

SIR FREDERICK DARLEY: SIXTH CHIEF JUSTICE OF NEW SOUTH WALES 1886-1910

Sir Frederick Darley: Sixth Chief Justice of New South Wales 1886-1910 (Series: Lives of the Australian Chief Justices), by Dr J M Bennett AM, Federation Press, 2016, 271 pages + 63 pages of tables. ISBN 9781760020569. Hardcover \$64.95.

This is the 15th volume in a series of reviews of the lives of 19th-century Australian Chief Justices.

Sir Frederick Darley became Chief Justice of New South Wales on 7 December 1886 and was farewelled in what is now the St James Road court in Sydney on 29 January 1909 prior to taking leave before retirement. He left Australia and died overseas on 4 January 1910.

Darley was born in Northern Ireland on 18 September 1830. He was called to the Irish Bar on 18 January 1853. He read with the author of *Coote on Mortgages* for two years prior to admission. He commenced practice on the Munster Circuit, but found that the barristers practising there had formed a strong clique and the competition for work was too great. He and his family moved to Sydney and he was admitted to the NSW Bar on 2 June 1862. However, as the rule was until recently, his seniority was considered to start from 1853. He established a very busy practice and took silk on 2 April 1879.

The book consists of 14 chapters. The first two deal with his early life and career at the Bar. The third deals with Darley as an appointed member of the NSW Legislative Council. The bulk of the book then deals with the Chief Justice's work in the Court. However, Ch 7 is a brief biography of

Sir Julian Salomons who was appointed Chief Justice in 1886, but resigned before being sworn in and the final two chapters deal with aspects of Darley's life after his appointment outside the Court's work.

Although there were significant events occurring during the period he was Chief Justice and it was a period when society generally was moving from a *laissez-faire* philosophy to one greatly influenced by the trade union movement and the birth of the Labor Party, work in the Court during the period remained fairly stable.

The author sums up his research into the Chief Justice's character on p 266 as follows: "The two qualities that marked his entry upon the Chief Justiceship and his sustaining that office for nearly a quarter of a century were the qualities of leadership and courage." Particularly was this shown in his ability to preside successfully over a Bench of four puisne judges whose esprit de corps had been fractured by the Salomons affair.

The book does not deal in detail with many of the major cases that arose during the relevant period. Basically, it proceeds from year to year. However, Chs 8 and 9 deal with general problems in the Supreme Court at the end of the 19th century. Chapter 9 also deals with the notorious Dean Case and Chs 10 and 11 deal with Industrial Law and Crown Lands legislation. Chapter 12 gives examples of Darley's legalistic approach to some cases and his wrestling with how to uphold the rule of law in changing social conditions.

Generally the author takes a neutral position on the various issues that concerned the Court during the period. Perhaps the only exception is that he shows he was no fan of the pre-*Judicature Act* procedure in the Court or the de facto status of the Equity side of the Court as virtually a separate court. He classes the case of a person who loses a case because he commenced it in the wrong side of the court as an example of denial of justice on an unreasonable technicality.

Generally, as one would expect from this author, the work is well researched and well written and the book is a valuable addition to the series.

Hon Peter W Young AO QC