

# Justice of the Federal Court

By Justin Gleeson

Lockhart QC was sworn in as a Justice of the then recently formed Federal Court of Australia on 3 November 1978. He provided outstanding judicial service to the Commonwealth of Australia and citizens over the next 20 year period.

His influence was stamped on many areas of the law, including trade practices, consumer protection, intellectual property, taxation, bankruptcy, immigration law and corporations law, indeed across the entire gambit of the Federal Court's jurisdiction.

But a few of Lockhart's significant judgments are the 1982 judgment on price fixing in *Radio 2UE v 2SM*; the 1988 judgment on silence and section 52 TPA in *Henjo Investments*; the 1991 judgment on the test for a mandatory injunction in *ASX v Pont Data*; the 1992 judgment on the test for a negative injunction in *ICI Australia v TPC*; the judgment on the patentability of methods of treatment of the human body in *Anaesthetic Supplies v Rescare*; and his participation in the unanimous appellate judgment in 1996 in the *Super League* case.

In recent years, as one of the most senior judges of the Court, Justice Lockhart sat on the Full Court in many of the significant appeals throughout Australia. He regularly presided over the Full Court. As such, his judgments will remain of lasting significance and influence across most areas of Federal jurisdiction.

His Honour was chairman of the Practice and Procedure Committee of the Federal Court. He also presided over the Trade Practices Tribunal, latterly the Australian Competition Tribunal, for 16 years from 1982. His many and outstanding contributions to the law were marked in 1994 by



his well deserved appointment as an Officer in the Order of Australia.

Lockhart throughout his judicial career displayed a sound grasp of legal principle and a sure eye for the sound development of principle. He once responded to a remark on his apparently implacable manner that he was like duck: calmly swimming on the surface but paddling furiously underneath. Both parties and their lawyers appreciated that Lockhart would decide cases without making damaging credit findings unless such findings

were truly necessary.

As was noted by Walker S.C. at the farewell ceremony to Lockhart on 4 June 1999, Lockhart displayed over a long and distinguished judicial career a combination of authority and kindness, of decisiveness and open mindedness, never easy to achieve from the bench, and greatly appreciated by the profession across Australia. Lockhart achieved the aim he expressed on his swearing in of emulating the qualities of the then Chief Judge in Equity, Mr Justice Charles McClelland, of politeness, firmness, humility and humanity. As with Justice McClelland, Lockhart was a wonderful judge to junior counsel who tried hard, even though they made mistakes. He allowed an element of humour to remain even if disaster had struck one's case or the sword had to fall.

Although at one time at the Bar Lockhart might have been drawn to politics, Australia has vastly benefited from his promotion to the bench for a period of 20 years of dynamic growth in Australian legal history.