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## Justice Florence Kerins Murray: The Legacy of a Pioneer in the Rhode Island Courts

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*Si monumentum quoeris circumspice.* If you seek her monument, look around.

As society sees what women can do, as women see what women can do, there will be more women out there doing things, and we'll all be better off for it.

**Sandra Day O'Connor 14 November 1990.**

On November 9, 1979, at the age of sixty-two, when many contemplate retirement, Florence Kerins Murray (1916-2004) became a Rhode Island Supreme Court Justice. At that time Rhode Island was one of eleven states plus the District of Columbia that selected women for state courts of last resort (Cook 1984, 608-610). The support of her candidacy by Democratic Governor J. Joseph Garrahy led to her subsequent election by the Grand committee of the Rhode Island General Assembly in 1979. This choice broke “the convention set in 1935 of a seat set aside for a Republican” (Weisberger Interview 17 November 2007). From the good will she engendered over the years with many of the one hundred and fifty members of the Rhode Island General Assembly, and as a former member of that body, she secured the necessary votes. By a margin of ninety-nine to fifty-one, legislators voted Murray to become the first woman Supreme Court Justice in Rhode Island history (Murray Interview 26 January 2002).

Although Murray was the first woman to sit on the highest court, she was no stranger to the judiciary, having spent the previous twenty years as an associate judge and presiding judge on Superior Court, the Rhode Island trial court. Yet her election was significant in judicial history; when Murray became a Supreme Court justice over thirty years ago, there were barely one hundred women on state courts. Twenty states still had no women judges on state trial courts. As a justice on a state Supreme Court, Murray was one of thirteen; she was keenly aware that the courts needed to change and she led the way.

This article examines Justice Murray's role on the Rhode Island Judiciary and explores her legacy using oral history interviews of judicial figures, journalists, politicians, scholars, and members of boards on which she served. Murray's contributions are analyzed in the framework of the post-World War II era and the movement to secure equal rights for women. In other words, did Murray push a feminist agenda in her rulings on cases and/or in her dealing with people? At that time, those who marched for political and legal rights in the eighteenth and early nineteenth century were deemed feminists; later feminists in the 1960s and 1970s sought rights over reproduction, freedom from domestic violence, and workplace rights. Specifically, the interviewees interpret Murray's legacy in terms of goals to expand the rights of both men and

women in education, society, and in the workplace. The research was made possible by a scholar grant from the Rhode Island Council for the Humanities.

### **Male Contemporaries from the Court Reflect on Murray**

Whether she was working in the courts, the public service sector, politics or education, male colleagues viewed Murray as a person with a broad perspective and understanding of human abilities and a keen awareness of the benefits of opening avenues for human success. The four men from the Rhode Island courts who were interviewed include: Chief Justice of the Supreme Court, Joseph R. Weisberger (1920-2012); Clerk of the Courts Brian B. Burns; Superior Court Administrator John J. Hogan; and Ernest C. Friesen, Professor and Dean of the National Judicial College. They saw Murray as an advocate of equal opportunity, who was willing to support men and women for positions and work with them as an equal partner on legislative and community improvements.

One autumn afternoon Chief Justice Joseph R. Weisberger, reflected on his decades of working with Justice Murray from the time they served in the Rhode Island State Senate in the 1950s through time on the Rhode Island Superior Court in the 1960s and 1970s, followed by the Rhode Island Supreme Court during the 1980s and 1990s. He began his friendship with her from opposite sides of the aisle, as he was the Republican minority leader of the Senate and she was a Democratic state senator from Newport. “She was a pioneer in politics, the first woman elected through the primary system instituted in 1948” (Weisberger Interview). Murray also led the way nationally, being one of only two hundred and fifty women nationwide to be elected to state legislatures that year (“Women Who Won in State Elections,” *Democratic Digest* 1948-1949, 23-27).

The chief justice noted that Murray had a military stance and dignified bearing. Like many other senators, she was a veteran of military service during World War II. As a retired Lt. Col. in the Women’s Army Corps, she continued to serve in the Army Reserves until Federal law required her to retire at the birth of her son in 1951. However, Murray continued to speak in behalf of opportunities for women in the military, through her 1951-1957 appointment by Secretary of Defense General George C. Marshall to the Defense Department Advisory Committee on Women in the Services (DACOWITS). The DACOWITS members proposed

using the same criteria for promoting men and women, as well as giving women a permanent role in the armed forces.

As the only woman senator from 1948 through 1956, she sponsored bills that pushed for laws that provided equal treatment for women: equal pay scales for women and men teachers; equal advancement opportunity for married women teachers for positions only offered to men teachers; and a law compelling fathers who left the state to support dependent wives and children. But Chief Justice Weisberger also pointed out that Murray represented her constituents by sponsoring and managing the passage of laws for historic preservation, urban renewal, scholarships for higher education, hospital funding, music festival funding, new school construction, and support for a state turnpike authority.

Murray was chosen for the trial court in 1956 by Democratic Governor Dennis J. Roberts; she was one of only seven women judges in the nation on a state court (“Women in Judicial Service” 1959). Presiding Judge G. Frederick Frost assigned Murray to the Domestic Relations Calendar. She voiced her displeasure at this apparent discrimination, but was not rotated off for three years until a new Presiding Judge, Louis W. Capelli took office. However, observers of the court noted that Murray showed a special interest and skill in handling cases involving families and children. She worked from an ethic of care as much as justice, focusing on family support and family preservation. While she served on the domestic calendar, “She volunteered (1956-1958) to chair a commission for the study of establishing a Family Court in Rhode Island. Her voice and knowledge helped the legislature decide to put the Family Court into law in 1961” (Weisberger Interview). It was the first statewide family court in the United States. Governor Roberts also appointed Murray to the Committee on Children and Youth (1958-1961) to help develop programs for Rhode Island youth. These assignments led to a Presidential appointment to Eisenhower’s Conference on Children in 1960 and to President Kennedy’s Presidential Commission on the Status of Women (1961-1963).

Justice Weisberger, her colleague on the trial court, noted that:

Murray’s views were firm, persuasive, and emphatic. She could not be cowed by others. I know this from our monthly meetings of the 11 judges on Superior Court and our trips to conferences. She was struck by the complexity of family cases that we began to hear more and more during the 1960s. Cases of sexual

abuse, abuse of minors, and drug charges involving families transformed the role of a judge to dealing with societal issues (Weisberger Interview).

On the trial court Murray alone made the decisions. Once the parties had their time in court, a judge had to know how to apply the statutes and rule according to parameters. She had strong views, and after review of salient points made her decision. Later, “as the Presiding Judge of Superior Court, she showed outstanding management abilities and understood how to manage case flow” (Weisberger Interview).

The Chief Justice knew Murray for over fifty years and did not see her as a feminist:

Florence was against strictures on her opportunities; she resented people who had lower expectations of what a woman could do. She was guided by the principle that women should have the same opportunities as their male colleagues in the same job.

Unlike some more liberal women, Florence did not smoke, curse, or have extra-marital affairs. She wore her long, dark hair pinned up and she wore colorful, fashionable dresses and suits under her black robe. As a judge, Murray set a high standard in terms of personal appearance and demeanor.

She enjoyed being called a lady; she thought that there were ‘plenty of women, but fewer were considered ladies.’

On the other hand, she did not enjoy daily household tasks of cooking or cleaning that were generally the role of women. However, she did love her son and took him everywhere she went, including National Judicial College conferences. She considered her husband to be her best friend (Weisberger Interview).

Although Murray favored improved opportunities for women in education and jobs, she did not believe in a set aside for advancement solely on the basis of gender.

Then Chief Justice Weisberger shared what he thought his colleague Justice Murray might consider several of her best Supreme Court opinions among the three hundred that she authored. In the case of *Liquor Mart v Pastore* (1985), the plaintiff wanted to advertise prices in newspapers and was told that his license would be suspended according to Rhode Island statute, if he did. The liquor retailer appealed the Superior Court ruling as being unconstitutional. Although the Rhode Island Supreme Court held that the retailer was not being denied his First Amendment Rights, Justice Murray dissented (497 A.2d.729). When the case was decided by the US Supreme Court in 1996, they affirmed Justice Murray's decisions that a complete ban on price advertising abridged the First Amendment (517 U.S 484, 116S.Ct.1495).

*Kayrouz v RI DEPCO* (1991) was an appeal on the issue of fair banking practices. Concern mounted as the Governor declared a banking emergency in January of 1991 when twelve banking institutions failed and suspended operations, leaving 190,000 depositors without access to their money. The Governor requested an opinion on the constitutionality of the Depositors Economic Protection Act (DEPCO), which the Rhode Island General Assembly passed to ameliorate the credit union disaster. In particular the Governor was concerned that provisions giving depositors priority in payment over other unsecured creditors were a violation of the Equal Protection Clause (593 A.2d.943). Murray determined that DEPCO was constitutional, based on the powers given to the legislature in the Rhode Island Constitution. Her ruling ensured that all depositors were to be reimbursed according to the law.

Chief Justice Weisberger stated that in some years substantial numbers of criminal cases became high profile, and he felt that Justice Murray's written decisions on these cases would be ones of which she was particularly proud. Her opinion on a criminal case that received the most attention nationally was *State v. Von Bulow* (1984). The Supreme Court determined that "the warrantless chemical testing of pills obtained as a result of private search of defendant's bag violated defendant's rights under the Fourth Amendment." Further the state failed to sustain the burden of proof beyond a reasonable doubt and instead used circumstantial evidence (475 A.2d.995). "She was strong, compassionate, and candid" in conference and "decisive, often writing opinions that were reasonably brief" (Weisberger Interview).

Brian B. Burns, Chief Deputy Clerk of the Supreme Court, also knew Murray as a person who understood hardship and could recognize this in the lives of others. From his view, this was a person who in her own life had to overcome barriers and demonstrate competence and

perseverance. After graduating from Syracuse University in 1938, Murray taught in a one-room school house on remote Prudence Island in Narragansett Bay. She went on to graduate in May 1942 as the only woman in her Boston University Law School class. She endured WAAC physical training at the World War I facilities in remote Iowa and then showed leadership as a Lt. Col. in the U.S. Army during World War II and in the Army Reserves. As the only woman lawyer in Newport, she opened her first law office above a grocery store on Thames Street. Unwavering in her determination to make a difference, she ran in the 1948 primary for the state senate against an array of stalwart opponents and was the only woman elected to the senate through 1956. Her bearing was upright and military; her demand to be heard was clear and forthright in a room filled with older men ostensibly more experienced in the art of politics and law (Burns Interview 18 June 2008).

Burns recalled that it was Murray who gave him the opportunity to enter the court system and work at a job that he enjoyed for thirty-eight years until his retirement in 2003:

It was in 1965, when I was twenty-five, that she offered me the chance for a job in the Rhode Island court system. She knew that there was an opening for Assistant Clerk of Superior Court working with Ray McCabe; she knew him while she served in the state senate for eight years. She put me in touch with Judge Condon who interviewed me for the job. I started in the job under McCabe, and then I worked under Walter Kane, and Mattie Smith. Then I became clerk of the court. In the early years, each day we rode the bus to work from Newport to Providence.

Murray had a sense about people after she talked to them. She could see whether they could be trusted with a position of authority; being male or female was not important compared to your character (Burns Interview).

Burns, who saw Murray in her courtroom in Providence, said of her trial court days:

She looked out for those citizens who came before her who needed assistance. Part of her character was being kind to those less fortunate. She was a product of the Depression and understood the value of a dollar for all walks of people. She also knew the parents of many of the young people who came before her in court.

She had a good sense of character and could decide who needed a second chance and who needed to be jailed.

Of her service on the Supreme Court, he said, “She was like her male colleagues in that she was excellent at arguing a point; she was not reluctant to take a stand.” He went on to say:

Her way of questioning in court was down to earth. She questioned in a way that anyone in the audience could understand; she avoided condescending questions. She had a knack of how to question a lawyer to get right to the point. She was also one of those judges, like Justice Powers and Justice Kelleher, who could read a fifty-page brief and pick out the issues easily, making her questions very focused (Burns Interview).

Probing questions were appropriate, but embarrassing and disparaging comments to counsel or to the accused showed lack of character (Murray Interview 20 April 2002). In her courtroom male and female attorneys were shown decorum and impartiality.

Former House Democratic Majority Whip John J. Hogan worked as the Court Administrator of Superior Court and knew Justice Murray from 1972. When Murray was appointed Presiding Justice of Superior Court in 1978, she called him in:

And told me to manage the calendars and put a plan together for vacations for staff. I think it was her military training. She could delegate.

Also, she was a good judge of what people could do. She had foresight and asked me to look at possibilities for judges to pay into the state retirement system and to develop a state salary plan for judges. She was planning ahead and five years later we moved in that direction.

Hogan also recalled that Murray was not afraid to take on the backlog of cases:

She did it by appointing Judge Joseph Rodgers, who was new on the bench, to be in charge of the criminal calendar. She let him select three friends who were



judges. He cleaned up the calendar, brought it down from 5000 cases, resolving all but seven hundred and eighty.

Murray was responsible for Hogan attending national courses and conferences on professional court administration. She told him that his position was “every bit as important as a judge” in the overall success of the court. When she saw problems she showed dogged persistence until she reached a solution (Hogan Interview 9 June 2011).

Notably, “she never forgot when someone helped her and she did everything in her power to help others.” She believed in equality of opportunity for anyone who was qualified. She did not make a deal of what she as a woman should have. “She just did things that she saw needed to be done. She was supportive of women and men; she absolutely believed in hiring the best qualified” (Hogan Interview).

While Murray served as a trial court judge in the 1960s and 1970s, she took on leadership roles in state and national judicial organizations. She helped plan the programs for the yearly Rhode Island Judicial Conference from its inception in 1960. These gatherings educated judges about proposed changes in the court system. Murray was an active participant in the National Conference of State Trial Judges, founded in 1958, and the National Judicial College (NJC), founded in 1964 by U.S. Supreme Court Justice Tom Clark. At the NJC she took courses in the 1960s and then served on the Executive Board.

By 1972, with Congressional approval of the Equal Rights Amendment (ERA) and Title IX of the Education Amendments, “a specialty of feminist law developed pursuing cases, where women alleged discrimination on the basis of sex” (Mathews 236-237). As a result of Title IX, which barred sexual discrimination in law schools, a host of elite private undergraduate universities opened to women (239). Women undergraduates of these once traditionally male institutions achieved honors and gained entrance to prestigious law schools (234-235). As the numbers of women lawyers increased, the National Center for State Courts (NCSC), founded in 1971, began to collect data, noting that nine per cent of those enrolled in law school were women. Although women lawyers comprised fifteen percent of practicing attorneys, they only held four percent of judgeships.

With Murray's input, judicial education became more expansive to include developments in women's issues, technology, and sentencing, the media, and medical breakthroughs. According to Ben F. Overton, Associate Justice of the Supreme Court of Florida, "She led the way in placing women into the judicial education process and in ensuring a diverse course of study relating to gender and diversity issues" (Overton 1996). "As one of the first jurists to recognize the need for professional management in an increasingly complex judiciary, she was an early advocate of trained judicial administrators using new technology" (Dressel 25 November 2003).

The campus in Reno, Nevada had the resources and in her professional endeavors Murray helped affect change. Ernest C. Friesen, first Dean of the National Judicial College (NJC) in Reno, Nevada set up the first courses on administration and management of the courts. A California professor of law and professional associate of Chief Justice Warren Burger, Friesen organized a quality program with experts from all over the country.

There really was no large scale judicial education for sitting judges, except at New York University, which ran an annual seminar for appellate court judges. There were many negative people, who thought that judges did not need seminars, nor would they attend even if the sessions were offered. She disagreed. She was a pathfinder for judicial education for both the experienced judge and new judges.

We had a group of us from the American Bar Association, the American Judicature Society, and the Institute of Judicial Administration, pushing for judicial education with Supreme Court Justice Tom Clark in the forefront. Judge Murray was persuasive in her proposals for workshops and seminars (Friesen Interview 21 January 2012).

Friesen recalled that Murray became an executive board member of the National Judicial College and moved into the Chairmanship of the NJC Board in 1978. The institution was undergoing financial difficulties that were remedied when she worked to secure funding outside the aegis of the American Bar Association.

She was selected for the position because of her intelligence and the ability to take a strong stand and hold fast to her position. In that role I saw her as a worker in the vineyards for judicial administration and education. She handled the difficult personnel issues of the organization including changes of deans and funding.

From Professor Friesen's view, Murray had a good sense of humor, was aware of how to interact with others, and had a "good antenna for the feelings of others." At the same time, she was skillful in analyzing problems and people. She was "empathetic but also pragmatic and practical." She approached solutions "from the inside of the organization rather than attacking from the outside. Her belief was that by participation you could effect change, -- not by protest." She was accomplished as an administrator but was equally an astute politician.

Dean Friesen worked with Justice Murray for many decades. They were of one mind in noting that her goals both local and national were designed to engage others and change attitudes. She worked for the betterment of children and women, for those in urban and historic settings, and to support legal and contractual rights. As a judge she demonstrated her intelligence and concern, showing that she was strong-willed, yet could be flexible when the situation required tact. Murray did not believe in quotas for affirmative action. Rather her mantra was to use your knowledge and skills and go after every opportunity. She demonstrated ethical behavior and expected the same from those to whom she gave her trust (Friesen Interview). Murray was ever the educator to the extent of pushing for court personnel to extend their experiences beyond the courtroom. When Judge Murray passed away in 2004 at the age of eighty-seven her contributions to the NJC totaled more than \$60,000. She left a bequest to the college of nearly \$45,000 for its endowment, ensuring that she not only supported the institution throughout her lifetime, but also for many future years to come (Raits 2012).

### **Another Side of Murray: Service on National and State Commissions**

In the first decade that Murray served in the Rhode Island judiciary (1956-1966) American society was rapidly changing. As a voting block, women supported the Democratic Party

presidential candidate John F. Kennedy, who promised a new public policy for women. In 1961, Kennedy selected Esther Peterson and Eleanor Roosevelt to coordinate the Presidential Commission on the Status of Women (Matthews 1992, 227-228). Judge Murray received an appointment to serve the PCSW as a member of the Committee on Political and Civil Rights, along with other members of the legal profession, such as Pauli Murray, a civil rights activist. The group also included leaders of labor and women's organizations. Members of their committee called for passage of the Equal Rights Amendment, federal funding of daycare for children of working mothers, and the abolition of laws that excluded women from owning property, having legal control over their earnings, and from jury duty. In their view each of these discriminatory laws denied women their rights as citizens ("Information Paper on Political and Rights" 1962).

As a result of the work of the PCSW, two laws emerged: the Equal Pay Act of 1963 and the 1964 Civil Rights Act. Title VII of the 1964 Act prohibits sex discrimination in employment. Out of this law came the Equal Rights Employment Opportunity Commission (EEOC), which helped heighten women's realization that legal redress on issues of discrimination would be taken seriously (Harrison 1988, 185). The Kennedy Commission was a force that helped generate a rebirth of women activists, including the 1966 formation of National Organization for Women (NOW) (Matthews 229-230). The aim of this group was to transform women's attitudes and the goals of millions of women and men in the work force.

Not only was Murray outspoken about a woman's right to equal pay, but also she volunteered her time and energies to public service. The decade of the 1970s saw the creation of federal funding for humanities and the arts and the celebration of the bicentennial of the nation. Justice Murray took a role in expanding citizen opportunities. Contemporaries recalled their collegial work with the judge: Executive Director of the Rhode Island Council for the Humanities, Thomas F. Roberts; Bicentennial Chairman, lawyer, and author, Patrick T. Conley; Executive Director of the Rhode Island Historical Society, Albert T. Klyberg; and the Mayor of Newport, Robert J. McKenna.

When Senator Claiborne Pell was able to secure passage of the National Endowment for Humanities in 1972, Pell suggested that Murray be the chairperson of the Rhode Island Council for the Humanities (RICH). She in turn selected a young man named Thomas F. Roberts as her Executive Director for RICH. Roberts confirmed that his opportunity to serve (1972-1995) was

made possible by Murray's confidence in him. He had known the judge since high school when he went to the courthouse to visit his father Judge Thomas H. Roberts. He recalled many conversations of substance with Justice Murray. In 1971, when she secured the funding for a pilot humanities program in Rhode Island, one of twelve selected by the new National Endowment for the Humanities, Justice Murray called him in to discuss his goals and interests. As Justice Murray explained to him, "Anyone who had the energy and personality to accomplish the job should have a chance." From Roberts' perspective, Murray was a person who "would carry you the extra mile in order to give you the chance of a lifetime. Once she put her trust in you to do a job, you knew it did not matter whether you were a man or a woman, she was expecting a certain caliber of performance" (Roberts Interview 12 January 2008).

Executive Director Roberts noted that as Chairman of the RICH Board from 1972 to 1979, Murray "championed a broad interpretation of public scholarship for grants. She wanted to reach what we call the underserved." The results were obvious, when a bus driver, Scott Molloy, who had returned to get his college degree, was funded; Molloy went on to publish a book (Roberts Interview). In 1972, RICH began with a \$30,000 grant and dispersed over a quarter of a million dollars by the time that Murray left the Board in 1979. Murray viewed the chance to serve as a way to promote "projects that explore ideas and generate discussion. It keeps the spirit of dissent alive, and this is most important to a free society" (Walldraff 1980, 56).

Another story shows how Murray dealt with discontent. Twice the Rhode Island Historical Society had proposed projects. Al Klyberg wrote a thoughtful, but critical, letter about RICH's constant rejection of funding for his proposals. "Florence's answer was to get him on the Board and with his help change the dominant views. Her way of solving problems often meant listening to dissent and reaching some compromise." Klyberg joined the RICH Board and, by the time Murray departed there was no requirement to have projects geared only to public policy (Roberts Interview).

Roberts remembered that Justice Murray "eschewed the word feminist." He recalled a conversation with her on army life in the 1940s. As an officer she argued successfully, asserting her view, and kept physically strong so that she could compete. But you should still look good as a woman in uniform while you did all of this. When Judge Murray became the leading officer of RICH, "she insisted on being called chairman, not chair, which she said was commonly

understood to be a piece of furniture.” And yet Executive Director Roberts reflected that the judge “firmly supported women’s issues in relation to the projects that came before us on RICH.” She championed many women who submitted proposals (Roberts Interview).

Professor, historian, and attorney Patrick T. Conley first met Judge Murray when she served on Superior Court as Rhode Island prepared for the 1976 celebration activities relating to the U.S. Bicentennial of Independence. (Figure 5) He commented that her value to Rhode Island was evident when she was inducted into the Rhode Island Heritage Hall of Fame in 1980 after becoming the first woman Supreme Court judge in all of New England. Murray had already made a contribution to history; induction was usually awarded to individuals after their deaths. When Attorney Conley came before Justice Murray at the Supreme Court, his expertise was the Rhode Island Constitution and tax titles. He viewed Justice Murray as “bright, well versed in the law, crisp and decisive in her opinions. She had a sharp mind and was quick on the uptake to ascertain situations” (Conley Interview 20 February 2008).

Later, in 1988, the two of them joined forces to establish the Supreme Court Historical Society to encourage historical research and provide debates on issues of importance to the Supreme Court. Most citizens knew very little about the working of the Rhode Island Supreme Court, so this organization provided a forum for sharing information with the public.

At that time Rhode Island was celebrating the 200<sup>th</sup> anniversary of the state constitution, the United States Constitution and Bill of Rights. The state legislature with the support of Murray's good friend, House Speaker Matthew Smith, established a fund to provide for programs that would bring the Rhode Island courts into public understanding. In deciding which proposals were funded, Conley, who is Rhode Island’s Historian Laureate, commented that together “they approved scholars of judicial history from all walks of life.” Further, Justice Murray was inclusive of all, never promoting women over men. “Murray had a definite interest in history and the academic study of the courts; she saw the chance for debate as a way to explore ideas and generate discussion in a free society.” Together they staged a statewide discussion in 1991 on each of the first ten amendments to the US Constitution, called “Forums for Freedom: Rhode Island Debates the Bill of Rights” (Conley Interview).

In 2005, shortly after Murray's death Conley wrote a reflection about Murray at the request of the *Rhode Island Bar Journal* (May/June 2005) entitled “Florence Murray: Rhode Island's Woman of the Century,” ranking her with other such women: Anne Marbury Hutchinson

of the seventeenth century; Sarah Updike Goddard of the eighteenth century; and Elizabeth Buffum Chace of the nineteenth century.

Former Executive Director of the Rhode Island Historical Society, Albert T. Klyberg elaborated on the influence of Murray in expanding the audience for Rhode Island's history. From her perspective the Supreme Court Historical Society was a vehicle for promoting knowledge about the courts to the public. "She was at a juncture in her professional position and was concerned that the average citizen did not know much about the courts or the legal tradition in Rhode Island." The executive committee for the Supreme Court Historical Society would meet over lunch in her office at the courthouse. One year they funded public forums at the former State Houses, in Newport, Woonsocket and Bristol. The nights were advertised in libraries and were very well attended. They also funded traveling exhibits of documents and such publications as *The Documentary History of the Destruction of the Gaspee* and *Broadsides of the Dorr Rebellion*. Another goal was publication of an inventory of the portraits of all judges in Rhode Island history (Klyberg Interview 18 July 2011).

Mr. Klyberg remembers that Justice Murray was "approachable, reasonable and a person of great accomplishment who did not toot her own horn." He recalled a story she told of the first time she went for lunch as a judge at the University Club across from the Court House.

She was told that no woman was allowed to enter the club through the front door. She took the slight but recognized that there was work to be done to change this remnant of male exclusivity. When she was a victim of bias or slight, she found ways to change things.

That exclusion at the University Club did not last long.

Murray was always aware of ethical considerations. When she retired from the Supreme Court in 1996, the Supreme Court Historical Society decided to transfer the \$133,000 in its treasury to the Rhode Island Foundation. "We had been funded by legislative grants from the Rhode Island General Assembly over the years and this seemed to be the best way to return the money to the people of the state."

Former mayor of Newport, Robert J. McKenna (1931-2012) saw Justice Murray as a public servant who promoted equal opportunity for all. He first met her when she served on the board of trustees at Salve Regina College in the 1960s and he was a professor of politics. Later he spent sixteen years in the Rhode Island Senate (1968-1984) and was Mayor of Newport (1988-1993). In various public meetings and discussions in Providence and Newport he came to understand Murray as an individual who “believed in and voiced strong opinions on: non discrimination in jobs; spending of tax dollars for education; preserving historic sites in Newport; establishing cordial relationships with Japan with the Black Ships Festival and a sister city program.” She was also an asset to the action of any committee, whether it was: arranging activities for the Bicentennial; developing a plan for state scholarships; creating a trust for Fort Adams park; or planning the Irish Heritage Museum in Newport.

In addition, McKenna served with Justice Murray on the Rhode Island Blue Cross-Blue Shield Board. Justice Murray was on either the board or the corporation for a total of fifty-two years (1952-2004). This board was a state creation to make certain that insurance was provided for all citizens. Board members were not paid. During the twenty-five years that McKenna served, beginning in 1976, he drove Justice Murray to meetings. He learned about: her service as a leader of the Women’s Army Corps 1942-1948; her career as a state legislator and chairman of the Newport School Committee; and some of her trial court experiences (McKenna Interview 5 January 2008).

Murray worked her entire life in fields that most people would consider male dominated, specifically the military, the state house, and the judiciary. She told Mayor McKenna stories of boot camp in 1942 at Des Moines, Iowa, where she learned the importance of physical strength and mental toughness from male officers. In other posts she met her share of males, whose remarks demonstrated they did not want women in their army. She proved them wrong by her ability to complete the required tasks efficiently and effectively. When she first ran for public office in 1948, the newspapers referred to her as a “local girl.” In fact, she had been in state leadership positions of the National Association of Women Lawyers, the Business and Professional Women’s Club, the American Association of University Women, the Boys and Girls Clubs of America, and the American Red Cross.

Murray understood the importance of a social network as much as any male candidate and gave years of her life to community service. In the Senate, the bills she offered and the



knowledge she showed garnered her leadership roles on legislative committees. When she entered the courthouses of Rhode Island in 1956, the judges and staff were used to an all-male system, but she was unafraid. Intensity of intellect yet sensitivity of inquiry would do much to change entrenched gendered views.

Mayor McKenna reflected that it was perhaps a result of her experiences that Murray believed:

Everyone should have the opportunity to succeed. She opposed discrimination in every form. She believed that there were many people like her who had the intelligence and drive to do important things. They just need to have the chance (McKenna Interview)

Over the course of four decades, McKenna watched Murray's interactions and concluded that she was willing to talk and listen to anyone from any class or walk of life; she held firm to an equal opportunity agenda.

Justice Murray demonstrated her professional acumen and her sense of friendship with her male colleagues. She felt at ease and was respected by many men for her equanimity, intelligence, and accomplishments in public service. In each of her roles, as chairman of RICH, as President of the Supreme Court Historical Society, as senator, and as legislator, Murray fostered and furthered civic education and discussion.

### **Justice Murray in Rhode Island: Clerkships that Mattered**

One way that Justice Murray directly affected lasting change in Rhode Island judicial institutions was through her selection and support of law clerks. Beginning in 1968 in Superior Court and continuing during her years on the Supreme Court, there was a pool of law clerks established to help the judges to research cases. Arguably, Murray had a hand in molding the career direction of new lawyers. She often selected individuals who were older or in the process of changing fields, taking into account previous life experiences. She had a willingness to give people a new opportunity.

Murray viewed her law clerks with a great sense of trust and became so close to many of them that they became her extended family, -- despite the fact that there were nearly three dozen clerks over the years (Murray Interview 31 August 1999). Justice Murray would give these apprentices a half-page summary of her initial suggestions of how the case should be decided and have them flesh out the opinion. Her directions were that opinions should be “meaningful to counsel, the court and the public, rather than an official legal treatise.” She wanted to get to the point so that ordinary citizens would understand the court’s ruling.” Murray told her law clerks to “make it lean, clean and mean. Look for the error in the application to the law; determine if the case law does or does not sustain it; and recognize the imperfection of decisions” (Murray Interview 10 August 2001). Murray appreciated their thoroughness and dependability and their willingness to follow her rule of complete confidentiality. One of her law clerks was Patrick Cunningham, who today serves as Administrative Assistant to Chief Justice Mary V. Lisi of U.S. District Court. He recalled how Murray guided them.

She did not want flowery language or erudite words. She wanted people to understand what the court’s ruling was. The meaning should be obvious and clear to whoever read the opinion. Hers was a legal mind but tempered with a common sense approach to the law (Cunningham Interview 13 June 2011)

While on the Supreme Court, Murray continually recommended her clerks for the many judicial and legislative committee appointments and Cunningham was so favored. When an opening occurred with Judge Lisi, she told Cunningham to apply. She could visualize how a person could make the fit and do the job. Further, Justice Murray would call and give her recommendation (Cunningham Interview). Of the thirty-five law clerks with whom Justice Murray worked, many went on to other positions in the Rhode Island courts: Janet Bertness, Alice Gibney, John McGann, Kristin Rodgers, and George Salem became judges in Rhode Island; Susan Ayrassian, Stephen Rodio, James Ruggieri, Mal Salvadore, and Bruce Vealey became well known Rhode Island attorneys. While Richard Hertling, John Hogan Jr., and Steven Kramer served in federal government positions, William Bloomer became a U.S. Attorney in Boston.

Two of her five law clerks, who are now Rhode Island judges, were interviewed and reflected on their experiences with Justice Murray as a mentor. One such law clerk who became

a judge with the support of Murray is Alice B. Gibney, the Presiding Justice of Superior Court since 2009, after serving on the Court since 1984. A second former law clerk is Associate Judge Janet A. Bertness, who has been on the Workers' Compensation Court since 1993.

Presiding Justice Gibney served as a law clerk while Murray was presiding judge of Superior Court.

I saw her as a judge attuned to personal intangible aspects of a case. When she read over a file, she would ask questions, such as: "Why is the kid in such a jam? What is happening at home? She took a personal interest in lawyers and litigants involved in the cases (Gibney Interview 19 February 2008).

Judge Gibney recalled that Murray encouraged her to become an active member of the American Bar Association chapter in Rhode Island and to participate in the National Association of Women Lawyers (NAWL). Later, when an opening occurred on the Court, Gibney felt ready to apply, since Murray as a mentor had been encouraging her along the important avenues for acquiring knowledge, skills, and a network of friends.

Associate Judge Janet A. Bertness, who has been on the Workers' Compensation Court since 1993 recalled:

It was 1986 and I was eight months pregnant; I was in my last year at Suffolk Law and I applied to become Justice Murray's law clerk. I assured her that if I got the job that I would be there even though I would have an infant.

Justice Murray saw potential in Bertness as well as the right temperament, so she hired her. Later, Murray asked Bertness to research the history of women in the law for the Jackson Lecture that Murray was to give at the National Judicial College. That research sparked interest and concern in Bertness about the need for women lawyers to be pro-active in the profession (Bertness Interview 16 February 2008). It was also an opportunity for Justice Murray to discuss her position on Kennedy's Presidential Commission on the Status of Women with Eleanor Roosevelt in 1963 and her role as a founder of the National Association of Women Judges in 1980.

Judge Bertness also related her experiences of the late 1980s and early 1990s, when Bertness worked as an attorney for the law firm of Roberts, Carroll, Feldstein, and Peirce, pleading cases before the Rhode Island Supreme Court:

On the court her questions to the lawyers were directed not to other legal opinions, not to show her knowledge of other cases, but rather to the human side of the case. She was a judge who paid attention to details that could make or break the case for the persons involved. She treated each case with respect for the parties involved and the effects of the court's decision on their lives (Bertness Interview).

Finally, when an opening occurred on the Workers' Compensation Court, Justice Murray gave Bertness her unconditional support. She told Bertness that she had "the brains and qualifications" to file for the judgeship. When the important day arrived, Justice Murray purchased a judge's robe and formally robed Judge Bertness at the swearing in ceremony.

### **Influence on Other Women Lawyers to Seek Judgeships**

Supreme Court Justice Murray was well aware of the need for judicial reforms and joined with ninety-nine other judges to form the National Association of Women Judges in 1979. These judges sought to: ensure equal justice and access to the courts; provide judicial education; and increase the number of women on the bench. Murray also created an award which is presented annually to a nominee who is not a judge,-- one who has, by example or otherwise, influenced women to pursue legal careers, opened doors for women attorneys, or advanced opportunities for women within the legal profession ("National Association of Women Judges History" 2010)

In the 1980s, the American Bar Association (ABA) and the NCSC encouraged the formation of task forces in each state to investigate gender bias, issue recommendations to eliminate the problems, and form organizations to supervise the elimination of gender bias. Almost immediately, the state supreme courts in thirty-one states established task forces with membership from the legal profession. The task forces considered a myriad of conditions,

including bias in the legal profession, the percent of law professors by gender, courtroom interactions, personnel policies, and the gender of judgeships (Kearney and Sellers 1996, 588). The task forces of the 1980s also scrutinized the “gatekeepers,” i.e. those who selected nominees from the applicant pool, noting that their attitudes and characteristics were important keys to judicial appointment of women (Githens 1995, 1). Thirty-five states published reports which documented bias and pointed to hurdles that existed for women witnesses and lawyers. For example, in Rhode Island, the appointment of the second woman to the courts, Corinne P. Grande in 1969, came twelve years after Murray; and it would be eleven years before another woman was seated at the bench.

The 1980s saw the appointments to the bench of Haiganush R. Bedrosian (1980), Alice B. Gibney (1984), Lillian M. Almeida (1986), and Melanie W. Thunberg (1987). By the end of the 1990s, nineteen percent of professors at law schools nationwide were women as were eight percent of law school deans. The gatekeepers for committees nominating judges also changed. There was an increase in the number of Rhode Island women who were appointed to the court. Interviewed were four of these judges: Maureen McKenna Goldberg, Mary M. Lisi, Judith A. Savage, and Netti C. Vogel, all of whom viewed Murray as a model and helpful mentor.

As a young attorney, working in the office of Attorney General Dennis Roberts II, attorney McKenna appeared before Justice Murray at the Supreme Court many times to argue cases. “I appreciated her smile and the wink in her eye that I had done well.” Later, McKenna worked with Justice Murray on the Supreme Court’s Committee to Develop Rules of Evidence. She viewed Murray as a keen judicial mind (McKenna Goldberg Interview 12 January 2008).

When Murray retired from the Court in 1996, McKenna Goldberg recalled that Murray told her that you have to be willing to get out there and put your hat in the ring. “No one is going to hand anything to you.” Murray told Goldberg that she had applied twice for the Supreme Court before she actually attained the nomination. The first time Thomas Kelleher was appointed; the second time Joseph Weisberger got the nod.

She supported strongly the candidacies of Susan McGuirl, Janet Bertness, Mary Lisi, Alice Gibney, and me to get judgeships.

In 1996, she helped me by just being there when I went to the Senate for my confirmation hearings for the Supreme Court position. She walked into the

chamber and the room was electrified by her presence. At the end she came out with me and raised my arm in a victory pose that appeared prominently in the *Providence Journal* (Goldberg Interview).

Murray saw the importance of using her political capital to support individuals who were capable of being effective members of the judiciary.

Judge McKenna Goldberg also shared the importance Murray placed on the role of wife. Judge Murray admired and encouraged her husband's career in local and federal positions. Murray also depended upon him as caregiver to their five-year-old son as she achieved her first judgeship. "To have a partner in life who could be your sounding board and your dearest friend is what she found in Paul Murray, her husband of 50 years." Theirs was truly a marriage of friendship and equality. US District Attorney Paul Murray helped Justice Murray to stay centered through his genuine interest and support of her endeavors (Goldberg Interview).

Another Rhode Island jurist who acknowledged the support of Murray is Mary M. Lisi, Chief Judge of U.S. District Court since 2006, and member of that court since 1994. On a winter's day, sitting next to an ornate marble fireplace in her office, Justice Lisi explained that she was a public defender from 1977-1981 when Justice Murray was duty judge on the Supreme Court. Although she did not always win, Lisi found Murray to be fair. Later, from 1988 to 1990, Lisi took on the position of Deputy Disciplinary Counsel to the Supreme Court and then Chief Disciplinary Counsel 1990-1994. She presented cases on a regular basis before the Supreme Court, but these sessions were in conference and not for public view.

The attempt here was to preserve the privacy of the lawyer or judge who was being accused of ethics violations in order that they might continue to have a personal livelihood if they were not found to be in violation. The questions involved the facts and possible sanctions.

Murray was a Supreme Court Justice who like her colleagues listened with dignity, courtesy and fairness to the lawyers who came before her. She was also multi-dimensional; her many and varied experiences affected her court opinions (Lisi Interview)

21 February 2008).

Chief Justice Lisi also remembered that she did not originally seek a position on the U.S. District Court, but that Justice Murray told her that she was qualified to be a federal judge.

She had seen me modernize the disciplinary counsel office, streamlining complaints by moving quickly on those in our jurisdiction. I was also involved in the American Bar Association which she strongly supported. So, both personally and professionally, she thought I had the temperament and the emotional stability to handle the federal court position. In 1993, she championed me with her good friend, Senator of Rhode Island, Claiborne Pell. President Clinton made my appointment in January of 1994.

Chief Justice Mary M. Lisi saw Justice Murray as someone who was comfortable working with men whether in the army, the statehouse, or the courts.

She did not get into anyone's face to cause arguments. She set up herself as a model 'can do person.' She showed it was possible to be good at all three, being a mother, wife, and lawyer-judge. In fact, she told us to be a good wife to our husbands as they were as important as the career; they were a source of companionship and closest friendship. By her life she showed us that women could do anything effectively.

Murray also guided three additional lawyers toward judgeships by her words of encouragement and discussions on why to apply for a judgeship: Judith C. Savage, Netti C. Vogel and Colleen M. Hastings. Associate Justice Savage, who has been on Superior Court since 1993, noticed for the first time in 1972 how important the women lawyer network could be when women law clerks and women lawyers met for dinner:

Murray used the gatherings as teaching moments, as a time to make us aware of possibilities. Justice Murray understood the importance of the political. She was exceptionally sensitive to our role as lawyers in firms where there were

limitations for women's advancement. She also understood how important professional development could be to keep us aware of changes in the law and the need to get the qualifications. She encouraged us to take courses at the National Judicial College (Savage Interview 19 February 2008).

Murray's circle of friends included young lawyers who felt they could learn from her experiences.

Associate Justice Vogel, who has been on the Superior Court since 1994, recalled appearing before Judge Murray for the first time in 1975 as a lawyer for a civil litigation firm in Providence. She was arguing motions for the senior lawyers in the firm and came before Judge Murray probably three times a week at one point.

She was outspoken about most things; I never heard her reticent on issues. But she did have a tendency to deny motions without prejudice. What that meant is that on the surface, something was not right, and she wanted to find out more. Therefore she was giving the moving party the right to re-file the motion in the event that new material or issues arise. Particularly, if the case involved people whose names she knew, she would say let's call him and find out what's happening. If a person did not show up, she was willing to give them another chance, to call and find out what happened (Vogel Interview 19 February 2008).

There was also a situation where a male lawyer, who did not respect women lawyers, openly criticized women attorneys. One day Judge Murray denied all of the male attorney's motions and granted all fifteen of Vogel's to point out to him that he was using sexually discriminating comments. Finally, Justice Vogel discussed Murray's advice on how to get a position in the judiciary, "Go after it."

When Murray wanted the Presiding Justice position in Superior Court, she politicked to get the women's groups to write letters in her behalf to the state legislature. She said that you couldn't be shy about it. She expected them to be there for her as she had forged a path for other women. You had to speak your



piece. In numbers women would have power. Murray was political, pragmatic, and savvy about the role of women (Vogel Interview).

Judge Colleen M. Hastings recently appointed in 2011 to the Rhode Island District Court recalled the important role of Justice Murray in bringing her to an awareness of the need for opportunity and fairness. In fact, her first image of the judge was of a diminutive person, talking to her dad who was a big man at two hundred and seventy-five pounds, dressing him down as the head of the Boys Club for not providing summer camp for girls. In the 1960s Murray worked to open a Girls Club in Newport so that young women who lived in the poorer neighborhoods such as Park Holm in Newport could have similar opportunities for summer camp and after school activities as did boys. When Hastings dad passed away while she was in college, Justice Murray wrote and spoke to her frequently encouraging her to go to law school and not give up:

Continue your education. The worst thing you can do is get a few bucks in your pocket and stop school. Get a law degree and you can still do what you want. A law degree will make you more marketable. If what you want to do is advocate for children, there is no better way; law is a vehicle for social change (Hastings Interview 18 August 2011).

Justice Murray had worked in 1961 to create the Rhode Island Family Court and noted first hand how the court changed the approach to family issues. She also had the experiences of a judge working with families. She saw the field of law as an important path to use one's skills, talents, and interests. As Judge Hastings recalled, "Her constant encouragement made it possible for me to continue to challenge myself, finish law school, and then to apply for a clerkship with Chief Justice Frank Boyle in US District Court." In fact, she also steered Hastings toward a position working as Assistant City Solicitor for the City of Newport. Murray said that "you had to persevere through the ebb and flow of life" in order to succeed (Hastings Interview).

Men and women lawyers followed Murray's advice on the path to judgeships. They were influenced by her counsel to broaden their legal and judicial education in a variety of ways: volunteer to serve in difficult assignments; demonstrate decisiveness on issues based on a thorough understanding of the law; show respect to others and whenever there was a chance to

help someone, do so. These directives made Murray a role model or mentor for many who became judges, -- five in the 1980s, five in the 1990s, and five more in the early twenty-first century.

The judges interviewed agree that Murray placed a condition on achievement: one woman pioneer makes a path, many women follow who help out the others.

Justice Murray knocked down many doors, but before she marched through, she looked back to see that we were coming in with her and found ways to get us there. She reminded us of the importance that women remain respected for their feminine qualities of caring and compassion in both private and public life (McKenna Goldberg Interview).

ABA data shows that the number of women who served as state judges in the 1980s climbed increasingly in the 1990s. Nationally, women represented over forty percent of law school graduates and as members of law firms (French 1999). For Murray the two requirements for judgeships were opportunity and access. Murray's efforts in Rhode Island and through national judicial organizations focused on educating and raising awareness as well as support for young lawyers; all three were essential to her legacy. Today there are twenty-four women judges, who represent thirty-six percent of the sixty-six judges presiding over Rhode Island courts ("Rhode Island Judicial Roster"). Nationwide twenty-six percent of judgeships in states (almost 5,000 out of nearly 18,000 judgeships) are filled by women (Refki 2012).

Pulitzer Prize winning journalist Tracey Breton sums up the qualities that others recognized in Judge Murray. From Breton's experience in reporting on both the Superior and Supreme Courts from 1973-1993 for the *Providence Journal Bulletin* she states:

She listened to the facts and asked questions particular to the human side. She wanted to understand the people behind the cases, how the politics and laws affected them. She had street smarts about people. She was outcome-oriented. Her strength as a judge was in looking at cases from a personal view as much as a legal one. In her questioning about the victim, the defendant, or the parties in the suits, she asked common sense questions about people's needs. She wanted to

know how the law affected them, i.e. what would happen to them as a result of one decision or another?

While she was a judge on Superior Court and the Supreme Court, I thought her questioning technique reflected her background as a legislator, mother, army leader, and humanist, -- not specifically from a female point of view.

She did push, encourage, and support women to go into law because of its importance as a career and the need for women to be in a field where important societal decisions were made.

In the final analysis, the women lawyers and judges understood that a high level of professionalism was essential. To get a job done right you did not have to be a man; you just had to do it right, being fair, decisive, using your intelligence and your understanding of human problems (Tracey Breton 17 February 2008).

### **Conclusions**

In the 1990s many accolades were bestowed on Justice Murray. President Bill Clinton appointed her to serve on the State Justice Institute, an organization determining grants for judicial organizations. Supreme Court Justice Sandra Day O'Connor, who was a colleague on the Institute Board, said Murray herself was a model in doing what was absolutely necessary for success.

Murray did not complain about situations where most women felt discriminated against; she did not talk about how hard it was with the professors in law school or the favoritism toward men in job interviews. Murray talked instead of how to rise above those situations in order to accomplish and achieve your goals (O'Connor 14 May 2004).

The crowning glory for all her accomplishments was the dedication and renaming of the refurbished Newport County Courthouse in her honor on the 24<sup>th</sup> of June 1990. It was the first courthouse facility in the United States to be dedicated to a woman jurist. Murray received this singular honor while she was still a sitting justice. (She retired in 1996.)

During the 1990s Justice Murray took on voluntary roles relating to legal education. She was an educator in terms of young lawyers, presiding a dozen times in their formal admission to the Bar; she encouraged lawyers to continue their legal education and seek judgeships or other high profile judicial/legal positions that would make positive images of the legal profession in the public view. She boldly spoke at high school graduations and other community celebrations such as Law Day, encouraging young people to seek careers in politics, government service, the law, and the courts. Through her service in legal and judicial organizations, Murray spoke at gatherings of politicians and judges on the national scene about the importance of equal opportunity for positions in the judiciary.

When she retired from the Rhode Island Supreme Court in 1996, Justice Murray was one of sixty women in the nation who had served on a state supreme court (Refki 2012). Newspaper headlines read “Distinguished. Deliberate. Decisive.” Murray was a very hard-working judge similar to her male colleagues. She used her intelligence and knowledge of the law to hand down decisions based on fairness (Callahan 1996). At the same time, Murray was known for her compassion, often identifying issues that involved women and families. She was comfortable with people of all walks of life and would stop and talk to them in the courthouse corridor or on a city sidewalk. While several Rhode Island judges succumbed to conflicts of interest, Murray was highly respected for her ethics throughout her four decades on the Rhode Island judiciary.

Justice Murray had a firm conviction that with equal opportunity in the military, the legislature, and the courts, there would be societal transformation, specifically changes in attitudes, and subsequently in actions. The individuals interviewed for this article agreed that Justice Murray was adamant that the issues surrounding education and the workplace could only be resolved by active participation. At the core, Murray believed in encouragement and opportunity for both men and women to challenge themselves and to pursue their dreams for educational and career advancement. Justice Murray altered the perspective of what women could accomplish in Rhode Island politics, public service, law, and the judiciary.

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