of Justice Murphy's many defenders two of the key ones were the former Liberal Commonwealth Attorney General, Thomas Hughes QC, who secured victory in the Court of Criminal Appeal; and his son-in-law, Malcolm Turnbull, then of the Bulletin magazine, who was a consistent and ardent defender of Justice Murphy throughout.