

STATEMENT OF SIGNIFICANCE  
OF  
THE OLD COURT HOUSE LAW MUSEUM,  
PERTH



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## PART 1

### EXECUTIVE SUMMARY

The administration of law is suffused with symbolism of power, authority and integrity as expressed in its buildings, regalia, personnel and processes. The law is a profession that relies on, and generates large volumes of textual material through publications and primary documentation.

Colonial Western Australia was bound to the Empire by its inheritance of British laws as they stood in 1829, and through appointments of officers from Britain and its colonies and territories. This British imperial network of institutions, legal instruments and individuals underpinned the development of Western Australia from the establishment of the rule of law and through the pathway of self-government to Federation.

The Old Court House building holds a significant place in Western Australia's history. It represents the birthplace of religion, law and education in the young colony of Western Australia and the settler presumption that British law would prevail over Aboriginal customary law. The Old Court House embodies the intertwining of legal, political and social histories across social and cultural strata, which enables Western Australia's history to be seen through the lens of the law which, in and of itself, is significant.

The Museum is internationally significant for its focus on the development of the law and history of the profession in a British colony, it is unique in Australia and New Zealand in that it is housed in the building whose history it tells, and it is one of only a few legal history museums worldwide. The Museum collection is nationally significant for its close inter-relationship with and direct provenance to the building, its functions, communities and people whose history the collections embody, and the exhibitions interpret.

In addition to their collective significance, a number of assemblages and individual items have national and state significance for their relation to significant national historical events and their rarity or provenance to eminent individuals and legal firms. They also are significant for their interpretative potential, including their capacity to give voice to those who have been subjected to the rule of law and those outside the legal profession who have participated in its administration.

My key recommendations include a preservation needs assessment to guide the preservation and storage of the collection, as well as the need for greater research on the collection and the development of a long-term digital access plan.

## METHODOLOGY

I visited the site 4 times to view the collections, documentation and exhibitions. During the site visits I worked closely with the Curator Julianne Mackay and I had a meeting with the active volunteers – John, Tony Zoe, Kellie and Ilsa. I also spoke to two Committee members, viewed accession lists from MOSAIC, and had a number of discussions with Museum staff. I also undertook desktop research.

### Consultation with owners of the collection

- Staff members
  - Dean Curtis, Manager Education & Community Services
  - Julianne Mackay, Curator, The Old Court House Law Museum
- Committee members:
  - Emeritus Professor Peter Handford, Committee Member
  - Professor Sandy Toussaint, Committee Member
- Volunteers John, Tony, Zoe, Kellie, Ilsa

### Other discussions

- Sir Harry Gibbs Legal Heritage Centre, Supreme Court Library, Queensland

### The Museum provided a number of publications and documents including

- The Community Heritage Grant. *Application*
- Old Court House Law Museum. *Collection Overview*
- Old Court House Law Museum. *Collection Policy*
- Audit of oral history collections
- Printouts from the Mosaic database
- Smith, R and Brady, W. *Old Courthouse Perth Conservation plan*. The Building Management Authority of Western Australia, Australian Heritage Commission, 1992
- Brian Shepherd, Alan Muller Design and Latitude Creative Services. *Interpretation and design plan. The Old Court House Museum, Law Society of Western Australia, 2009*

I conducted desktop research and read a number of publications including:

- Peter Handford. 2018. *Criminal prosecutions in Western Australia*. *University of Western Australia Law review* 43(1), 143-171
- Catherine May. *Celebrating 90 years of the Law Society of Western Australia*. Law Society of Western Australia, 2017 <https://www.lawsocietywa.asn.au/history/>
- Enid Russell, et al. *A history of the law in Western Australia and its development from 1829 to 1879*. UWA Press, 1980.
- C.T. Stannage. *The people of Perth: a social history of Western Australia's capital city*. Perth City Council, 1979

#### SUMMARY DESCRIPTION OF THE ORGANISATION AND ITS COLLECTION

The Old Court House Law Museum aims to connect people to the law of Western Australia and to inspire reflective discussion. It is a community service of, and managed by, the Law Society of Western Australia as part of its Education and Community Services programme.

The Museum was established in 1974 as an initiative of the Law Society of Western Australia's Museum Committee. In 1987 the building was refurbished and opened as the Francis Burt Law Education Centre and Museum – a community legal education centre. In 2011, it was renamed the Old Court House Law Museum.

The Museum is housed in the Old Court House which is situated on what was once the bank of the Swan River between Kings Park and fishing areas along the river and islands. Aboriginal people have had long, but not necessarily happy, connections to the precinct. In early colonial times, Aboriginal people continued to frequent the area;<sup>1</sup> it is adjacent to a precinct of government buildings where there is a registered Aboriginal site,<sup>2</sup> and it is located in the Supreme Court precinct where Aboriginal people continue to experience the justice system.

The Old Court House building is the City of Perth's oldest surviving building. Designed by Henry Reveley, the colonial civil engineer (1829-1838), the building has served the varying needs of the community as a church (1837-1845), school (1838-1850), meeting place, immigration depot (1856-1863), court and store. It was completed in late December 1836 and the first court in session was

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<sup>1</sup> See for example *Fanny Balbuk Yooreel. Realising a Perth resistance fighter*. Perth, National Trust of WA, 2017 <https://issuu.com/nationaltrustsaustralia/docs/fannybalbuk-perthresistancefighter-?e=11561615/48946816>

<sup>2</sup> Skeletal material, burial, camp, water source, Government House precinct. Aboriginal Sites, registered site number 3798

held on 2 January 1837. It housed the Supreme Court between 1863 and 1879 under the first Chief Justice of Western Australia – Archibald Paull Burt, and was the site of a second Supreme Court building between 1895 and 1903 and the Arbitration Court between 1905 and 1964. It was saved from demolition in 1962, and from 1965, it housed the offices of the Law Society of Western Australia.<sup>3</sup> Since 1987, the building has housed Australia’s first law museum.<sup>4</sup>

The Museum collection comprises the context, fabric and contents of the building, collections of artefacts, legal regalia, family archives, documents relating to the administration of law and justice in Western Australia, art works, photographs, books, office and personal items belonging to members of the legal profession, oral history interviews of key legal professionals and archaeological remains unearthed during the 1960s renovation.

The collection supports temporary and longer-term museum exhibitions and public programmes. The collection is used to explain the history and function of the building, and the development of the law and the legal system in Western Australia. Of particular importance is the way the Museum explains the relationships between Aboriginal customary law, colonial law, contemporary law and the impact of colonisation on Aboriginal peoples in Western Australia into the present day.

#### HISTORY AND SIGNIFICANCE OF THE ORGANISATION AND ITS COLLECTION

The administration of law is suffused with symbolism of power, authority and integrity as represented in its buildings, regalia, personnel and processes. Legal processes use and generate large volumes of textual material as publications and primary documentation. Legal, political and social histories are intertwined across the social strata, and it is often only through the lens of the law that those who have no other historical voice can be heard.

The establishment of the rule of law and the pathway through self-government to Federation was founded on a British imperial network of institutions, legal instruments and individuals. The small community of government and private legal professionals in colonial Western Australia was a tightly-knit social network. The Colony maintained strong connections to the British Empire with many of its key early practitioners coming from Britain, British Colonies and Territories. Starved of access to legal documentation, the profession had to balance being bound by British law while adapting to the new colonial context and the existence of Aboriginal customary law.

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<sup>3</sup> *Order in the court: a guide to the records of the Supreme Court of Western Australia*. State Archives of Western Australia, 1990, p. 5-7

<sup>4</sup> [https://courts.justice.wa.gov.au/P/perth\\_old\\_courthouse.aspx?uid=1416-5658-4218-3104](https://courts.justice.wa.gov.au/P/perth_old_courthouse.aspx?uid=1416-5658-4218-3104)



The Old Court House building holds a significant place in Western Australia's legal history. It represents the emergence of religion, law and education in the young colony of Western Australia and the settler presumption that British law would prevail over Aboriginal customary law. It embodies the investment required by a small settler community in this building and shows the importance of, and faith invested in, the rule of law. It demonstrates the continuity of the development of the legal and judicial system in Western Australia.

Beyond its legal functions, the Old Court House holds an important place in the social and cultural history of Perth. It hosted many significant community discussions and was the site where many important decisions were made – for example, the meeting to request convicts to assist the struggling colony, concerts including a piano recital performed by Dom Rosendo Salvado 1846, the conviction of the first two people to be hanged in Western Australia (Doodjep and Bunaboy in 1840), and many colourful trials that captured the imagination of the community. In the 20<sup>th</sup> century, people still remember visiting the Arbitration Court, as it became in 1905.

The Old Court House Law Museum and the Francis Burt Law Education Programme both operate from the Old Court House. Along with the Mock Trial Competition, these three services make up the Law Society's Education and Community Services. The Services operate under a trust named the Francis Burt Law Education Centre Trust which is currently applying for registration with the Australian Charities and Not-for-profits Commission and for Deductible Recipient status. Formed in 1927, the Law Society is a not-for-profit association, which operates as an incorporated association, dedicated to the representation of its members and to the enhancement of the legal profession through being a respected leader and contributor on law reform, access to justice and rule of law. The Museum was established in 1974 as an initiative of the Law Society of Western Australia's Museum Committee.

The State government owns the Old Court House building and the Department of Justice manages its care. The Law Society of Western Australia has use of the building pursuant to a Memorandum of Understanding entered into with the State government, and funding from the Public Purposes Trust funds the Museum's operational and staffing costs. A number of volunteers provide support for collection management and front-of-house work.

The *Interpretation and design plan*<sup>5</sup> has guided work in the Museum for the past decade, and this significance assessment is the last of its recommendations to be implemented. The Museum has worked hard to finalise the refurbishment of its exhibitions and accompanying audio tours. In doing so it has overcome an inherent challenge of the legal profession and the administration of justice generating a considerable volume of documentation and large items of regalia. Of particular note, the Museum has included important exhibitions about the relationships between customary and colonial laws, which receive specific comment from visitors. In 2018, this acclaimed Museum fit-out received Highly Commended status in the National Australian Museums and Galleries Awards.

The current round of interpretation work is complete and the Museum delivers a range of public programmes such as school holiday activities and Heritage Conversation events (National Trust Heritage Festival/Law Week in May; and City of Perth's Heritage Weekend in October). The Museum is now well placed to focus its work on collection management. Staff and volunteers are completing a collection audit with a view to aligning the collection more closely to its collection policy, and with a longer-term goal to improve access to the collections.

#### HISTORY OF THE COLLECTION

The mining boom of the 1960s shaped the context for an emerging interest in preserving the history of the law in Western Australia. The influx of migrants to support the massive industrial and mining expansion brought rapid social change for a small, tightly-knit and fairly isolated legal community. There were also community protests to protect old buildings under threat of demolition and some legal professionals were active in this preservation movement and in the Royal Western Australian Historical Society. There was also a general sense in parts of the legal community that much legal history was being lost through the passing of key members of a still small and closely connected profession, as well as the demolition of many buildings in the 1970s that housed old firms, their records and objects. In 1973, the law firm Muir, Williams and Nicholson contacted the Law Society 'about 'historic relics' which might form the basis of a law museum'.<sup>6</sup> A Museum Committee was formed and included Francis Burt QC and two representatives of the 'spouses group' – Sally-Anne Hasluck and Dorothy Ransom. It was decided early that the collection would relate to Western Australia rather than the law more generally. At the Law Society AGM in 1974, Lloyd Davies moved that the Law Society take whatever steps necessary to endeavour to obtain permanent title to

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<sup>5</sup> Brian Shepherd, Alan Muller Design and Latitude Creative Services. *Interpretation and design plan. The Old Court House Museum, Law Society of Western Australia*, 2009

<sup>6</sup> Catherine May. *Celebrating 90 years of the Law Society of Western Australia*. Law Society of Western Australia, 2017 <https://www.lawsocietywa.asn.au/history/>

the Old Court House.<sup>7</sup> The Museum was established in 1974, and the Law Museum Committee took responsibility for fitting out the building as a museum. In 1987 The Francis Burt Law Education Centre and Museum was established at the Old Court House. In 2011 the Museum was renamed the Old Court House Law Museum. That change gave increased emphasis to the Museum function as a separate operation connected with, but distinct from, the Francis Burt Law Education Programme.

As with many small museums, the Museum has had to manage the consequences of voluminous and un-provenanced donations of material accrued during a sense of urgency to collect during its primary development phase. The Museum is currently working to clarify perceptions of the legal community and associated organisations as to its collecting role, which in the past seems to have included being part of the Law Society's archives, a repository for unwanted objects from the Supreme Court, and a place to preserve personal objects and documents from the legal fraternity and from law firms that are closing.

The Museum has responded professionally to these challenges in an environment of increasing pressures from reduced funding and a lack of museum standard storage space. The Museum has a collection policy and staff and volunteers have nearly completed an audit of the collection. The Museum is now well placed to focus more closely on collection management, to undertake further research on the collection to understand its broader scope and many of its component parts, and to be guided in future acquisitions to enrich its collection of objects that symbolize those whom the profession represents and cases representing the miscarriage of justice. This first stage of collection management work forms the solid foundations from which the Museum can work towards increasing its digital presence.

The Museum's official web presence is obscured by being buried within the Law Society website, but has worked hard to build a social media presence with an active Facebook page and Instagram presence. Information about the Museum is easily found via search engines and there is considerable information about the Old Court House Law Museum on heritage and tourism websites, and the Museum receives good reviews on TripAdvisor. Street signage to the Museum on St George's Terrace directs visitors through the Supreme Court Gardens with interpretative signage within line of sight of the building drawing visitors towards the Museum.

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<sup>7</sup> Catherine May. *Celebrating 90 years of the Law Society of Western Australia*. Law Society of Western Australia, 2017 <https://www.lawsocietywa.asn.au/history/> p. 86

The Museum has a broader presence within the tourism sector and actively participates in professional and community activities across the year. Museum visitation was 6971 in 2017/18, a 28% increase on visitation in 2016/17.



#### THE SITE AND BUILDING

The Old Court House is, of itself, the Museum's most significant object. It is one of only two surviving buildings designed by the colonial engineer, Henry Reveley; the other being Fremantle's oldest surviving building the Round House which was also associated with the rule of law. The building forms part of the precinct of government buildings and gardens that has been listed on the Register of the National Estate, the State Heritage Register, is classified by the National Trust and identified on the Perth Municipal Inventory. The building is owned by the State Government and managed by the Department of Justice. The most recent conservation management plan was completed in 1992.

When announced publicly in February 1836, the design of the Court House was described as 'chaste and appropriate'<sup>8</sup>. While it now appears modest against the larger 1903 Supreme Court, the

<sup>8</sup> *Perth Gazette and Western Australian Journal* 27.2.1836, p. 658

scale of the Old Court House represents the development of justice and the law and the faith that the small community had in the role and status of the rule of law in colonial community in Western Australia.

The detailed instructions given to the original building contractor show that Old Court House was intended to be built to last.<sup>9</sup> Over its life, the building has fulfilled many social, legal and administrative functions, and has maintained a considerable portion of its external and internal integrity.<sup>10</sup> Of itself, the building represents the emergence of education, religion and law in Western Australia. Quarter Sessions were held at the Old Court House from 2 January 1837 and from 1847 it served concurrently as a school. In 1857, the Court moved to the new gaol and courthouse near Beaufort Street, and the Supreme Court, as it became in 1861, moved back to the Old Court House in 1863, and remained there until it moved nearby to the converted Commissariat Store in 1880. The Old Court House was reconditioned and used as the site of a second court building from 1896 until the new Supreme Court building opened in 1903.<sup>11</sup> In 1905 it became the Arbitration Court, in 1965 the headquarters of the Law Society, and in 1976 a Museum. Currently the courtroom layout replicates the Arbitration Court as it was in 1905, and to meet the educational needs of the Francis Burt Law Education Programme and its mock trial activity.

The power and authority of the court is embodied in courtroom architecture and furniture, which are specifically designed to promote the dignity of the court and the formality of legal processes. The light-coloured walls offset the dark jarrah roof, and the main pieces of courtroom furniture – coat of arms, bar, table, dock, jury benches – are made from jarrah. The naturally deep colour of jarrah, a timber unique to Western Australia and known locally as ‘Swan River Mahogany’, reinforces the natural and symbolic power and authority of the legal system. The bar table is unusual in a contemporary legal context in that it sits at right angles to the judge’s bench rather than parallel to it.

The Museum holds a collection of archaeological material unearthed during 1960s building renovations, including some items which speak directly to the early colonial history of the site as a school, or show aspects of its early building fabric.

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<sup>9</sup> Peter Handford, *personal communication* including details of the contract and building materials.

<sup>10</sup> Much of the detailed workmanship can still be seen in the walls, roof structure and gallery, but changes to the interior fittings and front porch have been made in the intervening years and air-conditioning has been installed.

<sup>11</sup> Peter Handford. 2018. *Criminal prosecutions in Western Australia*. *University of Western Australia Law review* 43(1), 143-171 [http://www.law.uwa.edu.au/\\_data/assets/pdf\\_file/0009/3090573/CHAPTER-10.pdf](http://www.law.uwa.edu.au/_data/assets/pdf_file/0009/3090573/CHAPTER-10.pdf)

## THE COLLECTION

The collection contains numerous forms of materials created or owned by many of the key legal officers in colonial Western Australia and represents very well the small social network of families and practitioners. The scope of the collection bears some of the hallmarks of the original interest group who established the Museum, notably through the significant donations of materials representing generations of the Burt and Nicholson families and their wider familial and professional connections. The collection also contains some key themes including women lawyers and Aboriginal customary law.



Judge's chair, c1900



Supreme Court table, 1854



Hanging files



General storage

## PERSONAL ARCHIVES

The Museum holds significant donations of personal archives comprising personal records, objects and regalia from a number of key individuals associated with the administration of law in the Old Court House building. These include archives created by families with lengthy legal lineages, and key figures including a number of female lawyers.

Some original documents held in these personal archives may also be held in original form in court records – for example documents created by private practitioners that are submitted to courts as part of legal proceedings. These are original documents which have their provenance documented to the legal practitioner and they often contain annotations created during the court processes, so they compliment as one of several originals, rather than duplicates, those documents held in the formal record of the court. Similarly, collections of newspaper cuttings contain articles held elsewhere in the complete newspaper, but they are considered to be original items with a provenance to the person who compiled the collections of newspaper cuttings and annotated them.

- **William Henry Mackie**

- Born in India, he arrived in Western Australia on the *Caroline* in October 1829 (the same ship as A.H. Stone). Mackie was the first significant legal appointee in the Colony as the first chairman of Quarter Sessions in Western Australia. He became the first Judge in Western Australia (until 1857) and was influential in formation of legislation in Western Australia as adapted from British law.
  - Items: Compendium writing desk transferred from the Royal Western Australia Historical Society in 1976

- **Archibald Paul Burt**

- Born in St Christopher in the West Indies, he was called to the bar in the UK, and moved to Western Australia from an appointment in the Caribbean. He sat in the building as the first Chief Justice of the Supreme Court (1861-1879) and established a legal lineage across three generations, including Francis Burt Chief Justice of the Supreme Court 1977-1988.
  - Items: A.P. Burt archive includes objects (for example a full bottomed wig and wig tin, seal, pince nez) and documents from his life prior to arriving in Western Australia, and documents created during his work in the courts in Western Australia

- **George Frederick Stone**

- English born, he arrived in Western Australia in 1831 and he joined his brother in the firm of A.H. and G.F. Stone. He was appointed Acting Sherriff in 1835, Crown Solicitor in 1852 and Advocate General 1859-1870.
  - Items: Hayes and Jarman. *Concise form of wills*. 4<sup>th</sup> ed. London. Sweet, 1849. Annotation shows the book was a gift from G.F. Stone to Nathaniel Howell in 1850. This edition is not widely held in Australia

- **Alfred Hawes Stone**

- Born in the UK, he was admitted as a solicitor in England and practiced in Tunbridge Wells, Kent before emigrating. He arrived in Western Australia on the *Caroline* in October 1829 (the same ship as Mackie), he was appointed a JP, and then the first Clerk of the Civil Court, Master of the Supreme Court and Crown Solicitor. He and his brother founded a legal lineage that took official office as well as a law firm. Stone was also a good amateur photographer.
- Stone's diaries
  - Items: Record-book no. 2 contains unofficial records of meetings of magistrates and their rules together with his copies of records of criminal proceedings in the Court of Quarter Sessions 1834-1837. Note official records of the Quarter Sessions held at the State Records Office<sup>12</sup>

- **Robert Bruce Burnside**

- Born in the Bahamas, he was called to the UK bar in 1884. He migrated to Australia shortly after and became the Crown Solicitor in 1894. In 1903 he became President of the Arbitration Court while also a justice of the Supreme Court. He is known for his work in establishing an apprenticeship system in Western Australia<sup>13</sup>
  - Items: Scrapbook 1875-1908 Newspaper cuttings including his time before arriving in Western Australia
  - Alexander Pulling. *The order of the Coif*. London: William Clowes, 1884. Inscribed 'Robert Bruce Burnside Western Australia. A Xmas gift from his father B.L. Burnside Chief Justice of Ceylon'
  - Lawyers common place book 1840-1900

<sup>12</sup> Court of General Quarter Sessions SROWA Agency no. 102 <https://archive.sro.wa.gov.au/index.php/court-of-general-quarter-sessions-of-the-peace-au-wa-a102>

<sup>13</sup> Robert Bruce Burnside <http://adb.anu.edu.au/biography/burnside-robert-bruce-5434>



- **Alexander Campbell Onslow**

- British born, he was called to the UK Bar in 1868. He was appointed Attorney General of the British Honduras in 1878 and Attorney General of Western Australia in 1880. His appointment as Chief Justice in 1882 marked the start of a period of instability in the office of Chief Justice.<sup>14</sup>

- Items: Wig and tin c1868

- **Sir Stephen Henry Parker**

- Western Australian born, he was admitted to the Western Australian bar in 1868 and founded Parker and Parker 1868. He became Chief Justice of the Supreme Court (1906-1913) and was also a politician.<sup>15</sup> Parker went to London in 1889 to lobby the British parliament to accept the bill establishing Western Australia's self governing constitution, and then in 1900 as lobbyist for Western Australia's special interests during the passing of the Commonwealth bill which led to Federation.

- Fitted dressing case Parker took on his two trips to London

- **Sheila McClemans**

- Western Australian born, she qualified as a lawyer from The University of Western Australia in 1931, completed her articles with Stawell, Hardwick & Forman, and was admitted to the bar in 1933. She and her friend Molly Kingston formed Kingston & McClemans, the first all-female law firm in Western Australia.<sup>16</sup> She was also secretary of the Law Society of Western Australia (1961-1965) and administrator of its legal aid scheme (1961-1970).

- Items: Documents, wig and tin, seal, business sign

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<sup>14</sup> Sir Alexander Campbell Onslow <http://adb.anu.edu.au/biography/onslow-sir-alexander-campbell-4334>

<sup>15</sup> Sir Stephen Henry Parker <https://www.herbertsmithfreehills.com/news/herbert-smith-freehills%E2%80%99-perth-office-celebrates-20th-anniversary-of-merger> <http://adb.anu.edu.au/biography/parker-sir-stephen-henry-7957>

<sup>16</sup> Sheila Mary McClemans <http://adb.anu.edu.au/biography/mcclemans-sheila-mary-15057>

## BUSINESS RECORDS OF LAWYERS / LEGAL FIRMS

- **Stone James and Co**

- Alfred Hawes Stone and his brother George practiced law in partnership under the name A.H. & G.F. Stone in Perth in 1834. George's son, Edward Albert Stone, went into partnership with his father and founded the firm of Stone & Burt. Walter Hartwell James formed an amalgamation with Stone & Burt, to become Stone James & Co. in 1919. Stone James & Co was later absorbed by a national law firm and is now part of King & Wood Mallesons.
  - Items: Sir John Fortescue. *De Laudibus Legum Angliae*. London: Printed for Abel Roper, 1660.
    - Annotated as being owned by an employee of Stone James
    - 2 copies of this edition are recorded as held in Australian libraries

- **Nathaniel Howell**

- Admitted to practice in 1856, he had been in partnership with G.F. Stone for some years
  - Items: As per G.F. Stone: Hayes and Jarman. *Concise form of wills*. 4<sup>th</sup> ed. London. Sweet, 1849. Annotation shows the book was a gift from G.F. Stone to Nathaniel Howell in 1850. This edition is not widely held in Australia

- **Richard Septimus Haynes**

- Criminal lawyer. 1888
  - Scrapbooks of newspaper cuttings annotated with his handwritten interpretations alongside the newspaper reports of trials he was involved in.

- **Nicholson and Hensman solicitors**. c1897/8.

- Scottish born, Nicholson was admitted as a lawyer in Western Australia in 1896 and established his own firm before forming Nicholson and Hensman from 1898, John Nicholson & Co from 1925, and Nicholson & Nicholson from 1927.<sup>17</sup> Nicholson & Nicholson merged with another firm to become Muir, Williams & Nicholson, also later absorbed by a national law firm and now part of Herbert Smith Freehills.

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<sup>17</sup> Robert Nicholson. *Immigrant scot: John Nicholson, lawyer, legislator*. Paper presented to the Royal Western Australian Historical Society, April 2015.  
[http://parliament.wa.gov.au/parliament/library/MPHistoricalData.nsf/bdcebf6403782d9448257cae002a1d9c/b0edde65eb545cef48257e6e0028c5b3/\\$FILE/Nicholson,%20John%20article.pdf](http://parliament.wa.gov.au/parliament/library/MPHistoricalData.nsf/bdcebf6403782d9448257cae002a1d9c/b0edde65eb545cef48257e6e0028c5b3/$FILE/Nicholson,%20John%20article.pdf)

- Items: include
  - Student notebooks
  - Documentation including land records, marriage settlements, documentation from legal cases including Rex vs Audrey Campbell Jacob (murder at Government House Ballroom)
  - Nicholson law firm name-plates
  - Notes from lectures, career of lawyers J.E. and R.D. Nicholson
  
- **Stawell, Hardwick & Forman** (Fremantle)
  - Items: Cost (1926-1928) and account (1919-1927) books that shows business and social networks, nature and costs of legal work
  
- **Signs from law firms**
  - Howard Bath
  - McClemans
  - Nicholson
  
- **Un-provenanced material from legal firms**
  - Office memorabilia including inkwells, staplers, seals, and documents

#### GOVERNMENT RECORDS

The Museum houses records created during the official conduct of government business that may be defined as State Records under the *State Records Act 2000*. Examples of these kinds of records held in the Museum include but may not be limited to:

- Court records – for example Wyndham Court House 1931-1968, East Kimberley Licensing Court evidence book 1957, Halls Creek Wardens Court evidence book 1931, Wardens Court Wyndham evidence book 1968
- Photographic exhibits tendered at the coronial inquest of Constance Madrill. These are related to the trial of Eric Edgar Cooke who was the last person legally executed in Western Australia.
- Judge's notebooks (including those created by Burt, James, Hensman, Stone)

## REGALIA

The Museum holds a number of items of legal regalia including robes, wigs and wig tins. These relate to a number of historic periods, and some relate to significant individuals as well as individuals of lesser importance. A number of regalia items have no identifiable provenance. Gowns owned by significant people, which also serve as examples of the regalia worn in the different Courts include:

- Sir Archibald Paull Burt QC – full bottomed wig
- Sir Ronald Darling Wilson, AC KBE CMG QC – full bottomed wig
- Sir Albert Asher Wolff KCMG – Death Cap. Wolff sentenced Beamish to death for murders that Edgar Eric Cooke had admitted to
- The Hon Antoinette Kennedy – barrister’s gown and bar jacket
  - Gown: Hemline taken up as was the fashion at the time
- Sir Francis Theodore Page Burt AC, KCMG, QC – Supreme Court Justice Criminal Gowns
- The Hon Kevin Parker – International Criminal Court judicial robes

## ART WORKS

The Museum holds a number of artworks including representations of the building, and photographic and artistic portraits of individuals and groups. The source of these artworks is unknown, therefore the collection needs to be documented and fully researched to establish the provenance and the creators. The collection includes

- Watercolour of the Old Court House by well known artist Amy Heap, c1920s/30s
- Pastel of the Old Court House by Stanley Cross, 1918 – well known black and white artist (cartoonist), trained at Perth Technical School<sup>18</sup>
- Portraits of significant lawyers – photographs and artworks
- Courtroom drawings – showing the case of R v Johnson picturing Justice Geoffrey Miller QC (Justice of the Supreme Court of Western Australia 1998-2007, Justice of the Court of Appeal 2007-2009) and George Tannin QC

## PUBLICATIONS

Law books were in very short supply in the early days of the Colony and while Stirling brought some legal texts with him, the official library was meagre and Russell suggests that the most significant legal library was likely to be held by AH and GF Stone.<sup>19</sup> As a text and publication heavy profession, it is no surprise that the Museum has received a quantity of publications from a

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<sup>18</sup> Stanley George Cross <http://adb.anu.edu.au/biography/cross-stanley-george-9871>

<sup>19</sup> Enid Russell, et al. *A history of the law in Western Australia and its development from 1829 to 1879*. UWA Press, 1980. p. 73-74

range of sources. The Museum is currently conducting an audit of the publications to identify significant items. This is being conducted with specialist advice from Emeritus Professor Peter Handford, formerly of the University of Western Australia School of Law.



Examples of regalia on display

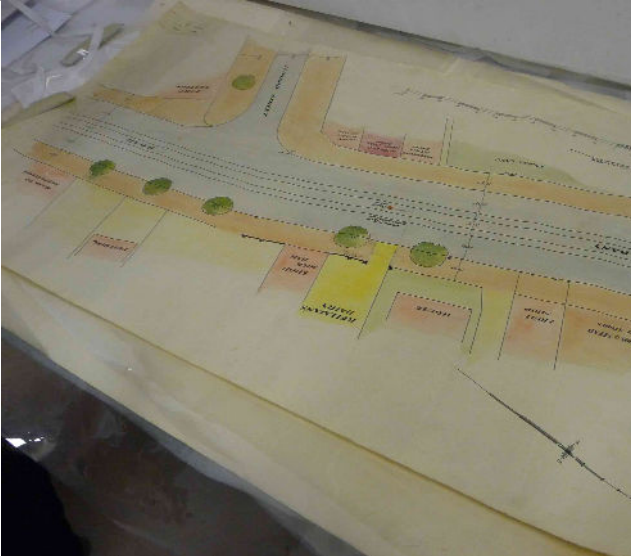



Courtroom drawing

#### INDIVIDUAL DOCUMENTS

Aside from well-provenanced larger personal and business archives, the Museum holds small collections of original materials which have exhibition, information and educational value.

- Crime scene documentation including
  - photographs (Photographic exhibits tendered at the coronial inquest of Constance Madrill relating to Edgar Cooke, the last person legally executed in Western Australia)
  - hand drawn crime scene maps of a crash between a truck and a motorcycle (Rodgers v Love, April 1938 from Durack, of Stone James)
- Letterheads, agreements
- Un-provenanced examples of legal documents

	
Hand drawn crime scene map	Oral history collection

#### LEGAL PROFESSION / EDUCATION

- Exam papers
  - Research is required to determine the provenance of this collection – perhaps via Nicholson family
- *Law Summer School papers* 1961-1992/3
  - Professional learning for the legal profession as a combined initiative of the University of Western Australia Law School and Law Society of Western Australia
    - Of the 7 libraries identified on Trove that hold the *Law Summer School papers*, the only other complete set in Australia is noted as being held at Murdoch University
  - Research is required to determine provenance of this collection – perhaps via Nicholson family
- *Law Bulletin* (University of Western Australia Law School) 1946-
  - University of Western Australia and the State Library of Western Australia have runs of this journal
- Cashbook from Law students 1946-1952

#### PHOTOGRAPHS

Loose photographs stored in allbox albums include some vintage prints, but are predominantly copies of photographs held elsewhere that relate to the building or the Museum. There are a number of framed montage portraits of key individuals.

## ORAL HISTORIES

As intangible heritage, oral history is recognised as a valuable means of documenting the more recent history of the law through the memories of its practitioners.

The Law Society oral history group was established in 2004/5 with an interview programme funded by a Public Purposes Trust grant and a Leah Cohen bequest. Robert Meadows, Geraldine Byrne and Jane Fleming conducted the interviews.<sup>20</sup> 12 interviews catalogued to the Law Society's Oral Histories Project are held at the State Library.<sup>21</sup>

Copies of the Law Society oral history interviews are held at the Museum and are seen as part of its significant collection of oral history interviews with key legal professionals.

## ABORIGINAL CUSTOMARY LAW

Three wooden Noongar spears were made by Neville Collard and Chapparelle Blurton in 2011 specifically for the Museum and exhibited to represent Aboriginal customary law.

## ARCHIVES OF THE LAW SOCIETY OF WESTERN AUSTRALIA

The Museum holds contemporary and recent documents and photographs that appear to be from the Law Society.

## DONATIONS FROM THE SUPREME COURT

The Supreme Court has donated historic items salvaged from the Supreme Court during building or renovation works, most notably in the 1980's. It seems these items were considered surplus to operational requirements and include:

- Furniture
  - Judges chairs from the Supreme Court (some used in the Museum exhibitions). These may have been designed/made by Richard Roach Jewell in the early 1900s. They may be significant if provenance can be identified.
  - Two Windsor chairs stamped as owned by the D.G.G Office
  - Two modest, early colonial chairs, one of which has been extensively repaired
- Objects relating to the Supreme Court Library including a card catalogue and archival documents relating to the collections of the Supreme Court Library
- Art works once collected by the Supreme Court

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<sup>20</sup> Cathy May. *Celebrating 90 years of the Law Society of Western Australia*. P. 143 <https://www.lawsocietywa.asn.au/history/>

<sup>21</sup> Interviews catalogued as coming from the Law Society oral history project interviews in State Library are Antoinette Kennedy, Con Zempilas, David Anderson, David Charters, Donald Doig, Kerry White, Kevin Parker, Malcolm McCusker, Peter Panegyres, Richard Harding, Robert Meadows, Rory Argyle

Where of significance and of relevance to the Museum's collection policy, such furniture should remain in the collection. Where furniture is neither significant nor of relevance to the Museum's collection policy such furniture should be de-accessioned and donated to more relevant institutions.

#### DONATIONS FROM THE HIGH COURT OF AUSTRALIA

- Revolving bookcase owned by Sir Ronald Wilson AC KBE CMG QC
- Chairs from the High Court of Australia donated to the Supreme Court of Western Australia

#### DONATION FROM THE SHERIFF'S OFFICE

- Jury lottery barrel used in the Supreme Court



Chairs from High Court and Supreme Court, stored in former Court 8

#### RELATIONSHIP BETWEEN THE BUILDING AND ITS CONTENTS

The building has had a strong connection to, and engagement with, the community in a variety of ways beyond its primary legal purpose including as a school, church, concert hall and meeting house.

From its time as the first permanent court house in Western Australia, the Old Court House has accommodated a number of courts including the Quarter Sessions, Supreme Court and the Arbitration Court. The building is connected to many eminent families and individuals who have had a long involvement with the legal system in Western Australia, and whose records are now held in the Museum collection. In addition, the community has had a strong connection to, and engagement with, this building in a variety of ways beyond its primary purpose.



The Old Court House building, its internal furnishings and the Museum collection work together in a symbiotic relationship to represent the place, the processes and the social networks that have underpinned the development of and administration of law in Western Australia. The Old Court House is one of only two surviving buildings designed by the architect Henry Reveley; the other being Fremantle's oldest surviving building the Round House which was also associated with the rule of law.

Together, the building and Museum collection tell the story of the evolution of the law in Western Australia and the social and professional networks between the families, and provide a lens through which to explore Western Australia's social history. They also highlight cases significant to individuals and the State, as well as the relationship between British and customary law.

#### COMMUNITY COMMENTS

Visitor comments are wide-ranging and complimentary about the building, exhibitions, staff and volunteers.

- International visitor: 'Fascinating, as a magistrate in UK in family court, learnt much about the clash between the settlers & the aboriginal people'
- Local visitor: 'Very interesting, I learned a lot! Well laid out and the audio was great.'
- Regional visitor: 'We felt it very well represented both sides of the story. Beautifully displayed. Audio very worthwhile listening to'

#### CONDITION OF THE COLLECTION

The collection policy states that 'The Museum will not collect items or any other materials where it does not have the ability to store or conserve the item appropriately as per the *National Standards for Australian Museums and Galleries*.'<sup>22</sup>

The collection is currently stored in several areas of the 1903 Supreme Court building. Staff are trying to address the current lack of a museum/archive standard controlled storage environment. The many formats held – wood, wool, paper – mean that, ideally, there should be a number of storage environments.<sup>23</sup>

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<sup>22</sup> *National Standards for Australian Museums and Galleries* <https://www.amaga.org.au/national-standards-for-australian-museums-and-galleries>

<sup>23</sup> For example p. 34 for National Archives standard for storage of commonwealth records [http://www.naa.gov.au/Images/standard-for-the-physical-storage-of-commonwealth-records\\_tcm16-88799.pdf](http://www.naa.gov.au/Images/standard-for-the-physical-storage-of-commonwealth-records_tcm16-88799.pdf)

- Wooden items and some regalia and publications are currently stored in former Court 8
- Most of the regalia and paper collections are currently stored in an underground storage area next to the car park shared with the Library. This has little/no air circulation or temperature control, and security is potentially compromised with many court staff having access to the area
- Art works are temporarily stored in a former office in the now vacated 1980s Supreme Court Law Library building

A proposal to adapt the former Court 8 in the adjacent Supreme Court building into centralised storage is yet to be confirmed, while its adjacent annex which has a serious damp problem is used to store furniture and some paper based materials. Following an outbreak of mould, wooden items of significance have been superficially cleaned of mould, and moved into the former Court 8 area, while non-unique paper-based materials had to be discarded.

Court 8 is on the ground floor where there is apparently a subterranean stream creating a damp environment in the ground floor and basement, including the Supreme Court archives. Court 8 has a long external wall abutting a cutting through an old river embankment and there is little external air circulation around this side of the building. The external wall has several windows and it shares a common internal wall with the extremely damp annex. There is air conditioning, but it does not operate 24 hours a day. During an inspection, the humidity in former Court 8 ranged between 50-71% humidity indicating that it will take considerable work to stabilize the environment and bring it up to the standards required for the storage of heritage materials.

In the underground storage area of the Supreme Court, there has been considerable work re-housing the collection items in appropriate containers. Purpose built acid free cardboard boxes house the legal regalia, mylar sleeves house paper-based and vellum documents, allbox albums house photographs. There has been some conservation work on paper items, and some of the most rare books are housed in purpose built boxes.

#### COMPARATIVE COLLECTIONS

Legal collections within the British tradition have their own histories and characteristics, and museums with an interest in colonial law are shaped by their imperial and colonial connections and the nature of the legal and social communities, as well as the objects and historical materials that have survived.

Internationally, some law museums focus on human rights – for example the Canadian Museum for Human Rights is dedicated to the evolution, celebration and future of human rights and strives to build an understanding, promote respect and encourage reflection. Other law museums bring together crime and punishment to show the history of the creation of the laws together with their enforcement. The UK National Justice Museum aims to ‘inspire people of all ages to become active citizens’. This Museum in Nottingham is housed in the historic Old Shire Hall and County Gaol. The Museum ‘uses original court rooms, dungeons and prison cells, along with a number of more contemporary galleries to exhibit collections relating to justice, the law, crime and punishment in a fun and interactive way’. It presents activities, exhibitions and educational programmes relating to law and justice. Education programmes help students gain a practical understanding of the law and justice system, so they are inspired by their rights and responsibilities to play an active role in society. This collection is made up of over 40,000 objects and archives, and is the UK’s largest collection relating to law, justice, crime and punishment.<sup>24</sup>

The US has had a number of law museums with two examples being the American Museum of Tort Law and Virtual Museum of Law Georgia (US).<sup>25</sup> While the Law Museum created by The American Bar Association Museum shared similar aspirations to the Old Court House Law Museum, this closed in 2011.

In Australia, there are a number of police history museums. One of the more significant, the Sydney Justice and Police Museum, is housed in the heritage listed former Water Police Station, offices and courthouse.<sup>26</sup> Its focus is more on the administration of law and those who were subject to it as seen through the archives about those brought before the law, and objects created by the Police. It has a significant web presence, publishes books related to its archival collections and has an education programme.

The Queensland Supreme Court Library houses the state’s only legal history museum – The Sir Harry Gibbs Legal Heritage Centre.<sup>27</sup> Opened in 2012, it differs from the Old Court House Law Museum in that it is housed in a modern Supreme Court building and is part of the heritage and education programme of the Queensland Supreme Court Library. Its collection began with the origins of the Supreme Court Library and alongside its significant collection of rare books, the

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<sup>24</sup> National Justice Museum, UK. <http://www.nationaljusticemuseum.org.uk/>

<sup>25</sup> <https://www.tortmuseum.org/about-us/> and <http://www.thelawmuseum.org/>

<sup>26</sup> Sydney Living Museums website is at <https://sydneylivingmuseums.com.au/justice-police-museum/education>

<sup>27</sup> Sir Harry Gibbs Legal Heritage Centre, Queensland <https://legalheritage.sclqld.org.au/about-us>

Court has received donations with provenance to law firms and key jurists (documents, objects, regalia, photographs, notebooks etc) and conducts its own oral history programme. Its website hosts previous exhibitions, a database of legal practitioners in North Queensland and a history of regional courthouses.

There are some connections between the Museum of Australian Democracy in Old Parliament House, Canberra and the Old Court House Law Museum, in particular through the story of Federation. The Museum is housed in Old Parliament House, which itself is a nationally significant building for the events that occurred there and for its architectural values. The Museum helps people understand Australia's social and political history in particular by bringing alive the importance of Parliament in the lives of Australians, has an extensive education programme and a useful website.

#### STATEMENT OF SIGNIFICANCE FOR THE ENTIRE COLLECTION

The rule of law draws heavily on medieval symbolism denoting power and authority of the court, legal processes and the profession. These powers are expressed in buildings and the aesthetics of the internal dark wooden furniture, the regalia worn by those administering the law, and the documents produced as part of legal transactions. Documents are at the core of the legal profession with vellum a symbol of permanence and seals and calligraphy signs of wealth and authority.

Legal and social histories are intertwined in many ways that give voice to people across the spectrum of society. The development and administration of law in Western Australia was founded on a British imperial network of institutions, legal instruments and individuals. Being able to understand Western Australia's social history through the lens of the law is, in and of itself, of significance.

The Old Court House is the Museum's most significant object. It is now a modest, aesthetically pleasing, rare example of a design by Henry Reveley, and it is the oldest surviving building in the City of Perth. The building represents the emergence of education, religion and the law in Western Australia, and symbolises the faith the community held in the establishment and subsequent evolution of British law in Western Australia and the entanglement with Aboriginal customary law. Its assemblage of jarrah furniture demonstrates colonial craftsmanship, exemplifies the authority of the law and embodies the power of the court and its processes.

The Museum is internationally significant for its focus on the development of the law and history of the profession in a British colony. It is unique in Australia and New Zealand in that it tells the history of the very building in which it is housed, and it is one of only a few legal history museums worldwide. The Museum collection is nationally significant for its close inter-relationship with and direct provenance to the building, its functions, communities and people whose history the collections embody, and the exhibitions interpret. Together, the component collections represent challenges faced by the emerging colony – of instability alongside long legal lineages and the importance of a close-knit legal community, of the impact of the clash of colonial and customary systems on the evolution of British law in the colonial context, and of the rarity of legal resources to support the administration and development of the law.

The provenance of the collection relates directly to the social relationships across the Imperial, professional and familial networks that underpinned the development of British law within the Western Australian colonial context. Significant items also represent the impact of that tight-knit network, highlighting the struggles of women lawyers to gain equal recognition, the role of customary law, and the journey of Western Australia from its close imperial ties, as a self-governing colony and towards federation.

In addition to their collective significance, a number of assemblages and individual items have national and state significance for their relation to significant national historical events and their rarity or provenance to eminent individuals and legal firms. They are also significant for their interpretative potential, including their capacity to give voice to those who have been subjected to the rule of law and those outside the legal profession who have participated in its administration.

## KEY RECOMMENDATIONS

### **RECOMMENDATION 1: BUILDING**

#### **COMMISSION A NEW CONSERVATION MANAGEMENT PLAN FOR THE BUILDING**

The most recent building conservation management plan was produced in 1992. This led to scheduled maintenance and conservation work on the building. This conservation plan is now well out of date, and the Museum should seek funds to commission a new conservation management plan for the building.

### **RECOMMENDATION 2: PRESERVATION NEEDS ASSESSMENT**

#### **APPLY FOR A GRANT TO COMMISSION A PRESERVATION NEEDS ASSESSMENT FOR THE WHOLE COLLECTION**

Apply for a Community Heritage Grant to employ a professional conservator/s to conduct a preservation needs assessment, noting that this is a multi-media collection that includes wood, tin, regalia (wool, horsehair and other textiles), vellum and paper-based (photographic, documents, books) and art works. As part of this work, request condition reports on the most significant items and quotations for preservation treatments.

Seek advice as to appropriate conservators from institutions that house multi-format collections – for example the Art Gallery of Western Australia, the Western Australian Museum, and Artlab in South Australia.

### **RECOMMENDATION 3: STATUS OF GOVERNMENT RECORDS**

#### **SEEK ADVICE FROM STATE RECORDS OFFICE TO ESTABLISH THE STATUS OF RECORDS AS GOVERNMENT RECORDS**

The collection contains a number of records created during the conduct of court business that may be considered state records under the *State Records Act 2000*. These include Judge's notebooks and records of courts in the Kimberley.

Seek advice from the State Records Office to establish the status of parts of the archives.

#### **RECOMMENDATION 4: COLLECTION PROVENANCE**

##### **RESEARCH THE COLLECTION TO BUILD AN UNDERSTANDING OF THE PROVENANCE AND HISTORY OF EACH DONOR, COLLECTION AND ITEM**

It is likely that items may gain in significance once the collection is fully audited and further research has been completed to establish provenance.

The component collections need to be documented by provenance – notably to individuals and businesses. Provenance provides the logic of, and interconnections between, the component collections, preserves the context of the creation, adds meaning to the materials and shapes their significance. Thinking about the collections by provenance also helps shape the collection and guide future acquisitions.

With complete research and due consideration, items without provenance should be considered for de-accession from the main Museum collection. This will liberate items for other purposes including staff suggestions to commission an interpretative art-work compiled of surplus wigs, to use items in education programmes, or to transfer to other former Imperial court systems that still use items of regalia. However, some items have value even if their provenance is unknown, including items and objects that have exhibition value for their visual and informational qualities; such examples including legal documents, materials such as vellum, and objects such as chairs, seals and office paraphernalia.

Publications have a particular place in the legal profession, and the struggle to obtain publications in the early colony is documented. The Museum holds a few early publications which gain additional significance where their provenance is known.

Research should be conducted in order to understand more fully what appear initially to be mundane texts including:

- The historical context around the challenges in obtaining legal texts in the colony
- Books that were sent/brought to the colony
- The provenance of each book and any annotations should be noted, as the ownership of items adds significantly to their historical value

This full contextual and provenance information may change the significance of what may appear to be simply another copy of a publication, into a publication with its own history, owned by an individual, known to have significance to the local community, or significance to the law.

For photographs and art works the subject and the creator / artist / photographer need to be identified and researched. For example, it is noted that one photograph signed by the internationally trained, Western Australian female professional photographer Susan Watkins adds to the significance of this item.

The collection contains a considerable number of photographic copies of originals held elsewhere. While they do not take up much space, it is good collection management practice to de-accession and transfer them to research files.

## **RECOMMENDATION 5: COLLECTION MANAGEMENT**

### **STORE PAPER BASED COLLECTIONS BY PROVENANCE**

The collection contains a number of naturally large and bulky regalia which have been housed in good quality acid free boxes. However, the storage of art works and paper-based materials needs work.

It is difficult to understand the overall logic of the storage of the paper-based collections.

- Individual paper-based items are difficult to locate
- Paper-based items are stored across several storage areas:
  - stored flat in map cabinets
  - by subject, person or date in hanging files in metal filing cabinets,
  - in acid free boxes on metal shelves.
- It is likely that some archival material is held in the Museum's research files (for example Dwyer)
- Those archives in the hanging files and in the research files are at the greatest risk of damage due to their size and storage.
- Paper-based collections are not consistently or completely accessioned
- It is almost impossible to track items of common provenance so they can be viewed together



As a matter of priority, paper-based materials should be sorted by provenance and transferred to more appropriate storage containers. This will:

- assist the current collection audit work
- aid accessioning by donor/provenance
- help improve item level tracking and collection security

## **RECOMMENDATION 6: DIGITAL ACCESS PLAN**

### **DEVELOP A LONG-TERM PLAN TO PROVIDE DIGITAL ACCESS TO COLLECTIONS**

Planning is the key to successful and sustainable digitization projects and digitizing collections is neither cheap nor fast!<sup>28</sup> Good collection management is the foundation for sustainable digital access and so your work towards improving digital access to your collection has already begun.

A long-term plan to provide digital access to collections should include a number of component parts:

- Identify your digital goals – options could include any/all in a sequence
  - A simple web presence
  - To expose your catalogue through a portal or your own website (note the development of CollectionsWA)<sup>29</sup>
  - To curate digital exhibitions to give longer life to temporary exhibitions, to contrast with the physical Museum exhibitions, and stimulate deeper knowledge of collection themes and popular items (a useful example is the Carnamah Museum<sup>30</sup>)
- Identify which collections will best suit the digitization according to your digital goals
- Preserve key items prior to digitization
- Develop metadata standards for the collection database mindful of your planned digital destination
- Develop plans including:

<sup>28</sup> A useful website to help guide your thinking about digitization projects is here <https://digitalnz.org/make-it-digital/getting-started-with-digitisation> A useful set of slides that gives the major headings for digital project planning by David Ong is at Presentation 1 <https://prezi.com/azroyttsyww/project-planning/> Presentation 2 <https://prezi.com/yh-qx2isol/-digitisation-and-digital-preservation-in-more-detail/> An international standard 13028 Implementation guidelines for digitization of records is very helpful as it outlines the high level principles, albeit for digitization in an office environment. This is available via the State Library of WA website.

<sup>29</sup> Regional Treasures one step closer to worldwide exposure. Press release 6.2.2019. <https://www.mediastatements.wa.gov.au/Pages/McGowan/2019/02/Regional-WA-treasures-one-step-closer-to-worldwide-exposure.aspx>

<sup>30</sup> Website for Carnamah Museum and Historical Society is here <https://www.carnamah.com.au/> and the Virtual Museum <https://www.carnamah.com.au/virtual-museum>

- A digital preservation plan (including digitization standards and file-naming protocols) to ensure the creation of digital objects in a format that can be preserved, costing and determining how they will be preserved
- A digital access plan to outline what will be digitized, the resources and equipment and how it will be made accessible

#### **RECOMMENDATION 7: ORAL HISTORY**

##### **RECONSIDER THE ROLE OF THE MUSEUM IN CREATING AND HOUSING ORAL HISTORY INTERVIEWS**

The Museum collection policy includes an oral histories collection policy. The Museum should reconsider its role in creating and housing oral history interviews in order to take on a more strategic role of increasing public access to the collection. The State Library is reportedly willing to receive the oral history collection. Museum staff are completing an audit of the collection to document interviewees, permission documentation, transcripts and formats held.

- After gaining appropriate approvals, transfer the oral history collection to the State Library and as part of the transfer documentation request acknowledgement of the Law Society/Museum as origin of the interviews in the State Library catalogue
- Rather than continue with its own oral history project, which consumes an inordinate amount of the Curator's time considering other priorities, the Law Society could consider advocating to the State Library / National Library to commission interviews with legal professionals of State / National importance in line with its current collection policy goals.

#### **RECOMMENDATION 8: FUTURE PROJECTS**

##### **COLLECT REPRESENTATIVE ITEMS FROM THOSE INVOLVED IN ADVOCATING FOR SIGNIFICANT MISCARRIAGES OF JUSTICE IN WESTERN AUSTRALIA**

Obtain symbolically rich objects and archives from those involved in the retrials as a result of the miscarriage of justice. As a priority, seek items related to the Beamish, Button, Mickelberg and Mallard matters. These cases are very well known significant miscarriages of justice in Western Australia that permeated the psyche of the Western Australian community.

**ACTIVELY COLLECT BOOKS DISPATCHED FROM ENGLAND IN 1829 FOR GOVERNOR STIRLING'S USE**

The list of books that were dispatched to Governor Stirling in Western Australia represented those works he thought significant to, and encapsulated his vision for, the Swan River colony.<sup>31</sup> As a long term project, it would be useful to search private and public collections to see if Stirling's original copies survive, and if not, to seek originals or copies of law books dispatched from England in August 1820 for Stirlings' use in establishing law in the colony.

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<sup>31</sup> Enid Russell, *A History of the Law in Western Australia and its Development from 1829 to 1979*, UWA Press, 1980 p.12 and listed in CSO vol 1, 1829, f143

## PART II. DETAILED ASSESSMENT OF THE MOST SIGNIFICANT ITEMS IN THE COLLECTION

### INTERNATIONAL SIGNIFICANCE

#### OLD COURT HOUSE AND MUSEUM COLLECTION

Together, the synergy between the Old Court House building and the capacity of the collection to represent a number of histories makes the Museum internationally significant. The synergy from the close relationship between the building and the collection tells its own history in the context of broader social, political, legal and cross-cultural contexts makes it unique as a law museum in Australia, and rare internationally.

The Old Court House building and Law Museum together are highly significant to an understanding of the emergence of law and governance in Western Australia, the history of Federation and the relationship between colonial and customary law. They are also highly significant for the way they provide the lens of legal history through which to understand the political, social and cultural histories of Western Australia. Together, the building and museum are highly valued by stakeholders including the legal community, the education sector, associated eminent families and individuals, the broader Western community and the tourism sector, for the social, political and legal history it represents and the services it provides. Unique archives, assemblages and individual items housed in the collection are nationally significant for their representation of the tight-knit social and professional legal networks, important events in legal history including serious miscarriages of justice, and for understanding the broader impact of the law on Western Australia's social, cultural and political history.

### NATIONAL SIGNIFICANCE

#### OLD COURT HOUSE BUILDING

The building holds high historical values for its continual usage as a public building for cultural, religious, educational and legal purposes, and its association with development of the state's judicial and arbitration systems. It is a rare and important building designed by Henry Reveley, and significant as an example of the classical Greek revival style and as an embodiment of the expression of the faith in the rule of law in the infant colony. It is highly valued by cultural groups for its long association with eminent families and individuals with connections to the building through involvement with the legal system.

The history of the Old Court House embodies ties to British imperial and colonial relationships from the early development of British law in Western Australia and the origins of early personnel from England and British colonies, the transfer of the British legal system to the colonial context and the continuity of the development of the legal and judicial system in Western Australia. While materially stable, it represents the many challenges and vicissitudes of development of the administration of law in Western Australia.

The ‘Government precinct’ has long associations with Aboriginal occupation in the area, and this has been continuous since colonisation. The Court House represents the imposition of British law over customary law and its situation in the 1903 Supreme Court precinct is a place where there are many unhappy experiences as reflected in the gross over-representation of Aboriginal peoples in the Western Australian justice system.

The Old Court House is recognised in its own right for its national significance on the Register of the National Estate, on the State Heritage Register, on the city Municipal Inventory, and by the National Trust. It is also recognised for its national significance on the Register of the National Estate for its significant historical context and location within the ‘Government precinct’ that includes the Supreme Court Building and Gardens, Old Courthouse and Stirling Gardens.

COMPENDIUM WRITING CASE BELONGING TO WILLIAM HENRY MACKIE.

William Henry Mackie<sup>32</sup> was Western Australia’s first judicial appointee in 1829. He played such a significant role in the development of law in Western Australia as was noted in 1836 in that ‘the Law of the Colony in all its branches seems to be completely Mackiefied’.<sup>33</sup> A man who straddled the Empire, he was born in India and gained his early legal experience in England before migrating to Western Australia in 1829.

A note written in 1933 stuck to the inside the compendium gives its provenance to Mackie who brought this compendium from England to Western Australia. The Compendium came into the ownership of the Royal Western Australian Historical Society and, noting the common social networks across the two organizations, the compendium was transferred to the Museum in 1976.

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<sup>32</sup> William Henry Mackie <http://adb.anu.edu.au/biography/mackie-william-henry-2410>

<sup>33</sup> Swan River guardian 24.11.1836 quoted in C.T. Stannage. *The people of Perth: a social history of Western Australia’s capital city*. Perth City Council, 1979 p. 25

An object which Mackie is likely to have used when drafting his judgments and legislation, the compendium represents how Mackie was recognised professionally – for appreciating the balance between the continuity and stability of legal tradition brought from the UK to the new colony of Western Australia, while at the same time opening up the law to be adapted for local conditions.

This item is of national significant for its connection to the establishment and rule of law in the colony, which was a significant first step for Western Australia on the road to Federation.



Mackie's compendium closed, on display

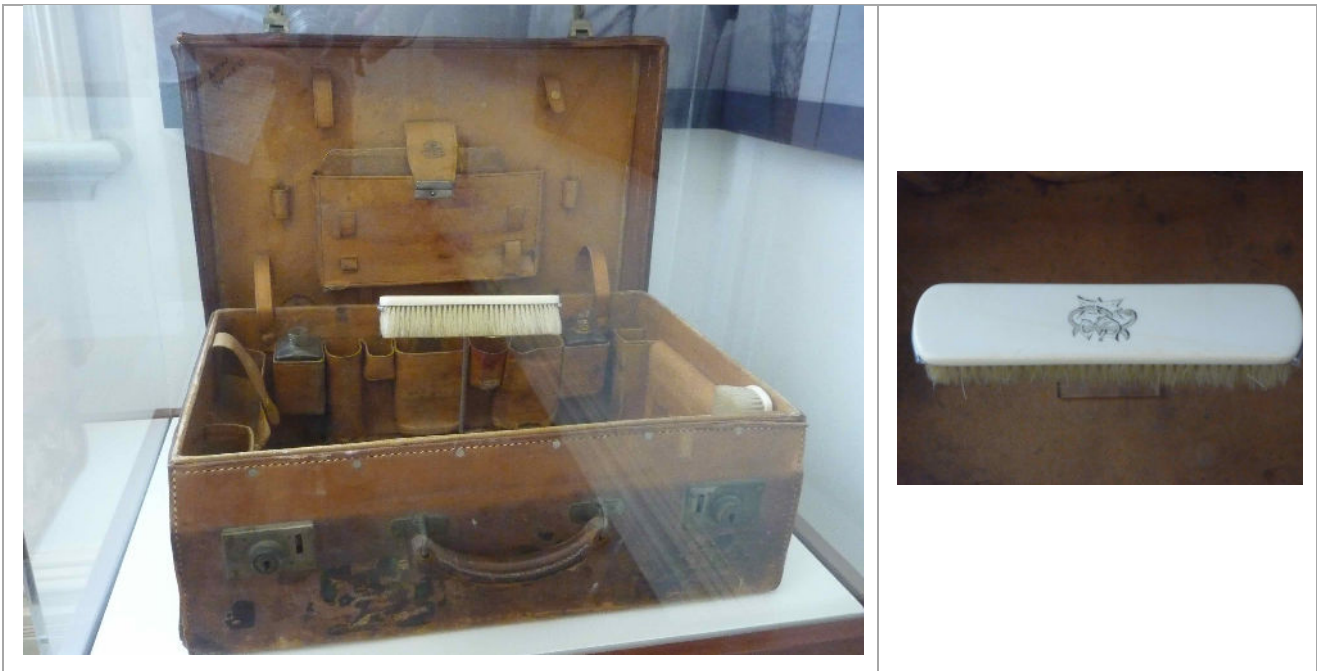


Mackie's compendium (supplied by Museum)

#### SIR STEPHEN PARKER'S TRAVELLING CASE

Western Australian born, lawyer and politician Sir Stephen Henry Parker was deeply connected to charting the political future of Western Australia as a self-governing colony and then defining its place within the Federation. A strong advocate for self-government, Parker took his fitted dressing case on his travels to London to advocate for his home state in 1889 and 1900. This travelling case with its associated luggage labels embodies ideas of mobility. With its incomplete contents and owned by a Western Australian born man who represented the State's wishes during debates about self-government and federation, the travelling case represents the casting adrift of the Imperial baggage that came to Western Australia in 1829, and the challenges that came for Western Australia during the building of the Federation.

This item is of national significance for its two-fold representation – of Western Australia's development as a self-governing colony, and then its journey on the road to Federation.



Sir Stephen Parker's travelling case and monogrammed brush

#### ASSEMBLAGE OF ITEMS RELATING TO EDGAR ERIC COOKE

Stories about miscarriages of justice are important to tell, and those of Daryl Beamish and John Button are recognised for their national significance. Their stories relate to the case of Edgar Eric Cooke, the last person hanged in Western Australia for murdering 8 women and the attempted murder of many others in Perth between 1959 and 1963. Cooke's confession to other murders was not believed at the time. The Cooke case involved a number of lawyers including the young prosecutor (and later Sir) Ronald Wilson and the Chief Justice Sir Albert Asher Wolff. The significance of the Cooke case go beyond his status as the last man to be hanged in Western Australia, and raise questions about the trans-generational nature of family trauma, the prejudice suffered by people with disabilities – Cooke was born with a cleft palate, and how individuals and families cope with stigma in a small community.

The impact of the Cooke murders on Perth life, and their place in the collective psyche in Western Australia is immortalized by some of Australia's most nationally significant writers including Robert Drew's *The Shark Net* and Tim Winton's *Cloudstreet*.

The Cooke case continues to resonate with more recent generations who have lived through retrials that revealed that there were two miscarriages of justice – the wrongful conviction of two men for crimes that Cooke admitted to – Daryl Beamish (a deaf mute convicted of murder in 1961 and sentenced to death, later commuted to life imprisonment) and John Button (who had a serious

stutter and was convicted of manslaughter in 1963). The retrials of Button and Beamish represented the culmination of a partnership – of lengthy concern from the legal profession, supported by significant pro-bono legal work from the Perth legal community led by Tom Percy QC, and the meticulous work of journalists Estelle Blackburn, author of *Broken Lives*, and Bret Christian, editor of the *Post Newspaper* and author of *Presumed Guilty*.



Sir Albert Asher Wolff KCMG was committed to capital punishment,<sup>34</sup> and sentenced Beamish to death for murders that Cooke admitted to. Ronald Wilson (later Sir Ronald Wilson who was later a member of the High Court of Australia and jointly led the Human Rights Commission report *Bringing them home* in 1997) was prosecutor in the cases against Daryl Beamish (for murder and sentenced to death) and John Button (for manslaughter), whose cases would subsequently be overturned.

- There are few more extraordinarily emotive objects in the law than the death cap, in that it represents the power of the decision of one man over another person's life. Worn by Sir Albert Asher Wolff KCMG, this rare and nationally significant death cap embodies number of aspects of the Cooke case through Wolff's decision to sentence Beamish to death. This conviction represents in part the victory of power and prejudice over the rights of the disabled – as Beamish was a deaf mute. It also represents the fragility of the justice system in Western Australia that nearly resulted in the loss of another innocent life. The death cap also symbolizes the ending the system of capital punishment in Western Australia 1984 and the significance of pro-bono work by lawyers and journalists that together led to the quashing of the convictions of Beamish and Button.
- Sir Ronald Wilson's revolving bookcase, which is three-tiered, represents the cycle of life of this man who achieved national significance. It embodies his changing role from a prosecutor in the cases of Beamish and Button and his nick-name the 'avenging angel' to a leader of the Human Rights Commission, and also the power of knowledge acquired through his rise from leaving school at 14 to becoming Chancellor of Murdoch University.
- Photographic exhibits tendered at the coronial inquest of Constance Madrill. Eric Edgar Cooke was convicted of her murder and as the last person legally executed in Western Australia

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<sup>34</sup> Sir Albert Asher Wolff KCMG <http://adb.anu.edu.au/biography/wolff-sir-albert-asher-13253>



	
<p>Photographic exhibits tendered at the coronial inquest of Constance Madrill.</p>	<p>Sir Ronald Wilson's revolving bookcase</p>

#### JURY LOTTERY BARREL

Lottery barrels have a potent symbolism in Australia, being commonly associated with gambling. Barrels have also been used to select people in the 'lottery of life' for conscription, and in this case, the lottery for jury duty.

This barrel represents the lottery of jury selection in the Supreme Court of Western Australia. The symbolic potency of this barrel is enhanced when understood in relation to the symbolism of the nationally significant lottery barrel used to select conscripts for the Vietnam War, and now held in the National Archives of Australia.

This barrel is of national significance as it represents the symbolic significance of the lottery in the national psyche, and the role of the lottery in determining the fate of individuals. This jury selection barrel is also nationally significant for its ability to represent the story that Western Australia had the first true [civilian] jury to sit in Australia, as juries were introduced into Western Australia at the first sitting of the Court of Quarter Sessions in 1830.



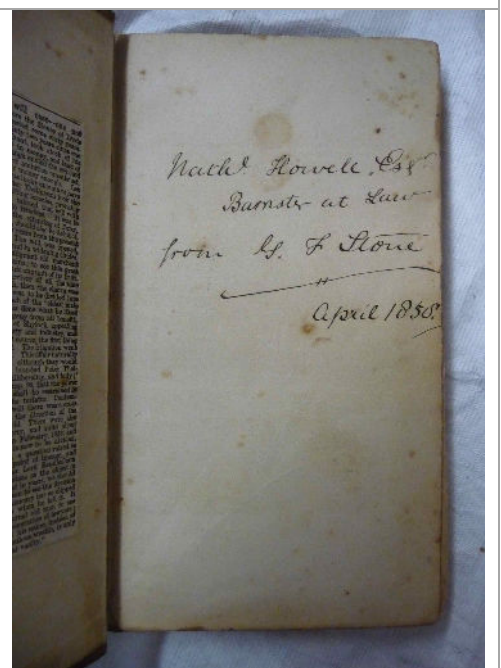
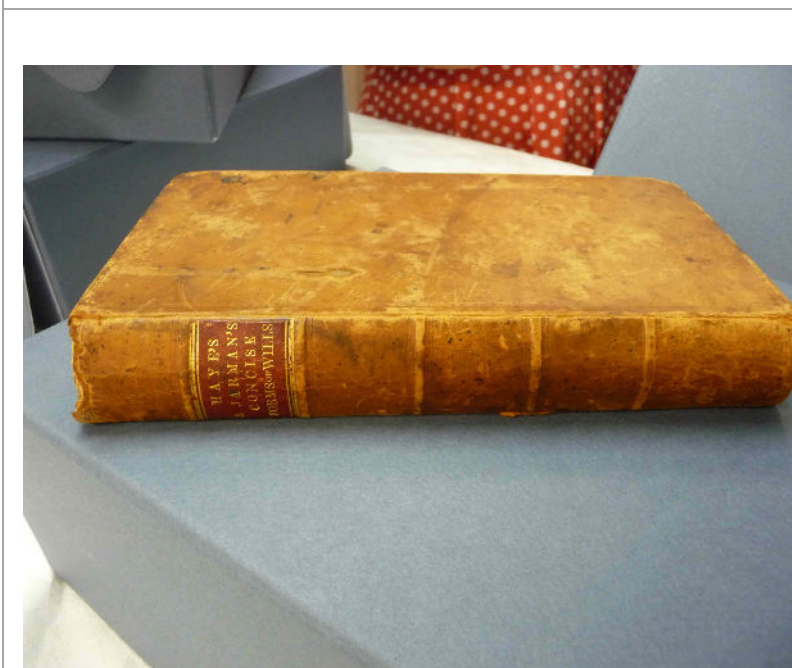
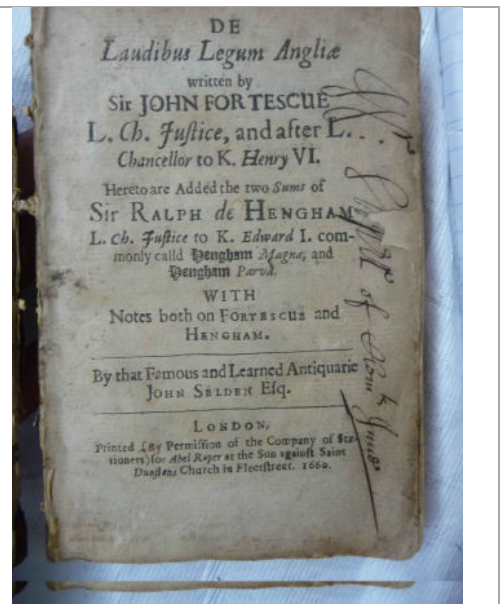
## STATE SIGNIFICANCE

### LEGAL TEXTS WITH ANNOTATIONS

The meagre library available to legal officers in early colonial Western Australia meant they were able to quote few authorities or precedents. Owning a legal publication, or a book noted as being gifts between colleagues takes on a new significance in the context of scarcity and with the challenges of knowing about and acquiring publications when slow communications reinforced the isolation of the colony.

Some of the books held in the Museum collection are more valuable than the rarity that comes simply with age and their historical contents. With the annotations that show their provenance, some of the books assume a state significance for the way they represent the power that comes with legal knowledge, and the struggle to obtain legal publications in the infant colony. Their annotations show their symbolic values of friendship and trust, seal the networks in a tight knit legal community, and demonstrate the importance of legal lineage and are representative of networks that underpinned the establishment of the rule of law in Western Australia.

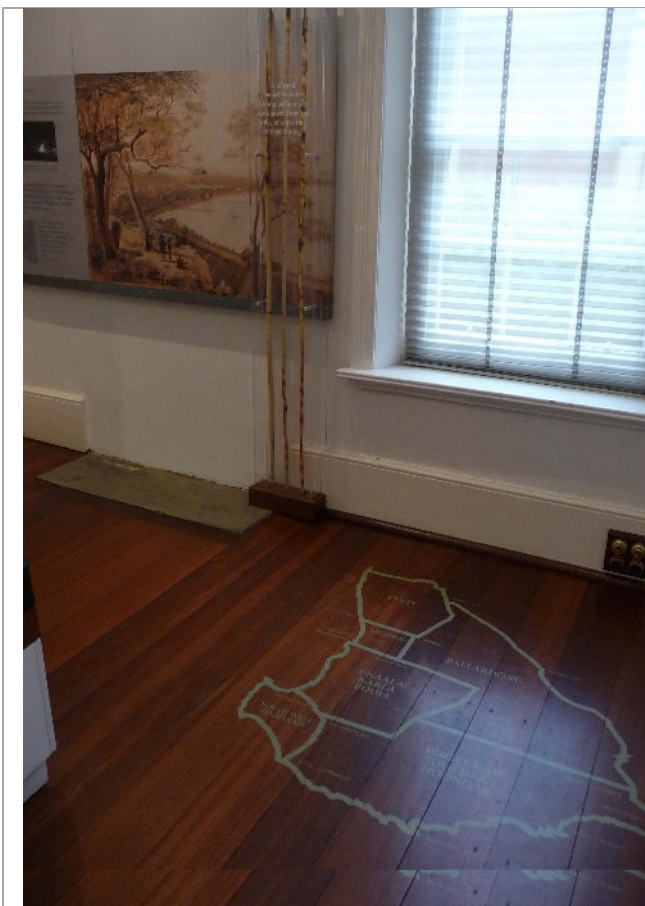
- Sir John Fortescue. *De Laudibus Legum Angliae*. London: Printed for Abel Roper, 1660 annotated as being owned by an employee of Stone James
- Hayes and Jarman. *Concise form of wills*. 4<sup>th</sup> ed. London. Sweet, 1849. Annotation shows the book was a gift from G.F. Stone to Nathaniel Howell in 1850
- Alexander Pulling. *The order of the Coif*. London: William Clowes, 1884. Inscribed 'Robert Bruce Burnside Western Australia. A Xmas gift from his father B.L. Burnside Chief Justice of Ceylon'
- Bible (New Testament) used in Central Criminal Court
- Thomas Noon Talfourd. *Dickinson's Guide to the Quarter Sessions*. Owned by Rowley Crozier Loftie 1860 to 1870s (Resident Magistrate, Albany)



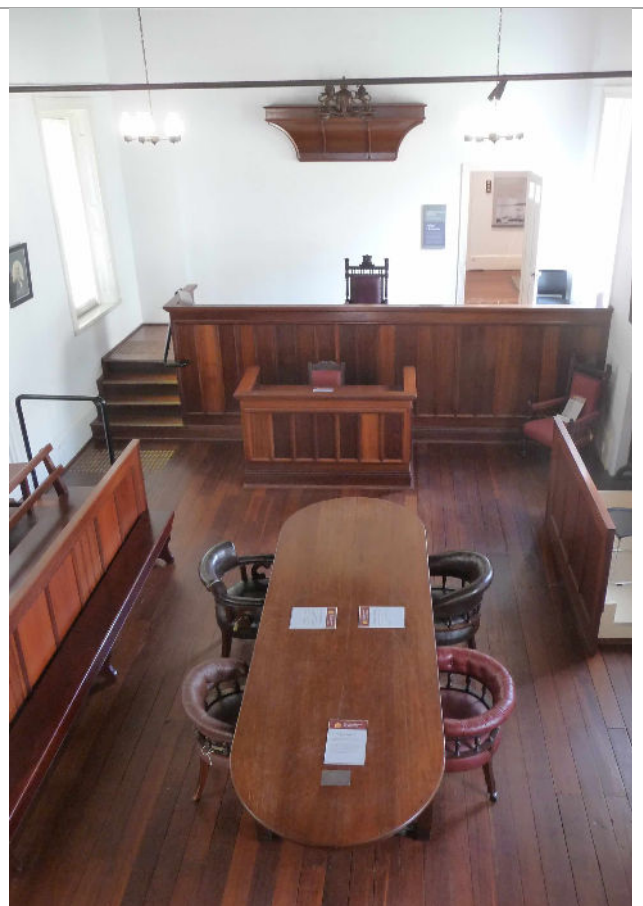
## WOODEN NOONGAR SPEARS, MODERN

These three wooden Noongar spears were commissioned by the Museum in 2011 to represent the on-going existence of customary law in Western Australia. In their act of being commissioned and constructed, these spears show a continuation of traditional knowledge, embody the spirit of reconciliation, and symbolise the recognition of the on-going Aboriginal connection to the Old Court House site.

These Noongar spears are of state significance. Now held in the Museum, they are a rare and significant modern expression of a continuing traditional representation of customary law. They are housed on a site that has been continuously frequented and used by Aboriginal people since pre-colonial times, they are now in a building which represents the clashes between customary and colonial laws, and they are in a precinct where Aboriginal people's memories have been shaped by the continuing experiences of the justice system.



Wooden spears, modern



Assemblage of wooden items

#### ASSEMBLAGE OF WOODEN ITEMS

An assemblage of items made of Jarrah (*Eucalyptus Marginata*) forms part of the building fabric and/or have provenance to the building when it was operating as a court. This assemblage includes the internal roof structure, the coat of arms, the jury benches and the bar table. Together these are significant for their embodiment of the power and authority of the court that they represent, the investment made in the continuation of these symbols in the small colony of Western Australia, and the craftsmanship with which they were constructed.

While together they form an assemblage of state significance, the bar table is of itself of state significance as it has been in continuous use in the building since it was made in 1854, and its patina shows a history of continuing use as a functional object where now, students re-enact court processes and it is used for meetings.

#### ARCHIVE OF EARLY LEGAL LINEAGES AND INDIVIDUALS

By their nature, archives are original materials and in this context I am referring to the assemblage of materials including regalia, documents and objects that relate to the early legal lineages and individuals. The personal archives of lawyers and firms provide a complimentary record to the official records of the court.

This significant assemblage of archives of early individuals and law firms reveal the professional and familial networks of relationships between the legal profession and the education, work patterns and resources available to lawyers in Western Australia and some of the legal cases they mounted. While it is the collection of archives that work together to be a collection of State significance, the archives trace their provenance to significant individuals and businesses and to cases that have become part of the cultural history of Western Australia. It is in this context that parts of this assemblage of archives are worthy of particular note.

The Burt family archive contains materials owned or created by three generations of the Burt family (Archibald Paull Burt, the first Chief Justice of Western Australia; Septimus Burt, lawyer and politician; and Sir Francis Burt, Chief Justice, and subsequently Governor of Western Australia). With provenance to the family, this broadly defined archive includes a number of formats including documents, regalia and objects.

- The state significance of the papers has been recognised by the State Library, and the Law Society lent them to the Library in 1980 for copying (MN736). The State Library also holds

a collection of original materials from the Burt, family although there is no acquisition history on the collection notes (MN1544).<sup>35</sup>

- The regalia relating to the Burt family includes
  - Sir Archibald Paull Burt QC – full bottomed wig
  - Sir Francis Theodore Page Burt AC, KCMG, QC – Supreme Court Justice Criminal Gowns

**The Nicholson legal archives** are a multi-media archive. The rare student notebooks show the state of legal education. The case file for *Rex v Jacob* (the murder at Government House Ballroom, which has long captured the imagination of Western Australians) created for the defendant is significant for annotations revealing how the legal counsel structured his performance of reading the evidence.

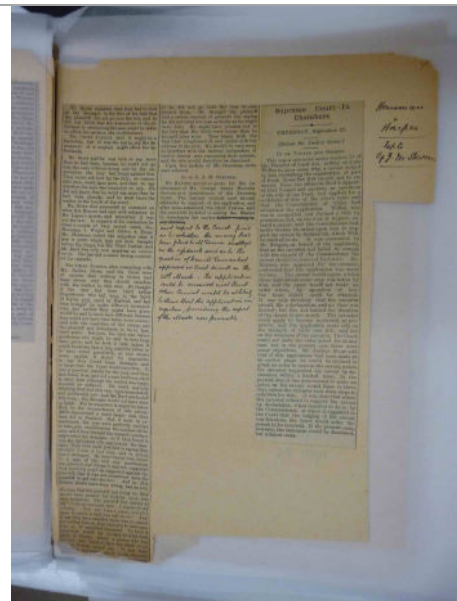
**Stone family archive** contains a notebook of AH Stone, and books owned by Stone James.

**Stawell, Hardwick & Forman** cost book give a rare insight into those who sought the services of this law firm and the nature and cost of their business.

**Newspaper cutting books** kept by a number of practitioners. This form of keeping track of legal cases is now rare and these are of particular significance where there are hand annotations and commentaries alongside newspaper reports of cases the owners were involved with.



Archibald Paull Burt, objects



Haynes. Clippings, annotated.

<sup>35</sup> The two listings at the State Library are at [http://www.slwa.wa.gov.au/pdf/mn/mn501\\_1000/mn0736.pdf](http://www.slwa.wa.gov.au/pdf/mn/mn501_1000/mn0736.pdf) and [http://www.slwa.wa.gov.au/pdf/mn/mn1501\\_2000/mn1544.pdf](http://www.slwa.wa.gov.au/pdf/mn/mn1501_2000/mn1544.pdf)

WIG AND TIN: WORN BY SHEILA MCCLEMAN AND THE HON ANTOINETTE KENNEDY

There was a long fight for the entry of women into the tight-knit male legal profession in Western Australia. This was marked by a second stage when women lawyers worked together in the face of ongoing discrimination from the male dominated profession.

This wig and its tin represent the entry of women into the legal profession. They also represent the subsequent collaboration that occurred between key women across the profession with the symbolic and actual passing of objects to denote networks of professional respect and friendship.

This wig was owned first by Sheila McClemons, one of Western Australia's earliest law graduates who completed her articles at Stawell, Hardwick & Forman, and it was subsequently worn by The Hon Antoinette Kennedy, the first and longest serving female judge in Western Australia.

This wig and tin can be understood in association with the barrister's gown, the hemline of which was taken up as was the fashion at the time, and the bar jacket worn by the Hon Antoinette Kennedy; first woman judge to be appointed in Western Australia when appointed to the Bench of the District Court in 1985, and the first woman to be appointed Chief Judge of the District Court of Western Australia in 2004.

This assemblage of women's legal attire is of state significance for its poignant representation of the networks formed between women that have helped achieve equality within the tight-knit legal profession and for their courage to assert their character by amending the traditional legal regalia to conform to contemporary fashion.



Sheila McClemons' wig and objects

## THE OLD COURT HOUSE. WATERCOLOUR BY AMY HEAP

English born and trained artist, Amy Heap migrated to Western Australia in 1909. This signed watercolour of ‘The Old Court House’ exemplifies her interest in the picturesque and historical, and brings together themes of beauty and power that were significant of commercial imagery in the interwar years. She joined the staff of West Australian newspapers. *The Western Mail*, which promoted Western Australia’s imperial connections through war, migration and the primacy of rural industries, published her line drawings which embellished photographs and some of her artworks.<sup>36</sup>

The Art Gallery of Western Australia holds a number of works by Amy Heap, and this recognition naturally affords her work state significance. This watercolour also gains significance from it being held in the context of the building it represents.



Watercolour by Amy Heap



‘The severed finger’

<sup>36</sup> C.T. Stannage. *Embellishing the landscape. The images of Amy Heap and Fred Flood 1920-1940*. Fremantle Arts Centre Press, 1990 and <http://adb.anu.edu.au/biography/heap-amy-elizabeth-10474>



‘THE SEVERED FINGER’

One of the more popular items when on display at the Museum is the severed and preserved finger of a yet-to-be-named Yugoslav immigrant who claimed the loss of his finger in a workplace accident during the Depression era in the 1930s. Incidents such as these were common at the time due to economic circumstances and show a trend in self-harming to claim compensation. The significance of this ‘severed finger’ is in its demonstration of the fact that in this case, forensic analysis proved the injury was self-inflicted. The lawyer acting for the insurer retained the finger as a memento until the donor’s father occupied the office in 1948.

This item may gain increased significance with further research to identify the name of the claimant, court records and newspaper reports.