
WESTERN AUSTRALIAN FORUM

A Useful Source of Western Australian Legal History



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Early Days, the journal of the Royal Western Australian Historical Society, provides an excellent starting point for research into the legal history of this State.

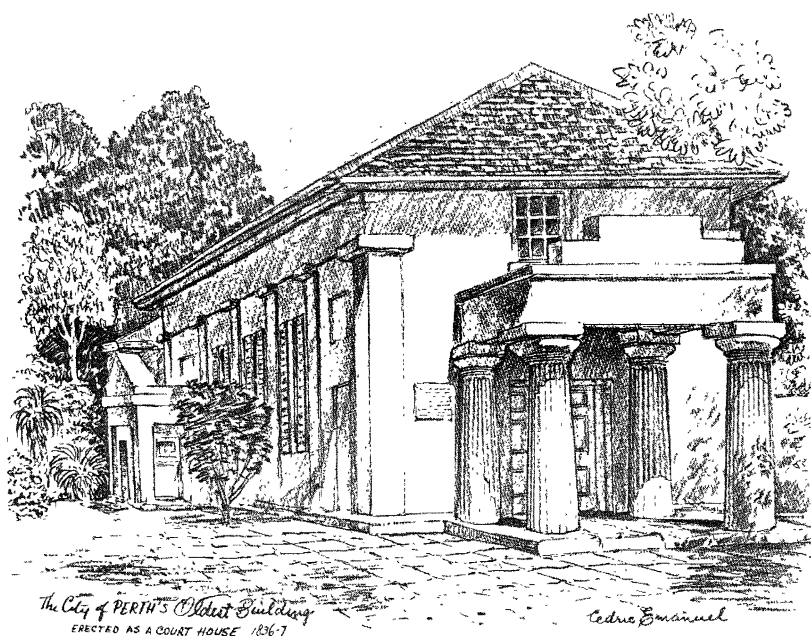
HISTORICAL research in Western Australia at the academic level has devoted little, if any, attention to the law or those involved in it. The consequence is that books and articles on this subject are fairly rare. Only the legal historian Alex Castles has sought to illuminate the sources of early law in Western Australia, albeit as part of a national examination of such sources.¹

On a local level, those interested in Western Australian legal history may be assisted by reference to *Early Days*, the journal and proceedings of the Royal Western Australian Historical Society which commenced publication in 1926. Examination of its contents shows a wide coverage of topics relating to the law in Western Australia.

Court-houses have particularly attracted the attention of writers over the years. There are references to the country court-houses at Albany, Boulder, Coolgardie, Fremantle, Geraldton, Guildford and York. A number of papers and references give the history of Perth court-houses. For example, an article by John White discusses the career of the architect of the old court-house adjacent to the Supreme Court, built in 1836.² It describes

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1. See AC Castles *An Australian Legal History* (Sydney: Law Book Co, 1982); AC Castles *Annotated Bibliography of Printed Materials on Australian Law 1788-1900* (Sydney: Law Book Co, 1994).
2. J White 'Henry Reveley, Architect and Engineer' (1976) *Early Days* Vol VII, Pt VIII, 24.



The Old Supreme Court, Perth, designed by HW Reveley³

Reveley's connection with the English poet Shelley whom he saved from drowning, a fascinating footnote to Perth legal history.

There is also copious biographical treatment of distinguished Perth lawyers and some early judges. The Burt family attracts a number of references. Included among these is the paper by Sheila McClemons which concludes with a reference to a newspaper obituary recording that the Chief Justice was 'an able lawyer, who yet never thought it was too late to learn something and who to the last kept himself read up in the discussion of the English law courts — singularly independent of all outside influence and free from personal prejudice'.⁴

Other biographical papers include references to TAL Davey (MLA), the magistrate EH Laurence and the diary of Alfred Hawes Stone. Chief Justice Onslow, Sir Walter James and Mr Justice Rooth are also the subject of writings or mention. A paper by Peter Cowan records that it was Attorney-General Draper, later Mr Justice Draper, who introduced the Bill to give

3. Pencil sketch reproduced courtesy of the Law Society of WA.

4. S McClemons 'Archibald Paull Burt, first Chief Justice of WA' (1966) *Early Days* Vol VI, Pt V, 65, 83.

women the right of election to Parliament.⁵ The ultimate result was the election of Edith Cowan to the electorate of West Perth by the defeat of the same Attorney-General, who was then appointed to the Supreme Court.

The criminal law is also well represented with vivid descriptions of prisons and gaols. The murder of George Pollard aged 17 by the 15 year old John Gaven, a Parkhurst reformatory boy, is duly recorded.⁶ Gaven, who was tried in the old court-house, became the youngest person to be hanged in the colony of Western Australia.

The legal profession receives attention. Enid Russell discusses the careers of Mackie, McFarland, GF Moore, Birnie, GF Stone, AH Stone, WL Lawrence, Vigors, Clark, Graham, Landor, Nash, Schoales, Lawson and Nathaniel Hall.⁷ Mackie is also the subject of numerous other references, having been the first person recognised as the equivalent of a judge in the colony.

Access to *Early Days* is assisted by an index covering the journal from 1927 to 1985. Unfortunately, there is no mechanism for indexing such historical material in the usual legal indices. As the profession of law adopts a business mode and increasingly responds to the economic pressures of the late 20th century, it may become more important for people to be aware of the origins of the legal profession in Western Australia and the issues which have faced it from time to time. Access to *Early Days* will facilitate that interest. It may also stimulate original scholarly research in the vast fields of the legal history of Western Australia left untouched by historians to date.

5. P Cowan 'Edith Cowan' (1976) *Early Days* Vol VII, Pt VIII, 55.

6. P Hasluck 'Early Settlers on the Murray' (1929) *Early Days* Vol I, Pt V, 16, 27.

7. E Russell 'Early Lawyers of WA' (1951) *Early Days* Vol IV, Pt III, 32.