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JUSTICES OF THE HIGH COURT  
OF AUSTRALIA

DURING THE CURRENCY OF THIS VOLUME

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THE RIGHT HONOURABLE SIR HARRY TALBOT GIBBS, G.C.M.G., K.B.E.  
CHIEF JUSTICE

THE HONOURABLE SIR ANTHONY FRANK MASON, K.B.E.

THE HONOURABLE LIONEL KEITH MURPHY.

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ATTORNEY-GENERAL

THE HONOURABLE LIONEL FROST BOWEN, M.P.



## THE LATE MR. JUSTICE MURPHY

On 5 November 1986, at a sitting of the Full High Court in Canberra, GIBBS C.J. said:

We are met here today to pay a tribute to our late colleague, MR. JUSTICE MURPHY, who died on 21 October 1986. There are present in this large audience, as well as the relations and friends of MR. JUSTICE MURPHY—the Deputy Prime Minister and Attorney-General of the Commonwealth, the Honourable Lionel Bowen M.P.; the Chief Judge of the Family Court of Australia, the Honourable Justice Evatt; the Chief Justice of the Australian Capital Territory, the Honourable Mr. Justice Miles; Justices Evatt, Gallop, Davies, Shepherd, Kelly, Neaves and Everett of the Federal Court of Australia; Mr. Griffith Q.C., Solicitor-General for the Commonwealth, who is representing the Attorney-General for Victoria; Ms. Gaudron Q.C., Solicitor-General for New South Wales, who is representing the Attorney-General for that State; Mr. Parker Q.C., Solicitor-General for Western Australia, representing the Attorney-General for Western Australia and the Law Society of Western Australia; Mr. Bale Q.C., the Solicitor-General for Tasmania, representing the Attorney-General for that State; Mr. Davies Q.C., representing the Attorney-General for Queensland and the Queensland Bar Association; Ms. Branson, representing the Attorney-General of South Australia; Dr. Croft, representing the Attorney-General for the Northern Territory; Mr. Cummins Q.C., representing the Australian Bar Association, the Victorian Bar Council and the Western Australian Bar Association; Mr. David Bennett Q.C., representing the New South Wales Bar Association; Mr. Salmon Q.C., representing the Australian Capital Territory Bar Association; Mr. Faulks, representing the Law Council of Australia, the Law Institute of Victoria, the Queensland Law Society, the Law Society of South Australia and the Law Society of Tasmania; Mr. Garling, representing the New South Wales Law Society; Mr. Stretton, representing the Australian Capital Territory Law Society; Mr. Brazil, the Secretary of the Commonwealth Attorney-General's Department; and many members of the profession and the public.

LIONEL KEITH MURPHY was born in Sydney on 30 August 1922, the son of an Irish immigrant. He was educated at Kensington Public School, Sydney High School and at the

University of Sydney from which he graduated with honours in science and first class honours in law.

He was admitted to the New South Wales Bar in 1947 and built up a large practice, particularly in the fields of industrial law and personal accident, but by no means confined to those areas, for his practice was wide and general. He was regarded as a courageous and formidable advocate. He took silk in New South Wales in 1960 and in Victoria in 1961. He appeared in many important cases in Australia and later had, for an Australian lawyer, the unusual experience of appearing before the International Court of Justice in the case concerning the French nuclear tests. That was in 1973-1974, by which time he had become Attorney-General of the Commonwealth.

In 1961 he was elected to the Senate and remained a Senator for New South Wales from 1962-1975. He was the Leader of the Opposition in the Senate from 1967-1972. It was soon apparent that in becoming a member of the Senate he had not put aside the vigour and energy which he had displayed at the Bar. He staunchly upheld the status of the Senate and played a large part in establishing the present committee system in that chamber.

In 1972, LIONEL MURPHY became Attorney-General and Minister for Customs and Excise and Leader of the Government in the Senate.

He continued to occupy those positions until he came to this Court. As Attorney-General he was notably effective in introducing and getting through the Parliament some of the most significant legislative changes in recent years—changes which, he believed, would improve the lot and enhance the civil liberties of the ordinary citizen. Among the more important of his legislative initiatives were those which resulted in the passing of the *Family Law Act*, the *Trade Practices Act*, the *Racial Discrimination Act*, the *Environment Protection (Impact of Proposals) Act* and the *Administrative Appeals Tribunal Act*. In addition, he introduced statutes that abolished the death penalty for Commonwealth offences, established the Commonwealth Law Reform Commission and abolished appeals from the High Court to the Privy Council. He said that as Attorney-General he was concerned to do everything he could to enable the people of Australia to have a ready and equal access to the courts and to ensure that lack of money should not prevent a

person from pursuing what he believed to be his rights and to that end he set up, by executive action, the Australian Legal Aid Office which plays so important a part in litigation today.

The catalogue that I have given is far from complete but is sufficient to indicate his remarkable achievements during a comparatively short term of office.

MR. JUSTICE MURPHY was appointed a Justice of this Court on 10 February 1975 and remained a member of the Court until his death. His appointment to judicial office did not diminish the strength of his desire to reform the law. He said, soon after his appointment, that his desire was to develop the law so far as possible to bring about a more democratic and equal society and his judgments reflect this wish.

It cannot be denied—and he would not have wished to deny—that he was at times the subject of controversy and that his judicial method was one which did not command universal assent. However, the value of the contribution made by any judge to the law and the extent of his influence upon it cannot well be assessed by his contemporaries; judgment on those questions must be left to history.

Consistently with his principles he refused to accept the honour of knighthood which Justices of this Court had formerly received, or indeed any honour, and he declined to wear a wig during the ordinary sittings of the Court.

As those who knew him would have expected, he bore his final illness with fortitude. His zeal for reform and his personal qualities won him many admirers as was shown by the large number of persons present at the memorial service held in Sydney on 27 October 1986 and by the gathering here today.

On behalf of the members of the Court and on my own behalf I extend our deepest sympathy to his widow, Mrs. Ingrid Murphy, and to his children, in their sad loss.





The mode of citation of this volume of  
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### CORRIGENDA

139 C.L.R., page xix: For reference to "*Amoco Australia Pty. Ltd. v. Rocca Bros. Motor Engineering Co. Pty. Ltd.*" read "133 C.L.R. 288".

159 C.L.R., page 522: For date of judgment "5 March 1985" read "5 March 1986".

159 C.L.R., page 552, line 8: For "that Act" read "the *Migration Act* 1958 (Cth)".

159 C.L.R., page 637, line 19: For "s. 5 (xxxv)" read "s. 51(xxxv)".

160 C.L.R., page 267, line 1: For *Marsh v. Keating* read "*Jacobs v. Morris*".

160 C.L.R., page 372, line 30: For reference to "*First Citizens' Bank & Trust Co. v. Parker*" read "(1945) 163 Am. L.R. 1003".

160 C.L.R., page 580, line 38: For "*B.P. Exploration Ltd. (Libya) v. Hunt*" read "*B.P. Exploration Co. (Libya) Ltd. v. Hunt*".

160 C.L.R., page 637, footnote (77): For reference to "*Little v. The Commonwealth* (77)" read "(75)".

160 C.L.R., page 637, line 13: For reference to "*Fowles v. Eastern and Australian Steamship Co. Ltd.*" read "(77)".



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