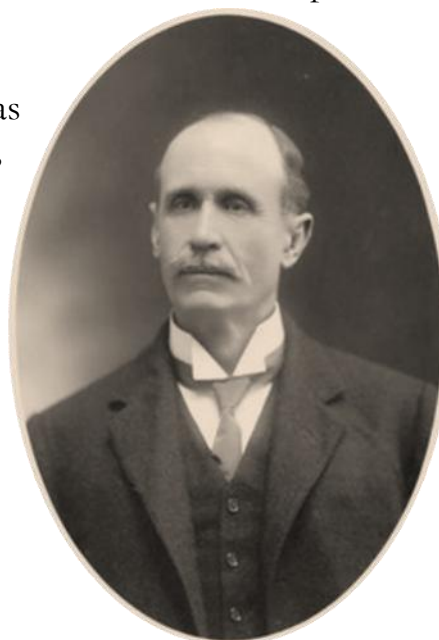


Sir Hubert Murray – lawyer

Ian Molloy *

One hundred years ago, in January 1909, Hubert Murray was sworn-in as the first Lieutenant-Governor of Papua under Australian rule. Murray occupied office for the next thirty-one years until his death at Samarai on 27 February 1940. During his long reign he established a world-wide reputation as a colonial governor.

The “Murray policy” of indirect rule was considered enlightened for its time. Now, from a post-Independence perspective, there is much that could be criticised. The purpose of this paper however is not to examine Murray’s administration, but to look at Murray the lawyer. For it was in that capacity, as Chief Judicial Officer, that Murray first came to Port Moresby in 1904, and he retained that post for the rest of his life.



Sir Hubert Murray

Early years

John Hubert Plunkett Murray was born on 29 December 1861 at Manly, New South Wales. His father, Sir Terence Murray, had emigrated from Limerick, Ireland, becoming a wealthy pastoralist and successful politician. He owned Yarralumla, now the site of the Australian Government House, Canberra, and was President of the New South Wales Legislative Council.

Hubert’s childhood, however, was not privileged. His father died when Hubert was 11, but not before losing all his property and most of his money. Along the way the family shifted from their Manly mansion through homes of decreasing size, to rented accommodation in Darlinghurst Road, near William Street in Sydney’s east.

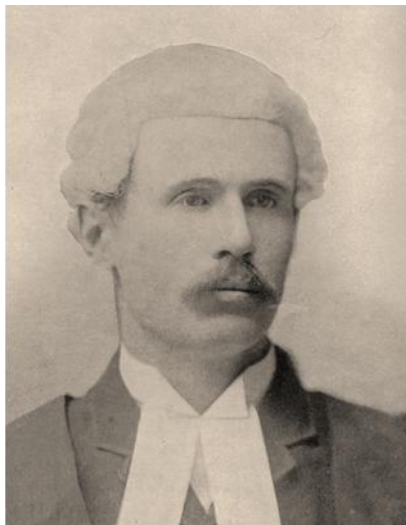
In 1872 young Hubert entered Sydney Grammar School where he excelled academically and at sport, winning many prizes. By his final year he was school captain. In addition to athletics and rugby, Murray was especially

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adept at boxing where his height and reach (he was already more than 6 foot - 183 cms - tall) were an obvious advantage. During this time he also developed a liking for alcohol.

In 1878 Murray joined his mother and his younger brother, Gilbert, who had travelled to England the previous year. Murray resumed his schooling at Brighton College, where he sat for and won a scholarship to Magdalen College, Oxford. He suffered a set-back when, during a school sports day, he retired to a nearby inn for refreshment. Returning to the school, he donned a teacher's cap and gown and joined the crowd of spectators. This led to an altercation with the science master who referred to Murray as a "wild Irishman". Murray hit him on the jaw. His consequent expulsion, together with an earlier incident, delayed his going up to Oxford. He spent the next year with a tutor in the Rhineland.

Arriving at Oxford in 1881, Murray again exhibited brilliance as a scholar and athlete. He graduated with first class honours in Mods and Greats. Apart from Latin and Greek, he was fluent in French and German. He rowed for his college, and represented Oxford in athletics. He returned to



Hubert Murray 1890

London and, as a member of Inner Temple, was called to the Bar in May, 1886. He played rugby for Harlequins, and in 1886 he won the Amateur Heavyweight Boxing Championship of England conducted under the Queensbury Rules.

Time at the bar

Murray did not practise law in England but instead returned to Sydney where he was admitted as a barrister on 13 September 1886. His admission was moved by Julian Emanuel Salomons QC, from whose chambers Murray commenced practice.¹

¹ Salomons had achieved something of celebrity-status from a number of notorious criminal cases. Two months after Murray's admission, he was appointed Chief Justice of New South Wales. However within two weeks of his appointment, Salomons had resigned, driven out under pressure from stalwarts of the legal profession who did not consider him a suitable candidate for the position. So although Salomons held the commission, and assumed the office, and is recorded as the fifth Chief Justice of New South Wales, he was not sworn in, and never sat on the bench. Instead, he returned to his successful practice at the bar. He served as a Member of the New South Wales Legislative Council from 1887 to 1899, was knighted in 1891, and established a notable practice before the High Court until his retirement in 1907.

Murray then set up chambers of his own with a colleague Laurens Armstrong. Armstrong, like Murray, had been a captain of Sydney Grammar, and then attended Sydney University where he lectured for a time before being admitted to the bar. He shared Murray's dislike of authority and convention. It is said of Armstrong that he had an appreciation for all of the good things of life, and was adept at obtaining them on credit.²

Murray and Armstrong's chambers were in a building in Phillip Street, Sydney, consisting of three rooms on the second floor, which also served as their living quarters. Together they awaited the avalanche of briefs. Alas it was not to be.

Murray attributed his failure in private practice to the positive disadvantage of an Oxford education which he thought was resented by clients. Six foot three inches (191 cms) tall, with a superior bearing, Murray was regarded by many as aloof and arrogant. His mother, in a letter to younger brother Gilbert, said it was his "saunter that annoys the Attorneys". However, his wild ways, his heavy drinking, his association with the substratum of society, and his indifference to work were contributing factors.

In 1889 Murray married Sybil Maud Jenkins, the daughter of a wealthy doctor and friend of the family. Unfortunately the change of marital status did not improve Murray's professional fortunes. His income from the bar in 1889 was a mere £35, and later he wrote that it was "rapidly approaching vanishing point". He was living largely upon his wife's money.

Public servant

In 1891 Murray began to turn away from private practice. He became an associate to Mr Justice Cooper, then the Northern Judge (and later Chief Justice) of the



Sir Pope Cooper - Chief Justice of Queensland 1903-21

² Armstrong had an even greater command of languages than Murray. He put this gift to good use by translating cartoons from Hebrew to the amusement of his colleagues. His linguistic skills led to his appointment as State Censor during the 1914-1918 War. He eventually made a success of the bar and in later years was a judge of the New South Wales District Court. He did not marry until he was 62, and then to a woman whose father had refused his consent to the match some forty years earlier.

Supreme Court of Queensland. Whilst associate to Cooper, Murray also received occasional briefs to fill in as Crown Prosecutor. As a judge Cooper has been described as “grand, pompous and arrogant”. Cooper is best known from these times for an on-going dispute with the Queensland Government concerning his circuit travelling expenses which, because of his extravagant tastes, were often excessive. He was also noted for his severity in criminal cases and has the distinction of sentencing the only woman to hang for murder in Queensland. By contrast Murray, as a judge and colonial governor, showed no interest in the trappings of ceremony or position, and if anything his sentences were lenient.

In 1892 Murray returned to Sydney, accepting an appointment as New South Wales Parliamentary Draughtsman at £700 per year. During this time he wrote to Gilbert of his monotonous and uninteresting existence, referring to “that living death in Macquarie Street”. Worse was to follow. In 1893 a financial depression hit New South Wales. Within six months more than half the banks, including Murray’s wife’s bank, had failed.

As the depression continued Murray’s salary was progressively reduced, and in 1896 his position of Parliamentary Draughtsman was retrenched altogether. Murray was forced to accept financial assistance from his brother, Gilbert, by this time recognised as a brilliant classical scholar, who at the age of 23 was appointed professor of Greek at the University of Glasgow. Fortunately Murray was able to secure an appointment as a Crown Prosecutor at a salary of £500 per annum.



Hubert Murray [circa. 1900]

Murray then took leave of the law. In January 1900 he wrote to Gilbert, “I find myself in the novel position of Commander of a troopship bound for South Africa.” He admitted that at first he was bitterly opposed to the Boer War, “but there it is, and I thought it my duty to my regiment to gain as much military experience as possible.” His regiment was the New South Wales Irish Rifles, a volunteer corps of which Murray had been commanding officer with the rank of major since 1898.

He saw battle and, after ten months, left South Africa with the rank of lieutenant-colonel in the Australian forces, and of major in the imperial service. Back in

New South Wales, Murray resumed his practice as Crown Prosecutor, but complained to Gilbert that “legal work was tame after soldiering”. He was often away on circuit and drinking as heavily as ever.

Then, in 1902, Murray’s years of heavy drinking ended. Literally over-night, according to his own later account, Murray gave up alcohol entirely. He remained a teetotaler for the rest of his life. He had already re-embraced Catholicism. With this new found stability, Murray’s professional life seems to have improved. He accepted several acting appointments on the New South Wales District Court. Although unlikely to stretch his intellectual powers, a permanent District Court appointment might have been expected. Meantime, however, in British New Guinea, events were unfolding which would lead to the next great change in Murray’s life.

British New Guinea

The London Missionary Society had had a long association with British New Guinea. It was the Society that supplied the first permanent European residents of Port Moresby, Reverend William George Lawes and his family, who settled there in 1874. Three years later Lawes was joined by Reverend James Chalmers. Chalmers, a Scotsman, who for a time had worked in a solicitor’s office, had been ordained in 1865. His first posting was to the Cook Islands, where he remained for ten years, before joining Lawes in Port Moresby.



Reverend James Chalmers

Both Lawes and Chalmers were well suited for missionary life in New Guinea. They explored extensively, learned the Motu language, and developed a close association with the people.³

³ Chalmers was the more ambitious and adventurous of the two, as is evident from this contemporary account of his activities. “In 1877 the Rev. James Chalmers joined the mission, and it is hardly too much to say that his arrival formed an epoch in its history. He is wonderfully equipped for the work to which he has, under God’s Providence, put his hand, and is the white man best known to all the natives along the south coast. From the first he has gone among them unarmed, and, though not infrequently in imminent peril, has been marvellously preserved. He has combined the qualities of missionary and explorer in a very high degree, and while beloved as “Tamate” (Teacher) by the natives, has added enormously to the stock of our geographical knowledge of New Guinea, and to our accurate acquaintance with the ways of thinking, the habits, superstitions, and mode of life of the various tribes of natives.”: from the Introduction, page 11, to James

Lawes served as interpreter of Commodore Erskine's proclamation of British New Guinea as a British Protectorate on 6 November 1884.⁴

Chalmers was intent on establishing mission stations outside Port Moresby. In April 1901 he set out from Daru to establish a mission on nearby Goaribari Island. He was accompanied by another missionary, the younger Oliver Tomkins, together with a group of Kiwai islanders. Going ashore on Goaribari Island, the group were invited into a men's house. Once inside Chalmers and Tomkins were struck from behind with stone clubs and immediately decapitated. The rest of the group were also murdered. All the victims' bodies were then cut up and cooked and eaten with sago at a great feast that night. This led to the last major punitive expedition in British New Guinea.

The expedition was led by the Lieutenant-Governor of British New Guinea, Sir George Ruthven Le Hunte. In his official report, dated 8 May 1901, Le Hunte confirmed that the missionaries, James Chalmers and Oliver Tomkins, and the rest of their party had all been killed and eaten. Le Hunte reported that he had sought out and identified the murderers who, together with others, provided hostile resistance to their capture. Le Hunte's expedition killed 24 Goaribari islanders and, as best Le Hunte could gauge, a further three were wounded. Le Hunte also reported that the fighting men's houses were burnt down, and the fire had accidentally spread to other houses.



Sir George Le Hunte

Chalmers and Tomkins' unhappy demise may have rested there, but for Christopher Stansfield Robinson. Aged 32, the son of a Tenterfield clergyman, Robinson was the Chief Judicial

Chalmers and W. Wyatt Gill, *Work and Adventure in New Guinea 1877 to 1885*, Reprinted by University of Papua New Guinea Press, 2009.

⁴ Lawes and Chalmers had also been present in Port Moresby on 4 April 1883 when Thursday Island magistrate, Henry Chester, at the request of the Queensland Premier, Sir Thomas McIlwraith, purported to annexe on behalf of Britain all of New Guinea not previously claimed as Dutch territory (in effect, the eastern half). The British Government subsequently denied any agreement with Queensland over annexation and absolved itself from all responsibility for the colonial government's actions. Meantime Germany, on 3 November 1884, three days prior to Erskine's proclamation, and knowing of Britain's plans for formal annexation, announced that north-east New Guinea and the Bismarck Archipelago had been declared a German protectorate.

Officer of British New Guinea. In 1904, as Acting Administrator, he led a disastrous expedition to Goaribari Island ending in a massacre of Goaribari islanders. The incident was extensively reported in the Australian newspapers, and a Royal Commission was appointed.⁵ The recriminations led Robinson to commit suicide, shooting himself at the flagstaff in front of Government House. Robinson had been replaced as Acting Administrator by Captain Francis Rickman Barton, but now the position of Chief Judicial Officer in British New Guinea was vacant.⁶ With wife Sybil's agreement, Murray applied for the post.

Murray's application was supported with references from two of the three judges of the High Court of Australia, Mr Justice O'Connor and Mr Justice Barton. O'Connor was a long-time friend, and Barton had been New South Wales Attorney-General when Murray was Parliamentary Draughtsman. Barton wrote that Murray was too good for the appointment, but despite this he was appointed to the position which carried a salary of £1,000 per annum.

Murray was 42 years of age, physically fit, and the father of three children. His marriage was under strain, and he was conscious that he had under-utilised his intellectual talents. British New Guinea offered an opportunity and another escape. Sybil and Hubert Murray sailed for British New Guinea in September 1904.

Chief Judicial Officer

Port Moresby in 1904 was a pioneering town. The European residents numbered thirty-eight men and eighteen women, the majority of them government officials and their wives. Sybil stayed about a week, but professed her readiness to live in Port Moresby for half the year. Murray, in a letter to his sister-in-law, said he doubted that she could stand it for more than a month or two at a time. In fact the



Sybil Murray

⁵ A New South Wales District Court judge, Charles Edward Murray, was appointed as sole commissioner. Lett mistakenly says Hubert Murray was the commissioner: Lewis Lett, *Sir Hubert Murray of Papua*, page 66.

⁶ Le Hunte, after his punitive expedition, had revisited Goaribari Island, and assured the people that the incident was closed. The islanders were therefore unprepared for Robinson's actions. Robinson's intentions were to capture the actual murderers and recover Oliver Tomkins' skull. Chalmers' skull, but not Tomkins', had been recovered by Le Hunte. Tomkins' skull was eventually handed over to a peaceful expedition led by Barton in 1905.



Port Moresby 1904

Murrays and their three children never again lived together under the same roof for any length of time.

As Chief Judicial Officer Murray was the sole judge of the Central Court of British New Guinea. The court exercised an original jurisdiction similar to that of the Supreme Courts of the Australian states. The

court also possessed an appellate jurisdiction from Courts of Petty Sessions, constituted by Resident Magistrates, mostly located at coastal outstations. Lacking any legal training, the Resident Magistrates were roughly the equivalent of the patrol officers of later years. Writing to his brother Gilbert, Murray described them as a “shady lot”.

There were no other lawyers or professional judicial officers in British New Guinea. There was no court-house and there were no court officials or staff, except a Registrar. The court sat anywhere that was convenient. Murray did not wear a wig or robes. He presided in shirt-sleeves, often just seated at a table. The criminal law was the *Queensland Criminal Code (Adopted)* but, in the absence of either a prosecutor or defence counsel, the proceedings were necessarily inquisitorial. Murray wrote that the procedure is “simplified to an extent that would horrify an Old Bailey practitioner.” He went on to say, “above all it is necessary to see that an innocent man is not induced, by a misplaced sense of courtesy, to plead guilty to the charge of a crime which he has not committed.”

A policy that Murray inherited and continued was to take the court to the people. He travelled frequently on circuit, although transport was largely dependent upon the availability of the government vessel, the *Merrie England*. On circuit he sat in the offices of the various Resident Magistrates, or on board the *Merrie England*, or under a tree. Occasionally he had to trek inland on foot, for example, to Kokoda, but most circuit locations were on the coast. Writing to his sister-in-law, in October 1904, Murray remarked “at present I do little or nothing but sentence people to death for murder.”

However the mandatory death sentence was almost invariably commuted to a term of imprisonment upon his recommendation.

Judicial work was only part of Murray's duties. He was the government's legal adviser and legal draughtsman, and as a senior administrative officer he was a member of both the Executive and Legislative Councils which advised the Acting Administrator, Captain Barton. And as the only trained lawyer he was regularly asked for legal advice, sometimes on a matter which he well may be called on to hear in court. His solution was to declare publicly that his legal advice was a "mere impertinence" not even binding on the lips that uttered it.

Territory of Papua

When Murray landed in Port Moresby, there were deep divisions within the European population. In particular, there was serious factional fighting within the administration, due in part to the changing status of the colony. Under the *Papua Act* 1905 (Cth), which came into force on 1 September 1906, British New Guinea became a territory of Australia by the name of the Territory of Papua.⁷ With the passing of the *Papua Act*, Murray had his work cut out framing a set of ordinances for the new territory, covering amongst other matters land, labour, liquor and mining.

In 1906 a Royal Commission was appointed by the Commonwealth Government to inquire into and report upon such matters as the method of government of the territory, and the best means for improvement. Murray gave evidence to the Commission over several days. Describing what he thought was wrong with government policy, Murray attributed much of the blame to certain personal characteristics of the Acting Administrator, Captain Barton, namely weakness, favouritism and lack of sympathy with Australian ideas. By the time he had completed his evidence Murray had effectively destroyed nearly all his superiors in the administration.

The Commission report was delivered in 1907. It discredited Barton who subsequently retired. Murray succeeded him, first as Acting Administrator and then, in November 1908, as first Lieutenant-Governor of the Territory

⁷ The period between the British Letters Patent (March 1902) that transferred administration to the Commonwealth of Australia and the proclamation of the *Papua Act* (November 1905) was a curious interregnum. The legal status of British New Guinea during this period was considered by the High Court of Australia in *Strachan v The Commonwealth* (1906) 4 CLR 455. It is probably no mere coincidence that Murray's former chambers colleague, Armstrong, appeared for one of the parties in the High Court proceedings.

of Papua. He was sworn-in on 18 January 1909. His appointment was controversial, not least because of his perceived disloyalty to Barton.

Murray came to power hated intensely by some in Port Moresby, and regarded with suspicion or reserve by most of the rest of the European community. Murray had to live with this sort of hostility for many years.⁸ Eventually, he outlived, converted or won grudging respect from all his old enemies.

Colonial Administrator

His appointment as Lieutenant-Governor expressly provided that Murray should continue to hold the post of Chief Judicial Officer. There was still the same amount of court work for him to perform, and he continued to travel on circuit. The Resident Magistrates continued to deal with the lesser offences whilst the serious crime was heard by Murray. He took pains to gain an acquaintance with custom such as would enable him to make full allowance for extenuating circumstances.

Every time Murray came round the Resident Magistrate would have to pull out the depositions of every case that had been dealt with since his last visit. Murray would go through each



Murray at Government House 1907

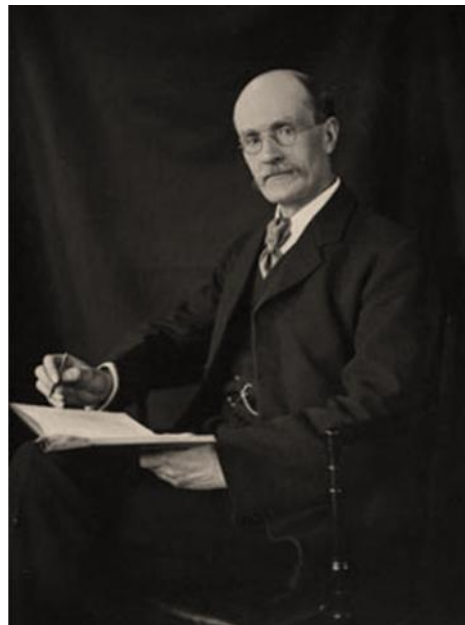
⁸ Resident Magistrate Monckton was scathing of Murray's administration. "Now we were to have, in succession to Captain Barton, a lawyer as Governor, absolutely ignorant of anything to do with natives or governance of a new country, and openly professing a dislike of [former Governor Sir William] MacGregor's officers, of whom, including myself there were only two left alive. This potentate was to be assisted by another, also a politician; a worthy man who had spent his life in a telegraph office in Australia before becoming a Labour Senator; now he is to assume charge of lands, mining etc. The next senior official, the Secretary to Government, was to be a man who had been confessedly a failure in other countries, a man who was entirely ignorant of New Guinea and who had never done work in New Guinea proper. Then came the Treasurer, who had been the Government Storekeeper, a Sydney youth who had never been outside Port Moresby; the man had come to New Guinea as a junior clerk in the service of a commercial firm.": C.A.W. Monckton, *Last Days in New Guinea*, page 254.

case individually as if a court of appeal. If he found that a person, in his view, had been wrongly convicted he would direct that he should be freed, and show the Resident Magistrate where he had gone wrong.

Anyone could have direct access to him at any time. He sent a circular: “Every officer understands that any person whatever may see the Lieutenant Governor at any time he wishes and he is not to be stopped. If any officer tries to stop a person seeing me he will be dismissed.” It is said that sometimes a person would go to him with a complaint against some officer of the administration and return with a letter from “the big Governor” upholding his case, which he would triumphantly produce at an appropriate moment. Such matters infuriated sections of the administration, but endeared Murray to the Papuans. Writing to his brother Gilbert, in September 1911, Murray said the people “have an embarrassing custom of calling their children Governor or Judge after me.”

Murray set himself firmly against the “swift injustice” of the punitive expedition, and was ruthless in dealing with any abuse of authority. His strongly worded instructions of 1909, telling officers that they were never justified in “firing on natives by way of punishment” and warning them that self-defence would not always protect them from charges of manslaughter, were issued when punitive expeditions were common in German New Guinea and still took place in northern Australia.

Personally, Murray led a Spartan and abstemious life. His principal recreation was reading. He read extensively and engaged his brother Gilbert to hunt out books for him.⁹ He devoured such literature as was available on colonial rule, but concluded that Papua had little to learn from experience elsewhere. He remained physically fit by tramping through the country on his visits to outstations. In Port Moresby he took afternoon rides on his horse, Kapa Kapa, sometimes riding as far as the Laloki



George Gilbert Murray (1866-1957)
[1920s]

⁹ George Gilbert Aime Murray was appointed Regius Professor of Greek at Oxford University in 1908, and has been described as the most influential classical scholar of his generation. Gilbert and Hubert rarely met in later life, but continued to correspond. Gilbert died in 1957, and his ashes are buried in Westminster Abbey. His *Unfinished Autobiography* was published in 1960.

River, or occasionally down to Hanuabada to sit and talk with the elders. To many, perhaps most, the sight of Murray on horse-back was their most lasting memory of him.

Juries

Jury trials had been non-existent in British New Guinea. However the Royal Commission in its report in 1907 found there was almost unanimity among the European community that a jury system should be introduced. This led to the highly discriminatory *Jury Ordinance* of 1907. It provided that the trial of persons of European descent charged with a crime punishable by death should be held before a jury of four persons, but that “save as aforesaid the trials of all issues, both civil and criminal, shall as heretofore be held without a jury.”

The persons eligible to serve as jurors were limited to male residents of Papua of wholly European descent above the age of thirty years and who were natural born or naturalized British subjects; but not a person serving a term of imprisonment, or who has ever been convicted of an offence punishable with twelve months’ imprisonment, or a member of the clergy, or a missionary, or a public servant. This remained the law unaltered (except that it was extended to the Territory of New Guinea) until 1964.

Murray had opposed the introduction of trial by jury for the reason that the potential jurors were likely to know something of the accused or the circumstances of the crime or both. The first jury trial in Papua was of a man named Thoresby who had been prospecting for gold in the hills behind Yule Island. It was alleged that in a fit of rage he killed several villagers, burned their houses, and shot some pigs. Although the evidence against the accused seemed clear, and this was reflected in Murray’s summing-up, the jury brought in verdicts of not guilty. Thoresby was subsequently successfully prosecuted on lesser offences before a judge alone.

In 1915 the limit of the right to trial by jury was tested in the High Court of Australia. George Bernasconi was found guilty by Murray of assault occasioning bodily harm and sentenced to imprisonment for twelve months with hard labour. Under the *Papua Act* there was a general right of appeal from the Central Court to the High Court and also provision for a case stated. In *The King v Bernasconi* (1915) 19 CLR 629 on a case stated the High Court rejected an argument that the *Jury Ordinance* contravened the guarantee under the Commonwealth Constitution that trial on indictment of any offence against any law of the Commonwealth shall be by jury. The decision

was of importance concerning the Commonwealth's powers in respect of external territories.¹⁰

Deputy Judicial Officer

The burden of Murray's judicial duties was eased in April 1910 when Charles Edward Herbert, one of the Royal Commissioners of the 1907 report, was appointed Deputy Chief Judicial Officer for the Territory of Papua. As an ex officio member of the Legislative and Executive Councils, Herbert also shouldered the responsibility of draughting ordinances.

Sir Hubert Murray (as he became in 1925) continued to combine the circuit work with his inspections of the out-stations, whilst Herbert did the civil work and conducted the criminal trials in Port Moresby. However, during Herbert's absences (he was also an occasional judge of the Northern Territory) Murray heard cases in Port Moresby and sometimes, when Murray was unavailable, Herbert went on circuit.

Following Herbert's appointment as Deputy, a Central Court-house was established, and as well as a Registrar, a clerk, and an interpreter were employed. Two Australian solicitors each opened offices as barristers and solicitors. However, in the absence of a Crown Prosecutor, most of the serious criminal trials continued to be conducted in an inquisitorial manner. That changed with the arrival in Port Moresby of Ralph Gore in March 1924. Admitted to the Brisbane bar in 1915, Gore had been an associate to Sir Samuel Griffith, the first Chief Justice of Australia, before taking up the position of first Crown Law Officer in Papua. In this post he was Crown Prosecutor, counsel for the Crown, legal adviser to the Government, and draughtsman of ordinances for the Legislative Council.

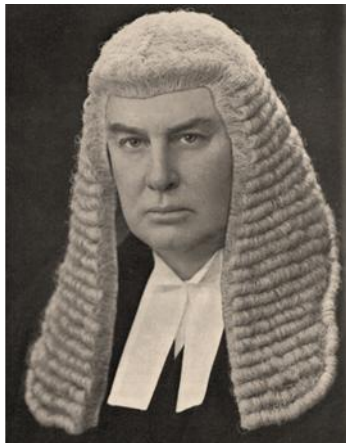
For eighteen years Herbert served as Murray's Deputy sometimes in controversial circumstances. In 1926 he supported Murray's *White Women's Protection Ordinance* which carried the death penalty for rape of a European woman or girl, although he opposed the same penalty being inflicted for attempted rape. In 1928, Herbert resigned to take up an appointment as Administrator of Norfolk Island. Sadly he died in the following year.

¹⁰ The first jury trial in the former Territory of New Guinea was before Gore J in December 1948 where two miners on the island of Misima were charged with wilful murder of an indigenous policeman at Bwagaoia in 1942. Miles J's statement in *Lewis v The State* [1980] PNGLR 219 at page 234 that "there is not and never has been trial by jury in this country" is incorrect as to pre-Independence time.

For three months in 1926 Ralph Gore had gained experience as an acting judge whilst Murray was away in England and Herbert was not in physical condition to carry out the arduous circuit work. Now Gore replaced Herbert as the Deputy Chief Judicial Officer. Apart from the war period, Gore had an unbroken term of judicial office from his appointment in 1928 until his retirement in 1963.

As part of his administrative duties Murray submitted Annual Reports to the Commonwealth. They are testament to his clarity of thought and expression. In the Report for 1929/30 Murray recorded that the business of the Central Court of Papua was “much as usual”. There were 293 persons committed for trial including three Europeans. Over 200 of these committals were for crimes of violence, including 167 for murder. In the same Report Murray attached a memorandum from Mr Justice Gore, compiled at his request, on the scale of punishments imposed in the Central Court. It was interesting to note, wrote Murray, that in the last twenty years, in the Port Moresby district, there had only been two cases in which a Papuan who had already been convicted for an indictable offence, had after release committed another. As Murray put it, “Both exceptions were sexual perverts.”

Murray was reluctant to impose the death penalty. Only two Papuans were hanged in the last twenty years of his rule while some sixty-five men were hanged in the Mandated Territory of New Guinea.



Ralph Gore

Like Herbert, Gore attended to the judicial work in Port Moresby, while Murray continued to combine the circuit work with his frequent tours of inspection. In the Annual Report for 1932/33, Murray recorded that his visits of inspection took up several months of the year. He made mention of Kokoda, which he described as a Government station in the foothills of the Main Range, about 65 miles inland from Buna. He continued: “I have been visiting Kokoda, of course on foot, ever since 1907; and I walked there again this year.” At the time he was over seventy years of age.

Later years

Sybil Murray, who had been in ill-health for years and unable to reside in Port Moresby, died in 1929. Murray rarely saw her in the last years of her life. In 1930 he married for a second time, to Mildred Vernon, the widow of an Irish officer. His new wife brought new life to Government House, Port Moresby. There were bridge parties, afternoon teas, and other social

gatherings - from all of which Murray absented himself. He resisted her attempts to have him retire. As a concession he gave up his afternoon horse-riding, and instead drove with Mildred to the end of the only road and back.

The marriage was a mistake. Murray was much too set in his ways, and completely absorbed in his duties. When he planned his leave in 1935, he did so to escape his wife, for “each of us irritates the other beyond endurance.” In a letter to his sister-in-law, in October 1936, he wrote of his wife’s “violent rages”. A few weeks later he wrote - “Mildred is on the war path again, and the brief reconciliation has come to an end.” Eventually the “affaire Mildred”, as Murray described it, ended in a judicial separation.



Sir Hubert Murray

In the meantime Murray had made a promise to the Papuan people that he would never leave them. He dreaded the thought of retirement to suburban Sydney. Yet the Papua that he knew was changing. He could take pride in the achievement, but also lamented, “that the whole of Papua has been explored”. The Pacific war threatened greater change. In 1939 Murray received instruction from Australia that in the event of attack on Port Moresby he was to retire inland and direct guerrilla activities. He thought this ironic. He was 78 years old and his son Terence, a professional army officer, had already been retired on the grounds of age.

Murray died in Samarai in 1940 during one of his tours of inspection. An Australian Air Force sea-plane brought his body back to Port Moresby, where his funeral was held at the Catholic Church. His death was followed by a period of mourning. For forty days and nights fires blazed on the hills round Port Moresby. An Acting Administrator, Herbert Champion, was appointed to succeed Murray. Then Murray’s nephew, Leonard Murray, was appointed.¹¹ However, within a few months, in 1942, civilian government in Papua was replaced with military rule. It was the end of an era.¹²

¹¹ Hubert Leonard Murray was for more than thirty years Sir Hubert’s close associate, including serving as Official Secretary. In 1915 he married the daughter of Deputy Chief Judicial Officer Herbert at St John’s Church of England, Port Moresby.

¹² On the resumption of civil administration, Jack Keith Murray, no relation, was appointed Administrator of Papua and New Guinea from 1945 until his removal in 1952.

Epilogue

What can we say of Murray? For a start he was more than six foot three inches (191 cms) in height, and for most of his life physically fit and strong. As a soldier he had a record to be proud of. Contemporary accounts describe him as quiet, pleasant-voiced and thoughtful. He was well-educated, widely-read, with a fine mind. He had a sense of humour, patience, self-control and determination. Yet he could be irritable, and he has been criticized for having no great business acumen, and too legalistic a mind.

His personal life in Papua was lonely and abstemious. He often complained of boredom. He had a policy of being accessible, yet he is frequently described as aloof. He was a Roman Catholic but could say, "As an administrator I draw no distinction between the different churches; they are all working for the same general end, and all deserve government sympathy and support."

He had qualities of simplicity and modesty and privately greeted all honours with self-mocking cynicism. As an administrator Murray was starved of public funds, and feared that anti-Catholics or conservatives would have him replaced. He was paternalistic, and reflected the racism and discrimination of his times. Yet there were ever-present a strong sense of justice and a sympathetic understanding of the problems peculiar to the people.

The 1939/40 Annual Report, prepared after Murray's death, said he would be remembered by the officers who served under him for his simplicity, for his charity and kindness, for his capacity to get the best out of men, for the rapidity with which he could make decisions, and for the clarity and brevity with which he could express them. The same report said that the Papuan people would remember him for his accessibility, for his patience in their troubles, and above all for his deep sense of justice and the knowledge that they could give credence to his word. His dictum, it was recorded, was "that justice is not the peculiar prerogative of the white man, but is the absolute right of every man of whatever race or colour."

On his modest grave in the old Port Moresby cemetery¹³ there is an epitaph in Latin. It is borrowed from the inscription for Christopher Wren at St Paul's Cathedral, London: "If you seek a monument look about you."

September 2009

¹³ The old cemetery is also the last resting place of members of the Lawes family and of Christopher Stansfield Robinson.

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