

**1963-1964**

THE

# COMMONWEALTH LAW REPORTS

CASES DETERMINED IN THE

## HIGH COURT OF AUSTRALIA

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# JUSTICES OF THE HIGH COURT

OF AUSTRALIA

DURING THE CURRENCY OF THIS VOLUME

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THE RIGHT HONOURABLE SIR OWEN DIXON, O.M., G.C.M.G., CHIEF JUSTICE.

THE RIGHT HONOURABLE SIR GARFIELD EDWARD JOHN BARWICK, G.C.M.G., CHIEF JUSTICE.

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MEMORANDA

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1964

July 25—Death of THE RIGHT HONOURABLE SIR JOHN GREIG LATHAM, G.C.M.G., who resigned as Chief Justice of the High Court of Australia on 7th April 1952.

## THE LATE SIR JOHN GREIG LATHAM

On 28th July 1964 the High Court assembled in Sydney, when BARWICK C.J. said :

Last Saturday, July 25th, SIR JOHN LATHAM, former Chief Justice of this Court, died in Melbourne. On behalf of the Court I wish to express our sorrow at his passing and our appreciation of him and his work. Mr. Justice *Menzies*, who is absent from the Bench this morning, will represent the Court at the memorial service being held this afternoon in Melbourne and will attend the private cremation on behalf of all the Justices, as a mark of our personal friendship with SIR JOHN.

It is pleasing and significant that the Solicitor-General, the President of the Australian Bar Association, the President of the Law Council of Australia and of the New South Wales Bar Association, and so many members of the profession, have attended here this morning to express by their presence their high regard for SIR JOHN.

On the retirement of Sir *Frank Gavan Duffy*, SIR JOHN GREIG LATHAM G.C.M.G., one of His Majesty's counsel, was appointed to be Chief Justice of this Court on October 11th, 1935. He occupied this office during the ensuing sixteen years, until his retirement therefrom on 7th April 1952.

SIR JOHN LATHAM had already devoted much of his life to public service before his appointment here. Admitted to the Bar of Victoria in 1904, he had practised extensively in the Victorian courts and in this Court and had appeared before the Privy Council. In due course, due to the eminence he had attained in the practice of his profession, he was appointed one of His Majesty's counsel in the State of Victoria. Whilst at the height of an extensive practice at the Bar he entered the Federal Parliament as the member for the electoral division of Kooyong in the House of Representatives. In this capacity he served for twelve years between 1922 and 1934, when he retired from the House. He became a Minister of the Crown in the Commonwealth, holding various senior portfolios including that of Attorney-General of Australia.

During the first World War he had served as an officer in the Intelligence Section of the Royal Australian Navy, a post which led him at the conclusion of the war to participation at the official level in the work of the peace conference at Versailles.

As Minister for External Affairs he journeyed into nearby countries of Asia to promote understanding and goodwill between this country and its neighbours. Indeed, he was the first Australian Minister so to do.

SIR JOHN LATHAM thus brought to the performance of the duties of the office of Chief Justice a wide and varied experience of public and international affairs and a familiarity with the working of the Australian Constitution gleaned both in the days of his practice at the Bar and in government during his term as a Cabinet Minister and as a parliamentarian.

The discharge of his duties as Chief Justice was interrupted in the years 1940 and 1941 when he was Ambassador for Australia to Japan.

During his sixteen years of office in this Court SIR JOHN saw many changes. When he was appointed his colleagues were Mr. Justice *Rich*, Mr. Justice *Starke*, Mr. Justice *Dixon*, Mr. Justice *Evatt* and Mr. Justice *McTiernan*. When he retired in 1952 his colleagues were Mr. Justice *Dixon*, Mr. Justice *McTiernan*, Mr. Justice *Williams*, Mr. Justice *Webb*, Mr. Justice *Fullagar* and Mr. Justice *Kitto*. Of all these, Mr. Justice *McTiernan* and Mr. Justice *Kitto* remain on the Bench of this Court and besides them only Sir *Owen Dixon*, Dr. *Evatt* and Sir *William Webb* have survived SIR JOHN.

These sixteen years, in themselves a record term of office, saw a marked increase in the volume, range and complexity of the Court's work. During that time many important, indeed many epoch-making decisions were given by the Court, particularly concerning the Australian Constitution, decisions which are now part of the fabric of the country's history. SIR JOHN not only participated in this work and in these decisions, but as the presiding Justice satisfied with great competence the demands made upon him in that capacity. But exacting as the duties of his office were SIR JOHN found time to engage in many activities

of the community, educational, cultural, sporting and philanthropic, to all of which he gave unstintingly of his counsel and of his energy. Upon his retirement he continued, if indeed he did not increase, his participation in these many causes for which a list would bespeak his wide range of interests in human affairs.

This brief recital of some of SIR JOHN LATHAM'S achievements affords a glimpse of the long and constantly active life which he led, a life active almost until his last moments, but they give little impression of the man himself. He was a scholar, maintaining a self-discipline which gave him an austere mien to which his physical appearance gave emphasis but withal he had a kindly gift of humour, a distinctive wit which rarely failed to manifest itself. He was approachable and friendly, he had an exact and orderly mind which sought always to move sure-footedly from proposition to proposition desiring to maintain to the full logical sequence and coherence. He sought always to comprehend the essence of an argument so that he might evaluate it objectively and dispassionately both for what it proposed and for what its acceptance would involve. He was precise in the expression of his own thought and sought a like precision in the propositions and submissions of others.

These qualities he brought to the presidency of this Court in the hearing of argument, sparing no effort to ensure that he understood what was put to him and frankly disclosing by his own re-statement of an argument, exactly what he did understand. He was ever courteous, patient, and with the young and less experienced forbearing and helpful. Yet at all times he was incisive and analytical, always ready to expose but without acerbity, indeed rather with good humour, the argument whose weakness or invalidity he perceived.

His judgments, so many of which remain to be read in the thirty-two volumes of the Commonwealth Law Reports which cover the period of his office, are logical in their development, lucid in their expression and exhibit that zeal for orderly precision so characteristic of him and that industry and legal knowledge which he regularly manifested. He presided over the Court with great dignity, dealing fairly with counsel and with their arguments.

He was a great Chief Justice and this Court and the profession which works before it and the public which it serves have much reason to be grateful to him and to respect his memory.

As I have said, he saw in his time many changes ; he went through two world wars and their respective aftermath. He suffered deep sorrow yet he remained as erect in his calm and objective observation and appraisal of the changed scene around him as he did in his physical stature. He rightly understood the place he had carved out for himself in the esteem and regard of his fellows for as he retired from this office he said, and I quote him, "I am glad to go into retirement feeling that I have the goodwill of many friends." And so he had, of whom we here are but a few. We and they deeply regret that he is no longer with us. But, for his part, he would probably see no cause for regret for life for him without active participation in the community's affairs would not be acceptable.

His life was long. It was a life of constant and tireless endeavour and of much satisfying achievement ; satisfying in that he expected no reward but that he should have lived and served long and well, and he did.

We express our sincere sympathy with the members of his family in their bereavement.



THE mode of citation of this volume of the COMMONWEALTH LAW REPORTS  
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111 C.L.R.

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