

## **Arthur Seaforth Blackburn VC**

ADELAIDE TRI – SERVICE DINNER – 9 December  
2016

Mr Mess President, GPCAPT Trengove, LTCOL Mellor, distinguished guests, fellow ADF lawyers and South Australian friends; it is a great privilege for me to speak to this audience, in this place, on this night. For this week marks the centenary of the homecoming of one of South Australia's greatest heroes.

The Adelaide newspapers published 100 years ago today, on Saturday the 9<sup>th</sup> of December 1916, heavily reported a series of celebrations that commenced here the previous weekend. On the morning of Sunday the 3<sup>rd</sup> of December 1916 a steam-train from Melbourne pulled into North Terrace Station with 45 soldiers aboard.

The Premier, the Mayor and the press all met the train. They were looking for one man. At first they

couldn't find him: this modest 24 year old had ducked off to chat to his mates. But the Mayor sought him out and ordered three cheers. Arthur Seaforth Blackburn was home. He had been admitted as a solicitor in the Supreme Court barely 3 years earlier and into the 1<sup>st</sup> AIF barely 2. Only 7 weeks before, King George V had conferred the Victoria Cross upon him at Buckingham Palace.

Yes, I know at first this seems odd: a New South Welshman telling South Australians a South Australian story. But it is a rare honour in this life to speak of one of your heroes. And Arthur Blackburn is one of my heroes. Showing breathtaking courage during two world wars, Blackburn the soldier-lawyer emerges with an impish sense of humour and with a refreshingly modern approach to engage us.

Blackburn was born in Woodville in November 1892. He left St Peter's College in 1909; enrolled at Adelaide Law School, joined a militia unit at university; and

signed articles with Fenn & Hardy, a firm in King William Street.

Now, if any military lawyer here has doubts that he, or she, fits the image of the square-jawed, bronzed Anzac, let me suggest: Blackburn is the Anzac for you. Blackburn's own master solicitor, Mr C. Burton Hardy, described him as "a modest, retiring young man". When Blackburn was facing the AIF medical in 1914, Hardy said of him "we thought he had no chance of passing because he had no great physical strength" and "I don't think he ever did much in the way of athletics but I do know he started Lacrosse and had to give it up on the doctor's orders, because he was considered too delicate". Blackburn was lucky to have been medically examined by a school friend who passed him at the then bare minimum Army chest measurement of 34 inches. Although accepted, he was always very slight. This may partly explain his later finesse in dodging bullets.

But Blackburn was keen to go to war. Fire in his belly made up for his slight physique. He volunteered for the AIF; among the first to enlist, he ended up therefore in Number 1 section, Number 1 platoon in A company, 10th Battalion. On 20 October 1914 the departing 10th was cheered from here at the end of King William Street to the railway station by 10,000 people, from Port Adelaide they embarked for Albany, then Egypt, and finally Gallipoli. Before he left he took care of essentials: he took leave from the city firm, Nesbit and Nesbit and privately proposed to his 20 year-old sweetheart, Rose Kelly. There was no public engagement but what was called at the time, an 'understanding'.

10 Battalion, part of 3 Brigade, landed on Gallipoli at 4.30am, with orders to make for the third ridge, on the top of the Gallipoli Peninsula. As soon as Blackburn hit the sands of Anzac Cove, the first signs of his exceptional drive emerged. Gathering up his fellow South Australian and Saint Peter's College classmate, Phil Robin, he headed straight up the hill.

He seems to have approached this new task rather like a last minute dash to the Supreme Court to file a time-critical pleading before 4.00pm. What he and Robin achieved that day was astonishing by any standard and only revealed by war historian Charles Bean's painstaking work years later. Bean definitively concluded that these two South Australian chums reached Scrubby Knoll on top of the third and final ridge by about 8.30am. They were the only Australians in the whole campaign ever to see the glistening waters of the Dardanelles from the peninsula's ridge line. But they had no support. He and Robin had to quickly retreat from Scrubby Knoll, racing ahead of the hundreds of Turks sweeping down the ridge to Australian lines.

How Blackburn survived the first 12 hours in Gallipoli is a mystery. But he did. By then he had already proved his master solicitor Burton Hardy wrong in one way. Burton Hardy quipped later to fellow lawyers that he once thought Blackburn might be destined for an unlucky career. He said "You know

that Arthur was admitted to practice on 13 December, 1913". The superstitious types could not have been more wrong.

Blackburn not only survived; he saw continuous action on Gallipoli for the next 7 months, until his final evacuation in November 1915, two days before his 23<sup>rd</sup> birthday.

The 10th Battalion was sent to the Western Front, just in time for the battle of the Somme. The French village of Pozieres lies on a ridge which was in the British sector of the Battle. This is where on the 23<sup>rd</sup> of July 1916 Blackburn won his Victorian Cross. Pozieres was an important German defensive position. Allied forces attacked Pozieres to try and grasp this sector from the Germans. The Australians took the village but the Germans were still defending what were called the nearby "OG" trench lines. The 9<sup>th</sup> and 10<sup>th</sup> Battalions from Queensland and South Australia were ordered to eject them and secure the right flank of the allied troops.

On 23 July Blackburn led 70 men in a series of assaults to recover these strategic German trenches, dominated by enemy machine gun nests. 40 of them were killed or wounded. Throwing grenades, he and his men first recovered about 100 metres of trench and several of his men were killed. Like a solicitor in Court, he sent scribbled notes back to his CO, asking for mortar support. But the mortars failed to knock out the machine gun nests. So he pressed forward with fresh grenades, only to find a minor supply problem, the kind we are all familiar with, even now: the grenades had no detonators. So, dodging enemy machine-gun fire, he headed back to plead with his CO for artillery support. He returned once again to personally lead the next charge up the trench. In the next charge he survived but several of his men were killed or wounded. He continued returning to collect and lead more men in several more charges along these trenches. Eventually he found and linked up with the Queenslanders of the 9<sup>th</sup> Battalion, securing the line.

Bean calculates that Blackburn led 8 separate charges directly against machine gun fire, losing a few men around him each time. Starting at 5 in the morning he had cleared 370 yards of trench by 2pm. In Blackburn's own words in a letter home afterwards he said that he, "was just about collapsing", and "17 times the man behind me was killed and 22 times the man behind me was wounded". Some of Blackburn's battle notes to his CO of that day survive. They are models of composure: after facing 15 minutes of continuous German grenade throwing, he simply wrote to his CO, about the enemy's action, "my men, owing to numerous casualties and having to do the work of consolidation, are feeling its effects rather severely".

But Blackburn survived. His company commander was wounded. Blackburn took over command of D company. With typical modesty his battle report mentioned the gallantry and excellent work of his

NCO's; not his own. He was recommended for the VC but thought nothing would come of it.

Now, who of you has not just once cursed the clumsy insensitivity of Defence's bureaucracy? Well I urge you: think of Blackburn and forgive all. You would have thought that someone would have made just a little fuss about delivering the final VC announcement to Blackburn personally. But when the award was finally publicly announced in mid-September he was suffering pleurisy in hospital behind the lines. A lawyer, keen to digest the news, Blackburn casually picked up an English daily newspaper and saw that 6 soldiers had won the VC. Looking down the list he saw that he was one of them. Back in Australia the news was acclaimed.

How many senior partners of our modern large law firms could name all their current summer clerks? But it was very different in wartime 1916 and not just because firms were smaller. The articulated clerks from 1910 to 1915 had mostly enlisted. The legal

profession's Australia-wide enlistment rate was higher than the general community. Senior partners responded, just as senior partners do. They claimed bragging rights in the war exploits of their articled clerks. Blackburn was very fond of his master solicitor with whom he had done articles, Burton Hardy. But upon the Advertiser publishing news of Blackburn's VC in September 1916, the press widely reported an interview with Hardy. Hardy's youngest son had written back to his father about Blackburn, "I met your late articled clerk in the trenches yesterday and all I can say about him is that he is a perfect hero".

Blackburn suffered severely from the pleurisy and he was invalided home via Melbourne on the vessel *Karoola*. Nowadays we should be grateful for social media. Blackburn's devoted sister, Margaret, anxious to see him, left for England at the same time on the vessel, the *Osterley*. Unknown to one another they crossed *en route*.

Upon his return here 100 years ago Blackburn was feted. Saint Peter's Collegian's Association hosted a dinner for him that week, attended by the Anglican Bishop of Adelaide and Chief Justice Buchanan. Playing off some healthy interstate rivalry, during the dinner Blackburn said that he was so overwhelmed by the reception for him that "I almost wish I stayed in Melbourne", to which he got the loud and expected local audience reaction, "No fear of that". The same week he attended a service at Saint Peter's College Chapel and addressed the boys. Blackburn was not past stirring up a bit of fun on these occasions. In his speech in reply he asked the headmaster to grant the boys a holiday, saying "It was up to the boys to decide which day they had". Of course the inevitable happened. One boy in the audience called out "Tomorrow". And it was done.

Now, there is nothing like a good parochial debate to sell newspapers. Was Blackburn really South Australia's first VC? Lieutenant Hugo Thossell who had been to school for many years at Prince Alfred

College had earned a VC at Gallipoli in 1915. But you are a tough lot here. That wasn't good enough for the Adelaide press of 1916. Thossell was rejected. The press thundered, "Blackburn was the first". And the reason they gave? "Thossell is a native of Western Australia."

Early the following year Blackburn married Rose. Their first child, Richard, was born in July 1918. Richard in turn took up a legal career, went to the Bar and between 1971 and 1987 was a judge, and then Chief Justice of the Australian Capital Territory. Richard's son, Tom today still practices as a silk at the New South Wales Bar.

But what happened next marks Blackburn as special, even among VCs. Military service had changed the shy articulated clerk of 1913 into a passionate advocate of public causes, who was ever willing to use the authority of his VC in the public interest. In 1918 he entered the South Australian Parliament for the seat

of Sturt, as a member of the Nationalist party, the pro conscription party.

Blackburn helped form what became the South Australian Branch of the RSL, drafting its constitution, husbanding its limited financial resources and settling internal disputes to keep the organisation apolitical. Rose had so much patience with him. His children later told historians that he gave free legal advice and counsel to penniless and sometimes drunk soldiers who called on him at home at night, any day of the week.

Blackburn's policies were mainly to defend soldiers and their families to care for widows and orphans, and establish a South Australian soldier settlement scheme. He promoted free train passes for maimed soldiers. Perhaps it won't surprise anyone in this room but it was on this last issue that even the mild mannered Blackburn became utterly exasperated at the SA Tramways Trust, who gave lifetime first class passes to its long serving board members but not to

veterans. As Blackburn said to the Parliament, “I cannot imagine anything more petty and contemptible than to grant these [veterans] second class passes”. Blackburn pushed to relax examination of entry for returned servicemen into the public service.

But all the while Blackburn showed a great compassion, liberality and professionalism. This VC readily defended individuals charged with trading with the enemy. From sharing in the trenches, he advocated profit sharing between employers and employees to reduce industrial disputes. For so many shell shocked comrades, he advocated for a mental hospital and free medical care for the homeless. From troops playing up on leave in Cairo, he advocated the licensing of brothels.

Blackburn went back to private practice in the 1920s. Between 1933 and 1941 he became the Adelaide City Coroner. An uncommon number of his cases sadly

involved ex-soldiers who had either committed suicide or killed family members.

Blackburn was a ferocious defender of free speech and religious tolerance. His daughter Margaret said she came home one day to her father with a story that an Anglican priest had told her that her friends must never marry a Catholic as that was a sin. Blackburn was furious, he told her to ignore the wrong advice, got up from the dinner table, rang the priest and gave him a piece of his mind.

Blackburn was not left in peace. He remained active in the militia throughout the 1930s. By then he had earned the quintessential Aussie abbreviation, "Blackie". His troops were known throughout Army as "Blackie's men". When war came in 1939 he was 46. But Blackie did not hesitate to step forward again. Rose's views on this do not appear in the histories. She was plainly a very understanding woman. Blackie was promoted to LTCOL and took command of a motorised cavalry regiment. He ceased legal

practice in 1940, was appointed to command the 2/3rd Machine Gun Battalion and said goodbye to his family again.

But not the whole family stayed home. His son Richard also enlisted in the 2<sup>nd</sup> AIF in May 1940 and saw active service in North Africa and Papua New Guinea, until discharge in November 1945.

In 1941 Blackie's Machine Gun Battalion fought in Syria against the Vichy French. He and his troops found it strange to be fighting the French but the Vichy French were offering support the Germans in Iraq and the Middle East. Blackie's men were part of an invasion force sent in to take the country, which they did in a wild campaign fought over mountainous country and often at night to avoid Vichy French planes. But Blackburn took excellent care of his men. Only nine of his Battalion were killed.

You might be forgiven for thinking that Blackburn's life so far was taken from chapters of a book entitled

“Australia in the 20<sup>th</sup> Century” but what happened next is pure Australiana. In 1918 Lieutenant Colonel Arthur Olden, a West Australian dentist and one of Harry Chauvell’s 10<sup>th</sup> light horse beat Lawrence of Arabia into Damascus. Blackburn was a well-read Army man and must have been conscious of this. In the 1941 advance on Damascus the British and Free French allies were a little slower than the Australians. Blackburn raced ahead to the city and with several ceremonies in French accepted the surrender of the Mayor, then the police, and then the military garrison. He drove up and down the main streets receiving applause and the presenting of arms, saluting back and saying to his men “we were the first”. He thought it was a great lark. He later wrote home of one of these ceremonies, “Altogether it was terribly funny considering (1) I was for the moment presenting the whole British Army – and hadn’t the slightest idea what it was all about; (2) the whole ceremony was punctuated by frequent bows and salutes to me; and (3) I had no authority whatever to be present.”

Post war accounts from Blackburn's men in Syria, most of whom were then in their early 20s showed Blackie had lost none of his World War I bravado. One young lieutenant was astonished to see his commanding officer standing in the open being shelled, saying to his young charges down in the trenches, "Don't worry they won't hit you".

At the end of the campaign, Blackburn often sat as President of Courts martial and conducted his CO's table in Syria. He was no black letter lawyer. One example of this will do. Private Clarrie Painter, one of the wild men of the Battalion, came up for sentence before him on one occasion. Clarrie's mates said he was the kind of bloke who would "rather have a fight than a feed". Clarrie appeared before Blackburn on the charge and after being duly sentenced Blackie said to him, "Well Painter is there anything you would like to say?" Clarrie leaned across the table and said, "Yes Colonel, can you lend me a quid?" And of course, this CO did.

Throughout the war Blackburn was still “dad” to the family back home. In July 1941 he had just survived a furious five week battle in which 415 Australians died with countless more wounded, but which had Syria to the Allies. In the post-battle pause he wrote to his teenage daughter Rosemary about what mattered to her, “Dear Wody [as he called her], I have received several more letters from you since I last wrote to you and got a tremendous thrill out of them. You do write a good letter my dear. Keep on writing, as I can’t get too many of your letters! I was delighted to hear that you made the B team at basketball. Keep it up my dearest. Love, Dad.”

But Blackburn’s luck could not last. He became a casualty of the great contest between Churchill and Curtin about what would happen with Australia’s 7<sup>th</sup> Division, Blackie and his men boarded the *Orcades* in the Middle East. “Weary” Dunlop was on the same ship and they headed back towards Australia avoiding Japanese submarines. But they were both deposited on Sumatra. Allied Command ordered

2,000 lightly armed troops to land on Sumatra, more as a diplomatic gesture towards Dutch allies, than any realistic attempt to stop the Japanese advance. Blackburn himself described it to his own men as a “suicide mission”. They were so short of arms they had to borrow weapons from the *Orcades* ship’s armoury. Some of his men only had clubs, cut from local tree trunks. Upon landing he was promoted to Brigadier and appointed the AIF’s Southwest Pacific Commander: a grand title but a poisoned chalice. Blackburn managed to gather a force of about 3,000, including Weary Dunlop as his senior medical officer.

25,000 Japanese troops invaded Sumatra. Dutch resistance collapsed. Without air cover or tanks, and with only three mortars and 600 hand grenades and no land mines, Blackforce fought bravely, killing and wounding 100s of enemy but delaying them for only 3 or 4 days.

Ultimately Blackburn decided to surrender. His medical advice was that if they became guerrillas,

they could lose 50 per cent of their strength from tropical illness. He also sadly had to surrender his service revolver, which he had been issued here in 1914, and which he had carried through two world wars.

Something curious happened at his surrender. When Blackburn entered into the office of the Japanese Commander General Maruyama, the Japanese General and his officers stood up. Through an interpreter it was explained to Blackie that the reason for this was the Japanese wanted to pay tribute to his troops. They could not understand how such a small force could have held them up for so long.

But Blackburn never let an opportunity pass. Seizing the moment he persuaded Maruyama to add to the surrender document the words “subject to our rights as prisoners of war under the Geneva Convention of 1929”. For the next 4 years Blackburn waved this document, often unsuccessfully, in front of various

camp commandants to try and defend his men from beatings and ill treatment.

Blackburn was lucky at his age that he was not sent to the Burma Railway. But was transferred over the next 3 years through a series of appalling Japanese POW camps. He was finally liberated from Mukden, in Manchuria in 1945.

Through sheer force of character some prisoners can subdue their captors. Weary Dunlop had Japanese soldiers volunteering to be his orderlies at his operations. Nelson Mandela learned Afrikaans to win over his jailers on Robben Island. Despite the brutality meted out, Blackie always maintained diplomatic relations with and the respect of his captors, in order to save his men from the worst and to bolster their morale.

But he never lost his legal creativity. He and his men on his orders consistently refused to sign an oath promising they would obey the orders of the Nippon

Imperial Army. One day his captors pointed machine guns at them all and ordered them to sign. Blackburn finally relented, telling them, “Don’t worry; you can sign under duress and ignore it later”.

Blackburn’s health was permanently damaged by his imprisonment. After repatriation he volunteered again to lead the State RSL, continuing his public advocacy for service personnel. Prime Minister Chifley appointed him a judge of the Commonwealth Court of Conciliation and Arbitration. Later he became a director of the fledgling Trans Australia Airlines. He retired from active public service in the mid 1950s and died at the age of 68 in 1960. He is buried in the West Terrace AIF Cemetery.

Arthur Blackburn’s life speaks to us today. He was quite prepared to use the extraordinary authority of his Victoria Cross to be an advocate for tolerance, reason, fairness and the values of the ADF and the rule of law.

The message of his life is as important now as it ever was. Fortunately, few of us will ever be called on, to face the physical tests that he did. But his advocacy still resonates for us: whether it be to his Japanese captors on behalf of his men or to South Australian society on behalf of veterans, he was always courageous.

We are in need of that kind of courage right now. We live in what is now being described as a “post truth society,” where conspiracy theories of every kind flourish in public discourse. We hear extreme voices on both the left and the right. The volume has certainly been turned up.

It is not surprising in this environment that the ADF might itself become a target of public criticism. But I am optimistic that the ADF’s advocates will ensure that confidence is maintained in our Services. For us lawyers that advocacy at least includes practising to ensure that the ADF itself always remains open and publicly accountable to the Australians that it serves.

This is achieved by lawyers assisting in the giving of good and sufficient reasons for the ADF'S decisions and adopting processes that are as simple and understandable as possible to the public.

May I conclude Mr Mess President, GPCAPT Trengove and LTCOL Mellor by thanking you for Adelaide's very warm welcome to my wife Melissa and myself. It is always a pleasure for us to come to this dinner, where the fine spirit of the Adelaide Reserve Legal Panels is so evident.

May I mention two other people: first, Lieutenant Commander Julie von Doussa, who I first met in the Sea King Inquiry in 2005, and who by her efficient assistance as one of the counsel assisting team made me realise that I should work with more South Australian lawyers.

I also wish to thank Major General the Honourable Kevin Duggan. Kevin is living proof that JAGs never really retire. He was of great assistance to me earlier

this year when he broke his holiday to come and see me and others in Canberra to try and trace the outlines of a judicial structure for a permanent court-martial system, in case the Minister for Defence needed a quick answer on those issues. I am very grateful for his continued counsel and assistance to me in my discharge of my role as JAG.

I want to end by thanking you all for your service. To the ADF members here, both reserve and permanent. And to your partners, who make great sacrifices so you can serve - thank you.