

# HON JAMES MUIRHEAD AC QC

**Obituary: Muirhead.** Hon James Henry AC QC. Born 24 April 1925, Adelaide. Died 20 July 1999, Darwin, 74 years.

In contrast to much of the popular cynicism and distrust about the judicial process, the life and work of Jim Muirhead, who died in Darwin on Tuesday July 20, has been widely praised as an example of the way the law should work: with compassion and understanding, and a profound respect for the "ordinary person".

While his two decades of public life, as judge, royal commissioner and administrator of the Northern Territory was at times controversial, it was never of his own making. Although he claimed his career was "undistinguished" and shunned publicity throughout, he leaves an important legacy.

Son of a stipendiary magistrate, Muirhead was born in Adelaide in 1925 and educated at St Peters College. He served with the AIF in the Pacific. Graduating in law from Adelaide University, he was



*James Muirhead on the annual Christmas Toy Run.*



admitted to the bar in 1950 and became a Queens Counsel in 1967.

Two years after his 1970 appointment to the bench of the newly formed District Criminal Court in Papua New Guinea. It was to greatly influence his life, giving him great respect for indigenous traditions and the difficulties faced by the people that appeared before him on bush circuits. "Their dilemma, or our dilemma, was that we were basically applying the Queensland criminal code, but the judge had tremendous discretions."

Between 1972 and 1974 Muirhead served as a founding director of the Australian Institute of Criminology, a position he held with distinction. On the eve of Cyclone Tracey in 1974, he was appointed to the Northern Territory Supreme Court, later also sitting on the newly-formed Federal Court until his retirement from the bench in 1986.

The following year he was appointed by the Commonwealth to head the Royal Commission into Aboriginal Deaths in Custody on which he served for two years. He left that position at the invitation of the NT government to take up the position of Administrator, which he held until his retirement in 1992.

His judicial career has perhaps unfairly been identified with the controversial trial and subsequent gaoling of Lindy Chamberlain. Under NT law, life sentences for

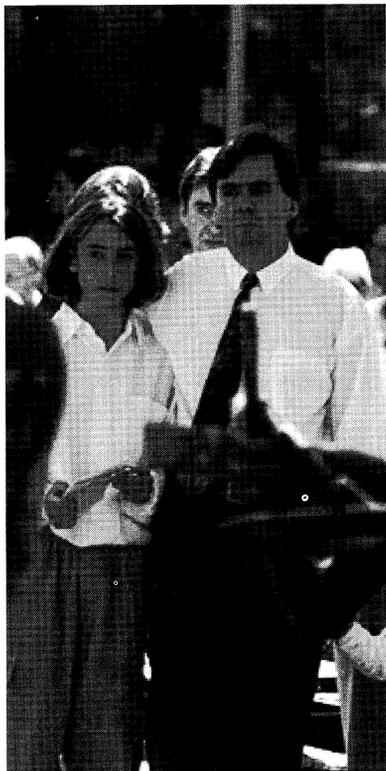
murder are mandatory. It was a case he didn't speak about publicly, other than to say "it was a very sad case" and to criticise the media feeding frenzy that surrounded the case. Muirhead was trenchantly opposed to public judicial comment, saying it was "quite fatal to the whole judicial stature... I don't think judges should be trendy."

John Waters QC, a member of the chambers named after the former judge, says that Muirhead's private feelings on the Chamberlain trial demonstrate his fundamental decency.

"He was very annoyed the law forced a trial, he told me it should never have come to trial. Not that he made a judgement - even if guilty, the circumstances were such that she should never have been tried... what they've got in the papers about Jim favouring Chamberlain is nonsense, but he was very annoyed that she should have been convicted. He was scrupulous in his work as a judge."

Less well known was his reputation as a judge dealing with Aboriginal defendants. He was a strong supporter of the "Anunga Rules", developed by Justice Foster while Muirhead was on the bench, which protects the rights of Aboriginal defendants. On his retirement, he was honoured by a presentation by the Central Australian Aboriginal Legal Aid Service. Suzan Cox, a lawyer in Alice Springs at the time, describes him as "really fine judge" who brought down many important decisions. "He was a judge of the people - all the people".

Ian Barker QC, former NT solicitor general and Chamberlain prosecutor agrees. "He was a very good judge who I appeared before many times. He was also a very compassionate person, with a good understanding of human nature. He had a great affinity with ordinary people, including me amongst the more ordinary - he was very tolerant."



*Tim Muirhead, right, spoke movingly about his father at the State Funeral held in his honour.*

**Hon James Henry Muirhead**

Educated in South Australia  
 Served with the AIF in World War II from 1943-46  
 Admitted to the Bar in 1950  
 Appointed Queens Counsel in 1967  
 Appointed Judge to the newly created District Criminal Court in 1970  
 Spent six months as Judge on the Supreme Court of Papua New Guinea  
 Founding director of the Australian Institute of Criminology between 1972-1974  
 Appointed Judge to the Supreme Court of the Northern Territory in 1974 and served for 11 years.  
 Held an additional appointment as a Judge to the Federal Court.  
 Appointed first Commissioner of the Royal Commission into Aboriginal Deaths in Custody in 1987.  
 Administrator of the Northern Territory from 1989-1992

**Bill Risk, spokesman for the Larrakia Aboriginal people.**

"The Larrakia people have the greatest respect for the memory of this man. As Administrator of the Northern Territory, he opened the doors of Government House to us for the very first time. He recognised the Larrakia people had sought to build bridges with us that had long been broken.

"This action is symbolic of the approach he took to Aboriginal issues throughout his distinguished career: he believed in justice, mutual respect and recognition.

"He understood the deep hurt felt by members of the stolen generation. His commitment to their cause will long be remembered in the Aboriginal community."

**Justice John Toohey AC of the High Court of Australia.**

"He did enjoy the diversity of his work and especially the challenge of taking on something different. This gave him an insight into the law, government and most of all the lives of so many people."

"Every job he took on James Muirhead did well."

"This (caring about people) did not mean he was a soft touch on the bench, he could be firm when firmness was needed. But he understood the affect that a puritan court could have, particularly on Aboriginal people and he ran his court accordingly."

"Although aspects of his work over the years have extended throughout Australia, the Territory had a special claim on this special Australian."

**Mr Tim Muirhead**

"He was something better than a great man, he was a good man.

"He spent his whole life preparing for this journey and he did it well. He entered this life with passion and purpose and he was ready to go."

**Mr Steve Southwood, President of the Law Society**

"The names of only a very few people are remembered beyond their lives.

"Justice Muirhead was a person whose name will be remembered well. He will be kindly looked on by history."

Muirhead said his time on the deaths in custody royal commission was "probably the most difficult and in some ways the saddest role I've performed". Although he did not serve through to its conclusions, its findings had an enormous impact on the nation.

Mick Dodson, who worked as counsel assisting Muirhead during the royal commission, praises "his great achievements as a commissioner, and his compassionate approach to the subject matter of the inquiry and his desire to find the truth".

Muirhead achieved a place in achieving a social and judicial reform, but was no radical. According to Waters, "Jim was a profoundly conservative individual... but he always affronted by many of the consequences of conservatism, and worried deeply about the compassion that should be applied to ordinary people".

Jim Muirhead is survived by his wife Margaret, four children and four grandchildren.

*Kenbi dancers performed a traditional dance in recognition of the Hon Jim Muirhead's contribution to Aboriginal people.*

