

SIR LAWRENCE WALTER JACKSON

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This article studies the career of Sir Lawrence Walter Jackson who served as Chief Justice of the Supreme Court of Western Australia from 1969 to 1977 and as Chancellor of the University of Western Australia from 1968 to 1981. Appointed to the Supreme Court in the early post-war period Jackson served on the bench at a time when significant changes were taking place in the economy and in the legal system. His commitment to university work and other communal activities was exemplary, and characteristic of an era in which this was a common practice. A study of his career invites consideration not only of his contribution to the law in Western Australia but also of the extent to which serving judges in contemporary times are expected to engage in certain forms of extra-judicial work as a means of enhancing respect for the judiciary.

Lawrence Walter Jackson (1913-1993), Chief Justice of the Supreme Court of Western Australia and university administrator, was born in Dulwich, South Australia, on 27 September 1913, son of Lawrence Stanley Jackson, and his wife Hazel Winifred, née Powell.¹ Jackson's father moved to Sydney in the course of his career, went on to serve as Chief Commissioner of Taxation in Canberra, and retired at the end of the Second World War.² His father's mid-career move led to Jackson attending the famous Fort Street High School overlooking Sydney Harbour from which he was awarded a general exhibition in 1930.³

Jackson graduated from the University of Sydney BA (1934), LLB (1937).⁴ He was admitted as a solicitor of the Supreme Court of New South Wales in 1937.⁵ By this time he had met his wife-to-be Mary Donaldson who had moved to Sydney with her family from Mackay in Queensland. She completed her

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¹ South Australian District Birth Certificate Transcript (1913). Lawrence Walter Jackson typed an undated memoir ('Jackson Memoir') which was verified by his daughter Diana Davies: Interview with Dianna Davies (2 December 2013).

² *Southern Cross Weekly*, 8 April 1970.

³ Francis Burt, 'Sir Lawrence Walker Jackson KCMG' (1993) 20(6) *Brief (Law Society of Western Australia)* 10, 10.

⁴ University of Sydney Archives, Alumni sidiensis 1934,1937.

⁵ Personalia, 'Sir Lawrence Jackson' (1977) 51 *Australian Law Journal* 161, 162.

secondary education at Redlands school, Cremorne and later, while attending a university ball, was introduced to her future husband as a fellow student in the Faculty of Arts.⁶

The new solicitor was obliged to look carefully at the opportunities available to him. 'The Depression was lifting,' Jackson said of this period in later life, 'but I had no special prospects in Sydney.' His mind turned to an offer that had come to him from one of his father's older brothers, Horace Jackson - an uncle who had left Adelaide for Western Australia in the goldrush era and had finished up establishing a law firm in Perth. When a partner in the firm died Horace wrote to his nephew to say that there was a place for 'a young man willing to work'.⁷

By the late 1930s Jackson's uncle Horace was a man with a colourful past and many achievements. Born in 1877 he had left school early and found employment in the Surveyor-General's Department of the South Australian Civil Service, then the Mines department. Self-educated, his wide reading may have left him with a taste for adventure, for in 1896, at the age of 19, he resigned from his job in the Mines department and decided to try his luck on the goldfields at Coolgardie.

Disappointed as a prospector, Horace commenced part-time work as a clerk in a local law firm with some occasional freelance journalism on the side for *The Coolgardie Miner*, an association with the newspaper world that would come to fruition later on. He moved to Perth in January 1899 and soon became managing law clerk of the firm Haynes, Robinson and Cox. He was admitted to the Bar as a legal practitioner in July 1912 under statutory provisions allowing for entry to the legal profession by any well-regarded managing clerk who had served as such for 10 years. In the same year Horace played a key role in the establishment of the Employers' Federation, an important client that stayed with him. He became a partner in the firm he had served as managing clerk and this led in due course to the firm changing its name to Robinson, Cox, Jackson and Wheatley.

Unlike the legal professions in New South Wales and Victoria where a strict division was maintained between barristers and solicitors legal practitioners in Western Australia were admitted to a 'fused' profession. This meant that a partner in a city law firm was at liberty to appear as an advocate in all courts. Horace Jackson's forensic skills were such that he eventually became

⁶ Interview with Alton Jackson (31 July 2013).

⁷ Jackson Memoir, 3.

a King's Counsel or 'silk' at 53 years of age. But in the years that followed he gradually moved away from advocacy and full-time practice of the law to pursue other interests. He served on the Senate of the University of Western Australia and became the first Chairman of Directors of West Australian Newspapers Ltd when it was formed as a public company in 1927. He was well-known throughout the business and commercial world.

So Lawrence Jackson decided to accept his uncle's offer. He went to Perth to work for Horace Jackson's firm and, after completing the six month period of residency required of an interstate solicitor, he was admitted as a Barrister and Solicitor of the Supreme Court of Western Australia on 16 December 1937.⁸ Two weeks later, upon his return to Sydney, he married Mary Donaldson at the Congregational Church in Mosman on 30 December 1937.⁹ The young couple left for Perth by sea on the following day.¹⁰ Having been formally admitted to the partnership on 1 January 1938, Jackson resumed work at the firm soon after his return to Perth.¹¹

The firm became Jackson, McDonald & Co, a combination of names that has remained in place to the present day. By now, Jackson had been introduced to and formed friendly professional links with his uncle's major clients including the Employers Federation.¹² This meant that in the pre-war period Jackson finished up practising principally in the field of industrial arbitration and motor vehicle insurance.¹³

Following the fall of Singapore and the rapid advance of Japanese forces, Jackson enlisted in the Australian army at Fremantle on 25 July 1942. He had risen to the rank of Lieutenant in the Royal Australian Artillery by the date of his discharge two years later on 1 August 1944.¹⁴ His war service included a period in charge of the battery of guns at Leighton overlooking the approaches to Fremantle Harbour.¹⁵ Photographs of Jackson in uniform in the war years show a tall, handsome soldier with a square-shouldered, confident bearing and a good-humoured but generally grave expression, the look of a man accustomed to responsibility.

Jackson was only 32 years of age when the war ended but his bearing and

⁸ Supreme Court of Western Australia Admission Certificate (16 December 1937).

⁹ New South Wales Marriage Certificate Registration Number 1938/003183.

¹⁰ Interview with Dianna Davies (2 December 2013).

¹¹ Advice letter from Jackson, Leake, Stawell & Co to its clients 31 December 1937.

¹² Jackson Memoir, 2-3.

¹³ Sir John Virtue, (1977) 10(1) *ILEX (The Journal of the Institute of Legal Executives)* 12, 12.

¹⁴ Australian Army Basic Service Record.

¹⁵ Interview with Alton Jackson (31 July 2013).

air of maturity probably contributed to his standing in the legal profession. Within a few years he had established himself in the top line of the junior barristers then practising.¹⁶

By this time Jackson had become a member of the Weld Club and had found a comfortable home for his family at 127 Forrest Street, Peppermint Grove, close to friends in the legal profession, such as Francis Burt and John Virtue, and from other walks of life such as the well-known local architect, Marshall Clifton.¹⁷ He was also a Visiting Lecturer in Evidence and Legal Interpretation in the Law Faculty at the University of Western Australia, a part-time position setting the scene for a later and mutually beneficial association with the university.¹⁸ It wasn't long after their move to Perth that the Jacksons' family consisted of a son, Alton, born in 1941, and two daughters, Helen and Diana, born a few years later.¹⁹ Jackson was now to be faced with the making of a difficult decision.

In 1949 Jackson received an offer from the government of the day that came on somewhat unusual terms. He was to be appointed as a member of the Supreme Court, but it was proposed that he would serve as the President of the Arbitration Court for 10 years before moving to a full-time role as a puisne judge. A similar inducement had been put to one of Jackson's predecessors, Sir Walter Dwyer, but it was never fulfilled. At that time the Supreme Court was constituted by the Chief Justice and three other judges.²⁰

On a Friday afternoon in the saloon bar of the Esplanade Hotel in the city he took advice from his friends and fellow lawyers, Francis Burt and John Virtue, both of whom were later to be knighted and to serve with him on the bench. Burt was doubtful about the proposed appointment. It would remove Jackson from the society of his peers in the legal profession and from the general practice of the law. In later life Burt said of his friend and long-standing colleague:

¹⁶ Burt, above n 3, 10.

¹⁷ Robert Pascoe, *Peppermint Grove* (Oxford University Press, 1983) 100.

¹⁸ Fred Alexander, *Campus at Crawley* (F W Cheshire for the University of Western Australia Press, 1963) 733.

¹⁹ Interview with Alton Jackson (31 July 2013); Interview with Dianna Davies (2 December 2013).

²⁰ Geoffrey Bolton and Geraldine Byrne, *May It Please Your Honour* (The Law Society of Western Australia, 2005) 194.

In the end he accepted the appointment simply because he thought it to be his duty to do so and by doing that he exposed a quality of his character which he continued to reveal throughout his adult life.²¹

In fact, Jackson became a full time member of the Supreme Court bench within a few years, for this was dictated by the demands of the court list.²²

In the years following his appointment Jackson's judicial work was accompanied by his desire to play a useful role in the life of the community at large. He served as President of the Western Australian Cricket Association from 1951 to 1963 and during that time the State was admitted as a full and permanent member of the Sheffield Shield Competition. His service included a trip to the East where he had long talks with leaders of other State cricket associations and paved the way for the lifting of the crippling subsidy that Western Australia had been forced to pay in order to remain in the Competition.²³

He served also as the Foundation Chairman of the National Trust (WA) from 1957 to 1964. His presence at the helm was critical to some difficult negotiations bearing upon the passage of the National Trust Act through parliament in the final year of his term.²⁴ He became a member of the Senate of the University of Western Australia in 1958. He served also as a member of the Rhodes Scholarship Selection Committee; as a member of the organising Council for the Commonwealth Games held in Perth in 1962; as a Director of the Winston Churchill Memorial Trust administering Churchill Fellowships and as Patron of Musica Viva.²⁵

While attending to these responsibilities he was, of course, subject to the ever-present demands of the court list. As a puisne judge he was expected to undertake the full range of judicial tasks in a superior court from dealing with applications in chambers to presiding over criminal and civil trials. From time to time he would be called upon to sit on the Full Court, constituted by three judges, in order to deal with appeals from the courts below or from decisions of a single judge, for at that time there were not enough judges to constitute a permanent court of appeal.

Jackson's move from the Arbitration Court to a full time position on the

²¹ Burt, above n 3, 11.

²² Bolton and Byrne, above n 20, 195.

²³ *The West Australian* (Perth, Western Australia), 30 April 1963.

²⁴ Andrea Witcomb and Kate Gregory, *From the Barracks to the Burrup* (University of New South Wales Press, 2010) 105.

²⁵ Bolton and Byrne, above n 20, 225; Interview with Dianna Davies (2 December 2013).

Supreme Court in the early 1950s presented him with new challenges, especially in the field of criminal law, but he settled into his new role and was soon regarded as a firm but fair trial judge.²⁶

The law reports suggest that in dealing with appeals his task was equally exacting. In the landmark *Thomas* case Jackson and his colleagues on the Full Court were corrected by the High Court for having condoned a trial judge's attempt to explain the meaning of the phrase 'beyond reasonable doubt'. Justice Windeyer of the High Court observed that 'attempts by paraphrase and embellishment to explain to juries what is meant by satisfaction beyond reasonable doubt are not always helpful. ... It is not desirable that the time-honoured expression "satisfied beyond reasonable doubt" should be omitted and some substitute adopted.' Thereafter, in responding to queries from jurors about the meaning of the phrase, judges throughout Australia heeded Justice Windeyer's prescription.²⁷

The *Thomas* case was followed by a matter of even greater controversy. In August 1963 Eric Edgar Cooke, an inveterate night prowler was arrested by the police. He admitted to a number of murders and claimed to be responsible for various hit-and-run attacks against young women using stolen cars. These confessions were thought to cast doubt upon the earlier convictions of a deaf and mute sexual offender Daryl Beamish for the murder of Jillian Brewer – found dead in her Cottesloe flat from wounds inflicted by a hatchet and a pair of scissors – and a young man John Button whose girlfriend was struck by a vehicle and fatally injured shortly after walking away from Button's car in the course of a quarrel.

In both cases the prosecution team had relied principally upon confessions said to have been made by the accused men during the police inquiries. Appeals against the convictions were taken to the Court of Criminal Appeal prior to Cooke's arrest, but in each case Chief Justice Wolff and his fellow judges (including Jackson) had dismissed the appeal.

After Cooke's conviction lawyers for both Beamish and Button visited the condemned man on death row where he again confessed to the crimes for which their clients were serving time. Cooke was hanged soon afterwards – the last person in Western Australia to be hanged – but his various confessions,

²⁶ Antonio Buti, *Sir Ronald Wilson: A Matter of Conscience* (University of Western Australia Press, 2007) 47.

²⁷ *Thomas v The Queen* (1960) 102 CLR 584; Mark Findlay, Stephen J Odgers and Meng Heong Yeo, *Australian Criminal Justice* (Oxford University Press, 2nd ed, 1999) 178, 200.

including admissions made in open court while giving evidence, resulted in further appeals in the Button and Beamish cases. Again, in each case, the appeal failed. Having observed Cooke under cross-examination the judges characterised him as a liar and treated his claims to have committed the two crimes in question as utterly worthless.²⁸

Doubts about Button's conviction remained. Close to forty years later, when the case was reopened to deal with fresh evidence concerning the absence of appropriate damage to Button's vehicle, the Court of Criminal Appeal was prepared to quash the conviction on the grounds that there had been a miscarriage of justice.²⁹

As in the Button case, doubts about the Beamish verdict were never entirely quelled. In response to a petition from the Attorney General – again close to forty years later – the Court of Criminal Appeal conducted a further hearing and held that the Beamish conviction should be set aside. The Court voiced concerns about Beamish's alleged confessions, having regard to his inability to communicate adequately via the police interpreter, and gave weight to Cooke's confessions, including his 'gallows confession' fifteen minutes before he was hanged.³⁰

The civil list presented Jackson with challenges of a different kind. Of the many cases that came before him a few can be singled out as a reflection of the diversity and changing social ways of Western Australia in the post-war era.

Jackson's previous experience in the Arbitration Court proved useful when the Supreme Court was called upon to exercise its supervisory jurisdiction in controlling the courts below. When a colliery company informed its employees by a circular letter that without an increase in production it would be forced to close down Jackson joined with others on the Full Court in holding that the Arbitration Court had exceeded its jurisdiction in treating this as a threatened 'lock out'. Jackson observed that a tribunal of limited jurisdiction cannot give itself jurisdiction by an erroneous decision of fact on which its jurisdiction must be founded.³¹

The supervisory role of the Supreme Court was brought into play also

²⁸ *Beamish v The Queen* [1962] WAR 85. See also Peter Brett, *The Beamish Case* (Melbourne University Press, 1966); Buti, above n 26, 73-131; Estelle Blackburn, *Broken Lives* (Stellar Publishing Pty Ltd, 1998).

²⁹ *Button v The Queen* (2002) 25 WAR 382.

³⁰ *Beamish v The Queen* [2005] WASCA 62 (1 April 2005).

³¹ *R v Court of Arbitration; Ex parte Amalgamated Collieries of Western Australia Ltd* [1960] WAR 147.

when the leader of the Labor Party Opposition in the state parliament, Mr Tonkin, sought declaratory relief against the Liberal Party Premier, Mr Brand, and some of his ministerial colleagues in respect of advice to be given to the Governor of the State which would allegedly have had the effect of distorting procedures under the *Electoral Districts Act 1947* (WA). In an important decision concerning limitations on the power of the Executive Jackson joined with other members of the Full Court in granting the relief sought.

The Court held that when Ministers are about to advise the Governor, or have advised the Governor, to assent to some act which is illegal or unconstitutional the courts may intervene by declaring the law and issuing coercive process to forestall the illegal act.³²

In civil cases Jackson exercised the care expected of a trial judge in finding the facts and applying the law in accordance with accepted principles. However, as appears from his involvement in what was to become the landmark case of *Goldman v Hargrave*, a careful approach is always subject to the power of the appeal courts to refashion the law in special cases. When a landowner in Western Australia discovered that a redgum tree on his land had been struck by lightning and caught fire he felled the tree with a view to letting the fire burn itself out, but a change of wind caused the fire to escape to the plaintiff's land where it caused damage. Jackson, as trial judge, dismissed the plaintiff's claim pursuant to the conventional rule whereby liability in nuisance for an act of interference with the use or enjoyment of neighbouring land was thought to depend upon some positive act of misfeasance.

When the matter was taken on appeal to the High Court, and eventually to the Privy Council, the relevant principles were refashioned to allow the claim in both nuisance and negligence. The litigation had lasted for four years (including a second hearing before Jackson to consider fresh evidence) but in the end the case established that an occupier is duty bound to contain a fire on his land, even if he is in no way responsible for it being there, like one lit by a trespasser or by lightning.³³

Jackson dealt also with a number of controversial defamation cases. In

³² *Tonkin v Brand and A-G (WA)* [1962] WAR 2. In later years a widely respected academic, Professor George Winterton, suggested that this formulation was expressed too widely. In his view, the courts 'would be very reluctant to grant coercive relief': George Winterton, *Parliament, the Executive and the Governor-General: A Constitutional Analysis* (Melbourne University Press, 1983) 140, 317.

³³ *Hargrave v Goldman* [1963] WAR 102; *Hargrave v Goldman* (1963) 110 CLR 40; *Hargrave v Goldman* [1964] WAR 93; *Goldman v Hargrave* (1966) 115 CLR 458. See also John G Fleming, *The Law of Torts* (Thomson Reuters, 9th ed, 1998) 394; Pam Stewart and Anita Stuhmcke, *Australian Principles of Tort Law* (The Federation Press, 3rd ed, 2012) 553, 554.

1958 an Aboriginal leader Ernie Mitchell and some other Aboriginal plaintiffs associated with the political activist Don McLeod sued the ABC and Native Affairs Commissioner, Mr Middleton, for a statement saying that certain unnamed persons, influenced by troublemakers, had failed to provide help in the search for a man lost in the bush. Jackson, as trial judge, was obliged to resolve a number of difficult issues in the course of holding that only two of the various unnamed plaintiffs had been sufficiently identified by the statements complained of in order to obtain relief.³⁴

As a member of the Full Court he dealt with similar issues some years later in a case arising out of a Bill to amend the *Crimes Act 1914* (Cth). A few days after opponents of the Bill had participated in a rally on the Perth Esplanade, the Liberal Party placed an advertisement in the *Daily News* headed: 'By Their Squeal Will You Know Them: Reds Rally Against the Crimes Act.' Jackson and his fellow judges ruled that the publication could not be held to relate to the plaintiffs who were not named in the body of the advertisement or sufficiently identified to fall within the indeterminate group who had been defamed.³⁵

Another defamation case raised an issue which had been a matter of debate in legal circles for many years - whether certain provisions of the *Criminal Code* (WA) could be relied upon by way of defence in a civil case. Section 5 provides that when, by the Code, any act is declared to be lawful, no action can be brought in respect thereof. In what was to become a leading case, Jackson accepted that when this stipulation was linked to a later provision stating that '[i]t is lawful ...' to do certain acts, such as presenting a fair report of legal proceedings, then this statement could be relied upon in setting up a defence to a civil claim.

In the end, however, Jackson ruled against the newspaper. Its 'fair report' defence wasn't in fact based upon what was said or done in open court but upon the contents of an affidavit that had been filed but never read aloud. 'To report a defamatory affidavit which played no part in the proceedings in court,' Jackson observed, 'but which could be readily misunderstood by newspaper readers to have stated facts which went unchallenged, was, in my opinion, grossly unfair.'³⁶

Some years later, in dealing with a related but significantly different provision of the *Criminal Code* - a section asserting that '[i]t is a lawful excuse

³⁴ *Mitchell v Australian Broadcasting Commission* (1958) 60 WALR 38.

³⁵ *Dowding v Ockerby* [1962] WAR 110.

³⁶ *Gobbart v West Australian Newspapers* [1968] WAR 113.

...’ to do certain acts - the High Court held that a provision expressed in that way could not be relied upon by way of defence, for the excuse is of an act in itself unlawful. This meant that as to fair comment and certain related defences the rights of the parties were regulated in Western Australia not by the Code but by the common law.³⁷

By now Jackson’s daily judicial work had to be fitted in with demands arising from his service on the Senate of the University of Western Australia. In his early years on the Senate he had formed an impression that the overall administration system of the University was inefficient – there were too many committees, resulting in long delays before decisions were made, and too much time was spent on paper work, such as drafting minutes. He also questioned whether there was efficient liaison between faculties and the central administration.

In April 1961 the Senate asked the General Purposes Committee to look into these issues. Two years later, as a member of that Committee, Jackson suggested that little had changed. Papers addressing the issues in question were prepared at his instigation with the result that a number of improvements were effected in following years.³⁸

In August 1966 the State government appointed Jackson to chair a committee with broad terms of reference to examine the future needs of tertiary education in Western Australia.³⁹

As a first task the Jackson Committee recommended that the Western Australian Institute of Technology be established by statute as an autonomous institution. This was done without delay.⁴⁰ The Committee’s final report was released in August 1967. Some of its views and recommendations were significant to later developments. It proposed that in the long run all tertiary colleges should come to operate autonomously – the interests of government departments could and would be safeguarded by adequate representation on the governing bodies. Further, tertiary institutions would have to maintain an astute balance between the demands of the employer, the students and the profession, and the requirements of scholarship. A multi-purpose institution

³⁷ *West Australian Newspapers Ltd v Bridge* (1979) 141 CLR 535.

³⁸ Brian de Garis, ‘Governance of the University’ in B K de Garis (ed) *Campus in the Community: The University of Western Australia* (University of Western Australia Press, 1988) 99.

³⁹ ‘Tertiary Education in Western Australia’ (Report, Western Australia Committee on Tertiary Education, 1967).

⁴⁰ L J Lake and W D Neal, ‘Post-Secondary Education on the Move’ in W D Neal (ed) *Education in Western Australia* (University of Western Australia Press, 1979) 277.

could be responsive to all these without succumbing to any.

More specifically, the Report recommended that a Tertiary Education Commission be established to advise the Government and to encourage coordination. It proposed that the control of teacher education be removed from the Education Department and be vested in autonomous colleges. Sites should be acquired for future institutions in both metropolitan and country areas.⁴¹

On the subject of a second university the Jackson Report was the essential catalyst. The University of Western Australia was advised to limit its numbers to 8,000 full time and 2000 part-time undergraduates. This meant that a new campus should be receiving students by 1975 at least. The report received a warm welcome and its recommendation for the establishment of a university college was referred to the University of Western Australia for advice – a first step that led eventually to the creation of the new Murdoch University campus on endowment land east of Fremantle, previously known as the Somerville pine plantation.⁴²

Having served as a member of the Senate for 10 years, Jackson became Chancellor of the University of Western Australia in 1968. He was appointed Chief Justice of the Supreme Court on 2 May 1969 upon Sir Albert Wolff's retirement. Jackson was by then a Knight Bachelor – in recognition of his services to cricket – and he was created a Knight Commander of St Michael and St George for his services to law and the community in the following year.⁴³

Jackson's old friend (and eventual successor as Chief Justice) Sir Francis Burt credited Jackson with significantly changing the climate of the Court from a combative atmosphere between the Bench and the Bar (with a related adverse effect upon witnesses) to a situation where the relationship improved enormously. Jackson also 'introduced a degree of teamship to the Bench by way of courtesy and patience; no single judge shirked his list and, if a settlement occurred, he immediately sought to assist a fellow judge who had become overborne.'⁴⁴

Jackson's appointment as Chief Justice marked the beginning of a period of significant change in the local legal system. The District Court with five judges and the Family Court with four judges were set up. The District Court was to

⁴¹ Ibid.

⁴² Geoffrey Bolton, *It had Better Be A Good One* (Murdoch University, 1985) 10-2.

⁴³ Burt, above n 3, 11.

⁴⁴ Bolton and Byrne, above n 20, 223.

exercise civil jurisdiction in all matters involving less than \$6000 and criminal jurisdiction in respect of all offences carrying a minimum penalty of not more than 14 years imprisonment. It wasn't long before the District Court replaced the Third Party Claims Tribunal (set up to handle motor vehicle claims) with the result that the District Court was in due course destined to deal with most of the litigation in respect of personal injuries, within certain financial limits.⁴⁵

During Jackson's period in office steps were taken to modernise some of the Supreme Court's procedures. A new set of Supreme Court Rules was drafted in 1971 and proclaimed the following year. According to his colleague on the bench, Sir John Virtue, it was Jackson's 'inspiration, energy and guiding hand, as well as the considerable labour he put into perfecting the drafts, that was largely responsible for the results achieved.'⁴⁶

Jackson was also involved in a number of important decisions made by the Supreme Court reflecting the State's rapidly growing economy. Soon after Jackson's appointment as Chief Justice the Full Court under his leadership was called upon to review proceedings before a Court of Marine Inquiry arising out of a collision on the Swan River between two ferries involved in a feverish race to Fremantle to collect passengers travelling to the offshore island of Rottnest. The Court ruled that upon a rehearing of the original charge of misconduct the Magistrate would exceed his jurisdiction if he purported to receive in evidence a transcript of what had transpired at the initial hearing, for the relevant statutory provision required that the matter be dealt with as a new trial. Jackson's reasoning, which included a review of common law authorities as far back as Blackstone's *Commentaries*, created a valuable precedent as to the meaning of the term 'rehearing', being a word 'susceptible of different connotations according to its context.' The Magistrate should have directed the prosecutor to begin his case afresh and call his witnesses.⁴⁷

Legal history and long-established conventions were influential in a case that came before the Full Court a few years later, on this occasion concerning the nature of parliamentary and judicial powers. When an action against the State was commenced during the mining boom, Parliament passed a statute which amended the *Mining Act 1904* (WA) by adding a new provision aimed at

⁴⁵ Bolton and Byrne, above n 20, 228. Contrary to Bolton and Byrne the Tribunal in question is correctly described as the 'Third Party Claims Tribunal' being the body set up pursuant to an amendment to the *Motor Vehicle (Third Party Insurance) Act 1943* (WA). See Enid Russell, *A History of the Law in Western Australia* (University of Western Australia Press, 1980) 309.

⁴⁶ Virtue, above n 13, 13.

⁴⁷ *R v Syme; Ex parte Page* [1970] WAR 153.

extinguishing the rights claimed by the appellants. The parties affected argued that the amendment was beyond the legislative competence of the state parliament because it necessarily involved an interference with the judicial function of the Supreme Court. Jackson rejected this contention in the course of a lengthy judgment outlining the majority view. He held that the provision lay within the ‘plenary power of a sovereign parliament’ which is limited only by the requirement that its Acts must not be repugnant to Imperial statutes extending to the State or to the limitations imposed by the *Commonwealth Constitution*.⁴⁸

Jackson retired at 63 years of age due to concerns about his health, and some years before the prescribed retiring age.⁴⁹ At a special sitting of the Supreme Court on 23 December 1976 the incoming Chief Justice, Sir Francis Burt, said of his predecessor: ‘He was richly endowed for his work with a sound knowledge of the law and a great capacity to handle fact. He was thorough, modest, courteous, firm and frank – these being indispensable weapons of the effective advocate.’

Jackson approached his judicial work with an open mind and listened carefully. His judgments were easy to read and never proceeded beyond the question to be decided.⁵⁰ He was courteous without ceasing to be firm. He was business-like without being officious. He was direct. He made it plain to those who appeared before him that an exact application of the law is important, but his wit, which was always topical, was a reminder that other things are important too.⁵¹ His term as Chief Justice, according to a report in the *Australian Law Journal*, was ‘characterised by wise understanding and inspired leadership which attracted the loyalty of his judicial colleagues and the ready co-operation of the legal profession.’⁵²

Within a few months of his retirement, on 28 June 1977, Jackson was elected Chairman of a new Western Australian charity to be known as TVW Telethon Foundation, a body set up to fund medical research with funds raised from Channel 7’s annual telethon appeal.⁵³ A year later he agreed to act as Chairman of a special WA Art Gallery Appeal.⁵⁴

⁴⁸ *Nicholas v Western Australia* [1972] WAR 168.

⁴⁹ Bolton and Byrne, above n 20, 242; Interview with Alton Jackson (31 July 2013).

⁵⁰ Burt, above n 3.

⁵¹ Nicholas Hasluck, ‘Retirement of the Chief Justice’ (1977) 4(1) *Brief (Law Society of Western Australia)* 3, 3.

⁵² ‘Sir Lawrence Jackson’, above n 5, 162.

⁵³ *The West Australian* (Perth, Western Australia), 28 June 1977.

⁵⁴ *The West Australian* (Perth, Western Australia), 29 June 1978.

In addition to these new responsibilities, he continued to serve as Chancellor of the University of Western Australia and attend to the duties associated with that position. He presided at meetings of the Senate, chaired various committees, and officiated on ceremonial occasions.⁵⁵ He remained as Chancellor of the University until 22 May 1981, having been a member of the Senate for a period of 23 years.⁵⁶ On 20 April 1982, while conferring upon him the honorary degree of Doctor of Laws, Professor Robert Street, the Vice Chancellor, said of Jackson: ‘He has been a great champion of the university ideal. He has staunchly upheld the right, indeed the responsibility of the University to act autonomously and to take an independent view in matters of moment and significance.’⁵⁷

The Jacksons had by this time left the family home in Forrest Street, Peppermint Grove. They went to smaller premises at Cliff Way in the neighbouring suburb of Claremont initially and then to a retirement village in Mt Claremont. Their son Alton and daughter-in-law, Penny, lived nearby. Many years earlier the Jacksons had acquired a property at Flinders Bay in the south-west corner of the State. The small cottage that Jackson erected on the property – designed by his architect friend Marshall Clifton – was used as a family holiday home for many years, principally as a refuge from the pressures of city life. In addition to reading and listening to music at home Jackson was also a regular concertgoer.⁵⁸

The years following Jackson’s retirement from public life were marked by a gradual decline in his health and intellectual powers. In his final years, when home care was no longer possible, he was moved to a nursing home in Subiaco. He died on 5 June 1993 at the age of 79, survived by his wife and three children. A special sitting of the Supreme Court was convened in order to honour his career in the law.⁵⁹

A sculpture had previously been commissioned for an area on the University of Western Australia campus between the Octagon and Dolphin theatres to be known as Lawrence Jackson Court, a piece presented to the University by the law firm Jackson McDonald.⁶⁰ *The Dancer* by sculptor Greg

⁵⁵ de Garis, above n 39, 122.

⁵⁶ D H Aitken, *University News* (Perth, Western Australia) June 1981.

⁵⁷ *Uniview* (Perth, Western Australia) April 1982, 3.

⁵⁸ Interview with Dianna Davies (2 December 2013).

⁵⁹ Transcript of Proceedings, Special Sitting (Supreme Court of Western Australia) 21 June 1993; Burt, above n 3, 10.

⁶⁰ See Jackson papers held by Diana Davies for invitation to a ceremony to mark the commissioning of Lawrence Jackson Court on 26 July 1989 and related reports.

James, cast in bronze, stands in a classical ballet position before a circle of mature peppermint trees. The serenity of the sculpted human figure is a fitting reminder to staff and students of Jackson's personal qualities and of his significant contribution to many spheres of university life.⁶¹ In the words of his daughter Diana, speaking of her father generally: 'He was warm and kind, and constant.'

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⁶¹ George Seddon and Gillian Lilleyman, *A Landscape for Learning* (University of Western Australia Press, 2006) 129.

⁶² Interview with Dianna Davies (2 December 2013).