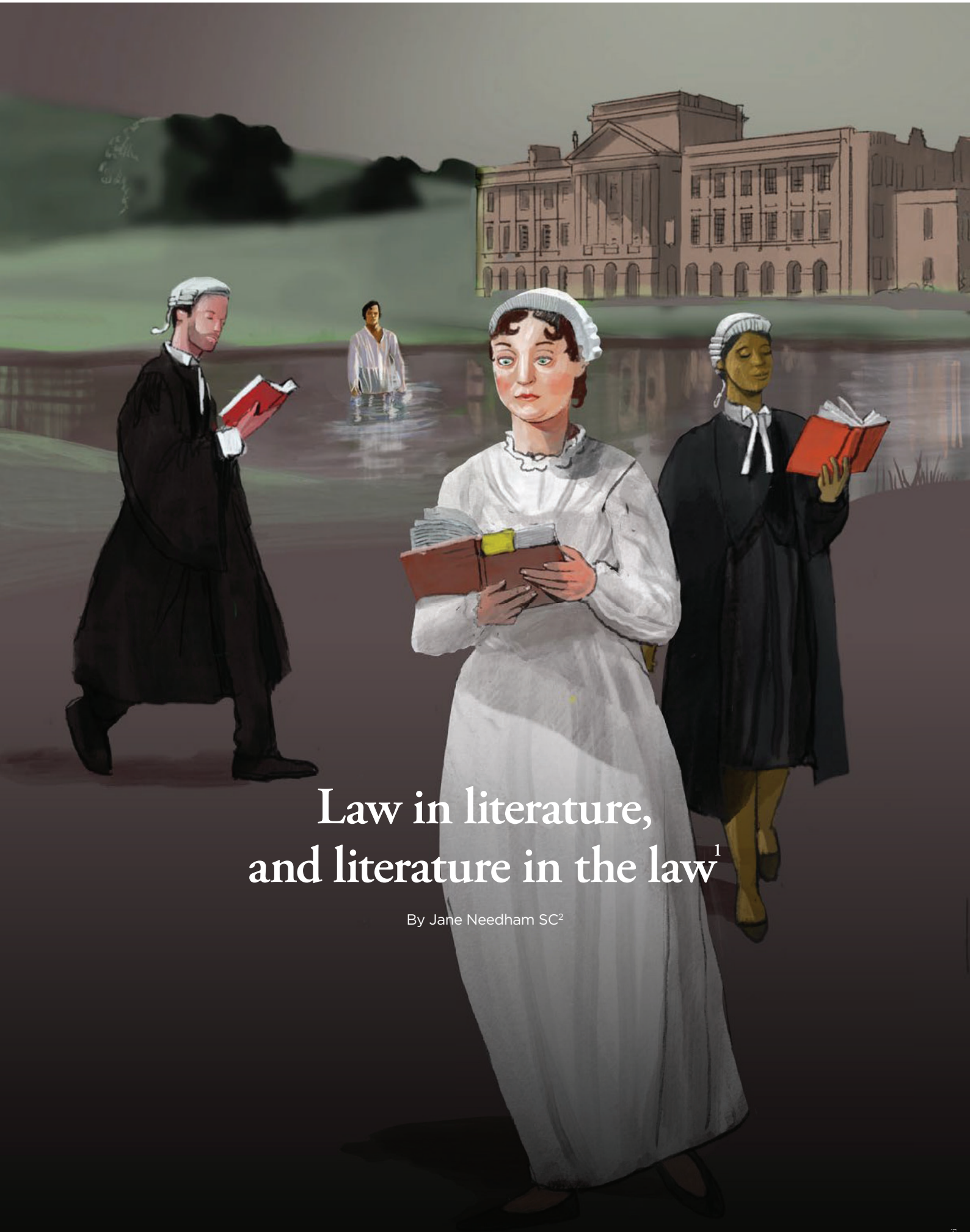

Law in literature, and literature in the law[1]

By Jane Needham SC[2]

Rocco Fazzari

In 2017 Jane Needham SC presented a lecture about books that feature succession law, titled *Beyond Bleak House – Wills and Estates in Literature.*[3] For the 2021 Sir Anthony Mason Oration, she expanded on the theme of literature in law, and particularly the use of literature by judges. The following is an edited version of that speech.

In any review of the use of literature by judges, it is impossible to ignore Dickens. Some judges (such as Justice Palmer in *Re Sherbourne Estate (No 2); Vanvalen v Neave*[4]) content themselves with a mere mention of *Bleak House*,[5] where his Honour said: 'One might wonder whether anything has changed since Dickens' *Bleak House*'.[6]

Justice McMillan of the Victorian Supreme Court, on the other hand, in *Morris v Smoel*[7], set out in a lengthy judgment postscript[8] a discussion of the real Chancery case upon which *Jarndyce v Jarndyce* was based (for the record, *Thelluson v Woodford,*[9] although her Honour footnotes another contender – *Re Jennens, Willis v Earl of Howe*).[10] In both cases, the mention is not merely dropped in for effect – *Bleak House* is usually quoted before resigned or sometimes harsh words are aimed at the parties and their lawyers.

Indeed most *Bleak House* references land with more than a touch of disapproval. In my article I quoted Justice Alfred of the High Court of Fiji in *Raffe v Raffe*[11] who said:

> 10. Jarndyce is the fictional case in Charles Dickens' *Bleak House*, which like all fictional cases are based on real life ones. Protracted litigation in the Chancery Court of 19th century England inevitably resulted in the milch cow of the estate becoming a gaunt cow.
>
> 11. No judge in Fiji would wish the instant case to become the Jarndyce of the South Seas.

As a most recent example, Justice Pembroke commenced his judgment in *Riva NSW Pty Ltd v The Official Trustee in Bankruptcy*[12] with a double quote from Dickens, including one that is the complaint of any list judge, that there had been too much 'swearing and interrogating, filing and cross-filing, arguing and sealing and motioning, and referring, and reporting…'.

In *Beyond Bleak House*, I restricted myself to wills and estate law but I was not restricted in any practical sense, because there was such a breadth of material upon which to draw. I cheated a little and included *Pride and Prejudice*,[13] because while that book deals with issues of inheritance, really the heart of the legal issue facing the Bennet family is one of land law. (I noted in my article that estates in fee tail is an issue which has recently been reinvigorated in a new generation's legal knowledge via *Downton Abbey).*[14]

Jane Austen gets another run in this speech, because she is one of the authors most often quoted in judgments, along with Dickens and the famous quote from Tolstoy's *Anna Karenina*[15] which is often cited in matters involving family disputes: 'All happy families are alike; each unhappy family is unhappy in its own way'.

There are Austen references in nearly every jurisdiction, even in the Chiropractors Tribunal

As an example of the way in which literature is used in judgments as a touchstone for the issues before the court, Mr Justice Lewison in *Re P*[16] cited *Pride and Prejudice*'s Mrs Bennet's lack of understanding of a fee tail, and noted that even in Jane Austen's day it was not widely understood. His Honour said: 'Unfortunately, as the history of this case reveals, an entail remains a subject upon which some people are beyond the reach of reason'.

If anyone ever needs an explanation of a fee tail, Mr Justice Lewison's explanation in *Re P*[17] is as good as any I have read. That case involved a decision about the then current tenant in tail who lacked mental capacity, and I am sure Justice Lindsay would love to get his hands on such a case, he being interested in both protective matters and legal history.

Jane Austen finds her way into all sorts of judgments. The current reigning champion of catchwords, Justice Peter Hamill of the NSW Supreme Court, cited Miss Austen in *R v Lawrence*.[18] His Honour noted a wise forensic decision not to contest the strength of a prosecution case with an Austen quote reduced to catchword-ese – 'angry people are not always wise'[19] and citing '*Pride and Prejudice* (1813)' in the 'Legal Texts' field of the judgment.

Austen has been cited in the High Court – for a change, as the author of *Sense and Sensibility*[20] – in the 1982 case of *Parkdale Custom Built Furniture Pty Ltd v Puxu Pty Ltd*[21] where Murphy J used her fame to illustrate the meaning of 'misleading and deceptive':[22]

> if a publisher puts out novels authored by Jane Austen, although the Jane Austen concerned (using her real name) is not the Jane Austen of *Sense and Sensibility* fame, unless a clear distinction between the well-known and the other is drawn, this conduct would be misleading or deceptive.

And a joint judgment of Chief Justice Gleeson, and Justices Gummow, Kirby, Callinan and Heydon in *Zhu v Treasurer of New South Wales*[23] commenced with an allusion to the opening line of *Pride and Prejudice* and, for extra credit, tossed in a glance to Voltaire:[24]

> It is a truth almost universally acknowledged – a truth unpatriotic to question – that the period from 15 September 2000 to 1 October 2000, when the Olympic Games were held in Sydney, was one of the happiest in the history of that city. The evidence in this case, however, reveals that the preparations for that event had a darker side.

There are Austen references in nearly every jurisdiction, even in the Chiropractors Tribunal[25] where a miscreant chiropractor – felicitously named Austin but with an 'i' – was compared to the odious Mr Wickham, 'whose outward appearance was a man of utmost respectability but in his private life he was quite the reverse'.

In the American sphere, an article by Matthew H Birkhold seeks to understand why so many judges cite Jane Austen in legal decisions. It is entitled 'Why do so many judges cite Jane Austen in legal decisions'[26] and concludes:

> After reading every available opinion, I've come to a rather banal but beautiful conclusion: Jane Austen is cited as an authority on the complexity of life, particularly with regard to the intricacies of relationships. Alternatively, judges cite Austen as a shorthand for erudition and sophistication, to demarcate who is a part of high society (often, lawyers) and who is not (often, defendants), reflecting the novelist's popular reception.


Jane Needham SC
2021 Sir Anthony Mason Oration

Associate Professor Birkhold notes that in the American context, very few female authors are cited by judges; he lists JK Rowling (whom he notes 'appears in a number of decisions because of her own litigiousness'), Harper Lee, and Mary Shelley, but notes that Jane Austen is the only author whose quotes range over a number of works.

Sadly that American dearth of women's voices is repeated in decisions over the common law world, as can be seen from the following review of decisions closer to home. I have started with Austen, but however often she pops up, the undisputed leader of quotes in judgments is, of course, Shakespeare.

Professor David Rolph of the University of Sydney has collected all the references he could find on reputation in the first chapter of his book on *Reputation, Celebrity and Defamation Law*;[27] *Richard II* and *Othello* are often cited on reputation when assessing damages. Cassio in *Othello* says: 'Reputation, reputation, reputation! Oh, I have lost my reputation! I have lost the immortal part of myself, and what remains is bestial. My reputation, Iago, my reputation!'

Justice Bergin, as she then was, cited Iago in a similar context, in *Whitlam v National Roads and Motorists' Association Ltd*.[28] Her Honour said, in her usual crisp style: [29]

> 'Good name in man and woman, dear my lord is the immediate jewel of their souls' (Act 3 sc iii). Be that as it may, what is to be decided in this case is whether the parties intended that the defendant would indemnify the plaintiff for the legal costs of defending a defamatory allegation arising out of the performance of his duties as an officer of the defendant.

The Court of Appeal did not deal with this paragraph in allowing an appeal from the first instance judgment,[30] nor did Campbell JA (who wrote the judgment with whom Beazley and Handley JJA agreed) cite any further Shakespeare.

Some of the distinguished speakers who have or will share their thoughts with us this weekend are not beyond citing Shakespeare; Justice Lindsay at [210] of *Smith v Smith*[31] noted of an elderly man in a nursing home: 'This was his final phase of life: the seventh of the seven ages of man (Shakespeare, *As You Like It*, Act II Scene vii).'

In 2008 Justice Barrett decided a lottery ticket case, *Reinhold v NSW Lotteries Corporation (No 2)*[32] in which, describing the lottery ticket in question, he said:

> The ticket Ms Skinner wished to cancel and intended to cancel was the ticket she held in her hand while speaking to Mr Cardwell, that is, the first ticket produced in response to Mr Reinhold's order which, like Shakespeare's Richard III, emerged into this world 'scarce half made up'.

The undisputed leader of quotes in judgments is, of course, Shakespeare

A search for Justice Barrett and Shakespeare also throws up the multi-judgment epic of *Shakespeares Pie Co Australia Pty Ltd v Multipye Pty Ltd*[33] which resulted in a number of decisions between 2005 and 2006, but the temptation to include Shakespearean puns ('is this a pie I see before me?') was impressively resisted.

Interestingly, Justice Ward and Shakespeare are not friends. I searched in vain for a line from a sonnet, a declaration, even an attributed Shakespearean flourish. One would think that given the number of words her Honour has devoted to determining disputes in her time on the bench, she would have at least mentioned Shakespeare once – but apparently not. Her Honour likewise eschews quotes from Tolstoy and Austen. Dickens does show up on searches of her Honour's judgments, but is limited to her Honour's surprisingly frequent mentions of morally objectionable conduct,[34] as dealt with in *Taylor v Dickens*.[35] I'm sorry that her Honour has to deal with that kind of thing so often.

Judgments can be the opportunity to correct annoying errors and misquotations; for example, Slattery J in *Calokerinos v Yesilhat; Estate of the late George Sclavos (No. 2)*.[36] In assessing the credibility of Mr Yesilhat, his Honour said:[37]

> Indeed in this analysis one is reminded of the famous couplet from Sir Walter Scott's 'Marmion', (often wrongly attributed to Shakespeare), 'Oh what a tangled web we weave, when first we practise to deceive'.

That was not a good start for Mr Yesilhat, and unsurprisingly, his credit did not fare well.[38]

Speaking of credit – I should acknowledge that much of the credit for research for this talk should be given to my Twitter followers. I put out the call on Twitter for examples of the use of literature in judgments. I received so many that I am unable to include them all.[39] The sources given to me range from the mention of Tweedledee's word 'contrariwise' used by Justice Deane in *Commonwealth v Tasmania*[40] (Tasmanian Dam case): [41]

> The absence of any reasonable proportionality between the law and the purpose of discharging the obligation under the convention would preclude characterization as a law with respect to external affairs notwithstanding that Tweedledee might, 'contrariwise', perceive logic in the proposition that the most effective way of preventing the spread of any disease among sheep would be the elimination of all sheep.

to a lovely insertion by Keane J of Molière's *Bourgeois Gentilhomme*, 'who spoke prose without knowing it' in an analysis that the Northern Territory Legislative Assembly had vested the judicial power of the Commonwealth in the Territory's courts without knowing that it was doing so (*North Australian Aboriginal Justice Agency Limited v Northern Territory*[42]).

Sometimes judges refer to non-existent books. Justice McDougall, in *Birketu Pty Ltd v Westpac Banking Corporation*[43] analysed a thoroughly unimpressive course of correspondence between two firms of solicitors, and noted: 'If this were a tale written by Beatrix Potter, it might be entitled *The Tale of the Tempestuous Teacup.* Unfortunately it is not a children's story.'[44]

At the other end of the spectrum from Beatrix Potter is Justice Emmett, who teaches Roman Law at the University of Sydney and knows a thing or two about classical history and the ancient world, so much so that he uses Ancient

Greek in the opening paragraphs of *Gales Holdings Pty Limited v Tweed Shire Council*:[45]

> These appeals are concerned with a colony of frogs. They are not the βάτραχοι of Aristophanes, who inhabit the marshes of the River Styx, encountered by Dionysus on his way to the Kingdom of Hades. Rather, the appeals are concerned with a colony of crinia tinnula, or Wallum froglets, which inhabit ephemeral ponds on land owned by the appellant, Gales. It is likely that both parties to these proceedings would agree with the response of Dionysus to the croaking ('βρεκεκεκέξ κοάξ κοάξ') of the βάτραχοι:
>
> "ἀλλ' ἐξόλοισθ' αὐτῷ κοάξ·
> οὐδὲν γάρ ἐστ' ἀλλ' ἢ κοάξ. "

But his Honour is good enough to add a translation:-

That is to say:

> 'May you all utterly perish with your croaking'.

Justice Hodgson was one of the most learned of judges, and he was able to insert his prodigious understanding of science and mathematics into his judgments. In *Project Research Pty Ltd v Permanent Trustee of Aust Ltd*[46] his Honour was able to pre-empt what the chief judge in Equity[47] said this morning about costs. He said:

> I refer to Hofstadter's Law, which appears at p 152 of Godel, Escher, Bachby Douglas Hofstadter, and which is as follows: 'It always takes longer than you expect, even when you take into account Hofstadter's Law.' The relevant version of this law, which I call Hofstadter's Law (costs version) is: 'It always costs more than you expect, even when you take into account Hofstadter's Law (costs version).'

At the other end of the spectrum from Beatrix Potter is Justice Emmett, who teaches Roman Law at the University of Sydney

Justice Edelman of the High Court is another polymath. He manages to slip in wonderful quotes such as 'absolute freedom for the pike is death for the minnow',[48] and when one goes to the footnote it cites Berlin, 'Two Concepts of Liberty', in Hardy and Hausheer (eds), *The Proper Study of Mankind: An Anthology of Essays* (1998) 191 at 196, quoting Tawney, *Equality*, 3rd ed (1938) at 208 – a footnote longer than the quote. While not exactly a quote from literature, his Honour has a way of working in his learning entertainingly while writing with crystalline accuracy.

Other judges, everywhere, are just bonkers about Lewis Carroll. Of course, the exchange between Humpty Dumpty and Alice, from *Alice in Wonderland*,[49] on the meaning of words, is just made for cases about statutory construction:

> 'When I use a word,' Humpty Dumpty said, in rather a scornful tone, 'it means just what I choose it to mean—neither more nor less.' 'The question is,' said Alice, 'whether you can make words mean so many different things.'

That passage was famously quoted by Lord Atkin in *Liversedge v Anderson*[50], a case on whether a decision by the relevant minister as to persons with hostile associations was unreviewable effectively because the minister said it was. Lord Atkin said the only authority he knew for that proposition was the above quote from *Alice in Wonderland* – a brave decision given the intensity of the war in England at that time. Humpty Dumpty also featured in *Klason v Australian Capital Territory*,[51] in which case Crispin J coined the delightful neologism 'Humptyspeak' in reference to the determination of definitions of words by government committee. His Honour said:

> The suggested approaches go well beyond George Orwell's concept of 'newspeak' and embrace an elasticity of language not acknowledged since Lewis Carroll attributed to Humpty Dumpty the cheerful assertion that 'words mean what I choose them to mean, neither more nor less'.

The Cheshire Cat (or at least his grin) featured in *Jennings v Credit Corp Australia Pty Ltd*[52] in the NSW Supreme Court, The Walrus and the Carpenter and their self-serving invitation to the Oysters featured in *Bateman v Slatyer*[53] in the Federal Court, and The Hunting of The Snark's declaration that 'what I tell you three times is true' featured in *R v Robinson* in the Queensland Court of Appeal[54] ('quite incorrect').The Snark also features in *Uniquema Pty Ltd v Commissioner of State Revenue*[55] in the Victorian Supreme Court: 'Goodwill can be an elusive concept and as difficult to hunt as a snark.'

Lewis Carroll's wonderful nonsense poem *Jabberwocky*[56] – 'twas brillig, and the slithey toves did gyre and gimble in the wabe' is quoted in *Re Johnson & Johnson Australia Pty Ltd v Sterling Pharmaceuticals Pty Ltd*[57] as the court tried to determine the meaning of a neologism, noting Carroll's language as demonstrating 'the sustained use of new-coined words to convey an imprecise, yet vivid, descriptive meaning'.[58] The new-coined word in this case was, rather prosaically,[59] 'caplet'.

I should note here that I could find no instances of Justice Ward mentioning Lewis Carroll, either. Her Honour's judgments appear to be a literature-quote-free-zone.

I will note further at this point that most literary sources cited by judges tend not to be very recent. Most are from the 'classics', dating from the 19th century and earlier. Even 20th century quotes are fairly rare. More recent quotes tend to come from songs (see *R v Donker*[60] and Croucher J's citing of the Archie Roach song *Walking into Doors*[61] as an illustration of the scourge of domestic violence) or movies (see, for example, the citation of 'the vibe' from *The Castle*[62] in *Poonsup v Ku-Ring-Gai Council*;[63] 'The vibe is not the basis upon which to consider the application for approval of a brothel in the Gordon Shopping Centre, proper consideration of the genuine planning issues is the only basis upon which we can proceed.')[64] Writing extra-judicially, Justice Robert French[65] cited Homer (Simpson) in asking 'Declarations – is there anything they cannot do?'.[66] I should note that Justice French rapidly retreated to the classics in paragraph 1 of the article by citing Longfellow's poem *Kavanagh,*[67] so the flirtation with the twentieth century was a brief one.

Its this possibly a reflection of judges not having the time to read more widely? Is it a result of lack of diversity, and the generally privately-educated, wealthy middle-class background of judges? Or are classical references more likely to be recognised?

Indeed, what is the point of using literary quotes in judgments at all? Marina Hyde, my favourite sarcastic political opinion writer, said of the UK Prime Minister: 'I don't know if Johnson knows anything about classical history and the ancient world – it's impossible to say because he wears his learning so lightly'.[68]

Very rarely, I think, do judges cite literature in the Johnsonian manner so that everyone may know just how smart they are. More often, I think, it is to make judgments more

readable, to illustrate a point, or to demonstrate that some aspect of human behaviour has been dealt with in literature and is thus, perhaps, less surprising or unusual. It is the touchstone of a common experience, seeking to include the reader in a shared knowledge and familiarity. Care, I think, must be taken not to exclude in so doing. I note that, in this spirit, Justice Emmett helpfully translated the words from Ancient Greek.

Justice Kirby – himself not averse to slipping in some literature, notably Homer, into his judgments – in his article entitled *Literature in Australian Judicial Reasoning*[69] spoke of the need to 'keep the law on the side of the living' and to draw upon powerful words using the 'verbal music' of gifted authors. I think this may be one of the reasons; it an outlet for judges, who generally use words in a precise and constrained way, to let their inner author fly free.

As I have lamented the few female voices, and the lack of modernity, former Justice Michael Kirby AC CMG has also bemoaned the lack of Australian literature in Australian judgments. His Honour, in noting that the law reports were a 'desert' for Australian literature, concluded his article with a call for more Australian authors, and said: '... there are few sights on earth as beautiful as the Australian outback with occasional native flowers, opening after a long drought.'

Writing extra-judicially, Justice Robert French cited Homer (Simpson) in asking 'Declarations – is there anything they cannot do?

I can only hope that this drought will soon break and that modern, Australian, and female voices will soon be heard in Australian judgments as loudly as Aristophanes' frogs. BN

ENDNOTES

1 This is an edited version of the Sir Anthony Mason Oration, given at the Blue Mountains Law Society Succession Conference, 20 November 2021, by Jane Needham SC
2 Jane Needham SC is a barrister specialising in succession law, inquests, and inquiries. She loves reading.
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3 The Sir Ninian Stephen Lecture, which was later published in the NSW *Bar News* [2017] NSWBarAssocNews 52 (Spring).
4 [2005] NSWSC 1003; (2005) 65 NSWLR 268.
5 1852.
6 at [16].
7 [2014] VSC 31.
8 at [75].
9 (1829) 5 Russ 100; 38 ER 965.
10 (1880) 50 LJ Ch 41.
11 [2017] FJHC 936 at [10]-[11].
12 [2019] NSWSC 49 at [1].
13 1813.
14 Season 1 commenced in 2010.
15 1878.
16 [2006] EWCOP 163.
17 at [3].
18 [2019] NSWSC 787.
19 see par [21].
20 1811.
21 [1982] HCA 44; (1982) 149 CLR 191; (1982) 42 ALR 1.
22 at ALR 17.
23 [2004] HCA 57; (2004) 218 CLR 530; (2004) 211 ALR 159 at 1.
24 'the best of all possible worlds', *Candide,* 1779.
25 *Austin v Chiropractors Registration Board of New South Wales* [2009] NSWCHT 2.
26 published in *Electric Lit* 24 April 2018 https://electricliterature.com/why-do-so-many-judges-cite-jane-austen-in-legal-decisions/.
27 (2016) Taylor & Francis, 2nd edition.
28 [2006] NSWSC 766.
29 at [94].
30 [2007] NSWCA 81.
31 [2017[NSWSC 408.
32 [2008] NSWSC 187.
33 commencing with a winding up application at [2005] NSWSC 1338.
34 See for example *Van Dyke v Sidhu* [2012] NSWSC 118, at [261]-[263].
35 [1998] 1 FLR (Eng) 806.
36 [2019] NSWSC 584.
37 at [268].
38 including on appeal – [2021] NSWCA 110.
39 Many thanks to those who replied; particularly David Rolph, Nicholas Baum, Michael Sergeant, Barbara Rich, Nicholas Broadbent, Lachlan Peake, Jeremy Travers, Andrew Bailey, Steph Gardiner, Chris Kaias, Stephen McDonald, Rachel Greaves, Michaela Whitbourn, James Lee, Bridie Nolan, Carrie Rome-Sievers, James D'Apice (@coffeeandacasenote), Katy Barnett, Daniel Reynolds, Angus McInnis, @Tailendslogger, Mr Andrew Tiedt, Amanda Buckley, Taruna Heuzenroeder, Martin Roland Hill, Douglas McDonald0Normal, Camieare Tutto, Darren O'Donovan, Robert Lake, GB Howes, Lr LJ Maher, Robert Angyal SC, Dr Darren Conway, @Bazzio101, Francesca Newby, @constrainedtolisten, Adrian Lawson, and @alexdry33. Apologies to those I have missed!
40 [1983] HCA 21; (1983)158 CLR 1; (1983) 46 ALR 625.
41 at ALR 806.
42 [2015] HCA 41 at [178] per Keane J.
43 [2018] NSWSC 879 at [1].
44 As Beatrix Potter did not write this book, it is hard to include her in a list of women cited by judges in literature.
45 [2013] NSWCA 382; (2013) 85 NSWLR 514 at [2]. The catchwords are much more prosaic: 'Stormwater runoff onto land'.
46 (1990) 5 BPR 11,225.
47 as her Honour the President of the Court of Appeal Justice Ward then was.
48 *Unions NSW v New South Wales* [2019] HCA 1 at [155].
49 1865.
50 [1941] UKHL 1.
51 [2003] ACTSC 104 at [89].
52 [2000] NSWSC 210; (2000) 48 NSWLR 709 per Santow J at [40].
53 (1987) 71 ALR 553, per Burchett J.
54 [1988] QCA 50; (1998) 102 AcrimR 89, per Lee J, in dissent.
55 (2002) 50 ATR 91 at 93, per Pagone J. His Honour was so taken by this concept that he gave a paper on 'Goodwill and its relationship to land' at the TIA 11th Annual States' Taxation Conference in Melbourne on 29 July 2011 which begins with a section 'Snarks and Goodwill' http://classic.austlii.edu.au/au/journals/VicJSchol/2011/18.pdf.
56 1871.
57 [1991] FCA 402; (1991) 30 FCR 326; (1991) 101 ALR 700.
58 at ALR 718 per Burchett J.
59 at ALR 719 per Burchett J.
60 [2018] VSC 210 at [1].
61 1993.
62 1997.
63 [2010] NSWLEC 1304.
64 at [2].
65 as he then was, of the Federal Court of Australia.
66 'Declarations – Homer Simpson's Remedy – Is there anything they cannot do?' (FCA) [2007] FedJSchol24 http://classic.austlii.edu.au/au/journals/FedJSchol/2007/24.html.
67 1839.
68 https://www.theguardian.com/commentisfree/2021/nov/05/owen-paterson-boris-johnson-standards-commissioner.
69 https://www.hcourt.gov.au/assets/publications/speeches/former-justices/kirbyj/kirbyj_literature_judicialreasoning.htm, based on an address to the 34th Annual Dinner of the Foundation for Australian Literary Studies, James Cook University, Townsville, Queensland, 16 October 2000.

IN THE SUPREME COURT
OF NEW SOUTH WALES
EQUITY DIVISION

REIN J • FRIDAY 18 MARCH 2022

FAREWELL

HIS HONOUR: Call the matter for judgment.

Matter of Jarndyce v Jarndyce (1827/00001) called.

This matter was transferred to the Equity Division of this Court under the little known and even less utilised piece of English legislation *Hard Cases Transportation Act* of 1831. I understand several years ago that some sort of anti anti anti-suit injunction was unsuccessfully sought by an enthusiastic but lightly credentialled young silk. Where is he now we can but wonder?

The case was allocated to me by her Honour Ward CJ in Eq (as her Honour was then known) in her 5.30am Tuesday Applications List.

The case, it is fair to say, has had dilatory progress through the English Courts prompting an obscure English court reporter to write a rather unflattering account of that country's legal system. Dickens mistakenly believed the case to have finally settled by 1853 but here it is in my list. To avoid any such unfavourable publicity for this Court, as that generated by his work, I have decided to speedily determine the case without any regard to the facts, law or the voluminous submissions of counsel, which voluminous submissions themselves, I might add, paid no regard to the law or facts in the matter.

There will be judgment for the plaintiff against the defendant. There will be judgment for the defendant against the plaintiff, each to be set off against the other. The plaintiff's costs are to be paid by the defendant's lawyers. The defendant's costs are to be paid by the plaintiff's lawyers.

If you want reasons I shall provide you with an opportunity to obtain a packed lunch and a thermos. I will close the Court, not so as to prevent anyone entering, but to prevent anyone leaving.