

Sir Ronald Wilson
A MATTER OF CONSCIENCE



Antonio Buti

Antonio Buti has made an astute choice in documenting the topical life of Sir Ronald Wilson, and allows the many voices in this biography to tell the story of one of Western Australia's most famous sons. While evoking some important passages in WA's legal and social history, Buti's book exerts much broader appeal.

Sir Ronald's life had at least three distinct phases: he was a prosecutor of note, and an adviser to government.¹ He worked his way through the Crown Law department to become its chief. Second, he became a leading High Court advocate on range of constitutional, industrial and criminal matters and was later appointed to that Court as a judge.² He was WA's first High Court appointment and went to Canberra as one of WA's most eminent practitioners. The expectation was that he would be a 'states rights' judge. The premier of the time – the late Sir Charles Court – was elated at Wilson's appointment to the bench.

Third, following his retirement from the High Court, he was a Royal Commissioner in an inquiry into the relationship between the WA government and business

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(WA Inc) and finished his active working life as a member of the Human Rights and Equal Opportunity Commission, where he led the compilation of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families (the *Bringing Them Home Report*).

I met Ron Wilson several times. On one occasion, I invited him to Curtin University to speak about his role in the publication and dissemination of the *Bringing Them Home Report*. He happily obliged, and came to the university in a modest little car without a Commonwealth driver. I told him I was in trouble with the University Protocol Officer for failing to alert the Vice-Chancellor of his presence, and requested that he meet the Vice-Chancellor. Ron shrugged and walked with me to the VC's office and we had a cup of tea and signed the visitors' book – he was in short sleeves with no tie and was impatient to get to the real game; to speak to my students and staff about the report. He gave his usual passionate delivery, explaining the controversial use of the term 'genocide' in the *Bringing Them Home Report*, defending the report's research methods, and urging us all to consider the plight of those children who were forcibly taken from their families.

Estelle Blackburn (author of the book *Broken Lives*, which brought to light new evidence in the Button case, which Ron had successfully prosecuted in the 1960s) had been on campus some time before, and mentioned her quest for justice for Button. (This was well before the final decision of the Appeal Court to overturn Button's conviction for manslaughter.) When I mentioned Estelle's visit to Ron, he told me that he had been in contact with Button for

some years, and had been sending a Christmas card to him annually wishing him well and 'hoping each year that he got what he was seeking'.

So, like many West Australians, I have to declare my admiration for Ron Wilson, something his biographer also declares openly.

What has Buti added to the stock of knowledge on Wilson? Many of us know of Wilson's work as a lawyer, and remember him at the height of his power, successfully prosecuting the biggest criminal cases in WA legal history during the 1960s. Most remember his appointment to the High Court bench, when there was a perception that he might have been on the conservative side of politics (although he insisted he voted Labor). Buti has studiously collected material from many sources on all phases of Wilson's life, showing us the complexity of this energetic man in a readable and coherent manner. This is not the in-depth legal and political analysis that can be found in David Marr's *Barwick*. It is much closer to the affectionate approach of the various contributors found in Jocelyn Scutt's *Lionel Murphy – A Radical Judge*. While Buti's work can certainly sit comfortably on the same shelf as these fine legal biographies, Buti goes a little further than Scutt; he lets the participants paint the life of Wilson and, in so doing, he allows both his supporters and detractors a voice.

Those whom Wilson prosecuted recognised his powers, but some thought him overzealous. Leo Wood, a case-hardened criminal defence lawyer of the period, thought Wilson a 'striver'.¹ Looking at some of Wilson's over-tough cross-examinations in some of his key trials, all those cases that mattered went on appeal at the time (some to the Privy Council); but the successful prosecutions were left intact, and Wilson was not found wanting. Forty years later, John Button (and also Darryl Beamish) obtained relief from the Court of Appeal when fresh evidence emerged and allowed the Court to hold the convictions unsafe.² Wilson responded generously when these appeals were successful.

On the High Court, Wilson was unsurprisingly confident with the criminal cases. In some of the big constitutional cases of the day, he sat with the minority. *Koowarta*, the *Franklin Dams Case* and *Mabo* were all cases he decided against the trend, holding fast to his positivist legal thinking. He regretted not being able to find for *Koowarta* and *Mabo*, but happily declared years later that *Mabo No. 2* was the 'High Court's finest hour'. Interestingly, some 20 years later in the *WorkChoices* decision, Justices Callinan and Kirby cited Wilson with approval, lamenting the growth of Commonwealth powers that threatened to upset the historic federal balance.

So what of Wilson outside the court? His apparent puritanism and naivety sometimes blinkered him to the realities of social and political life. A lifelong member of the Uniting Church, Wilson confessed ignorance of the Church's role in removing indigenous children from their parents and placing them in the Church's WA facility at Sister Kate's. His role in the administration of the Sister Kate's home was frequently brandished as an embarrassment when he began working on the HREOC inquiry into the Stolen Generations.

He shunned broad approaches to legal interpretation and held fast to the strict positivist approach to legal reasoning while on the High Court, without recognising (as Murphy had done) the value judgements that such a process involves. When he left the bench, Wilson confronted many of the demons that came back to stare him down. He apologised for his role at Sister Kate's. He urged the Church to apologise. When the Howard government thumbed its nose at the *Bringing Them Home Report*, Wilson became the report's leading advocate.

Buti's chronicle of Wilson's life, and to a lesser extent the social history of Perth in the 1960s, is an important contribution. There are some commentators who allege Wilson 'converted on the Road to Damascus'. They imply a hypocrisy in his embrace of the *Bringing Them Home Report*. They cite his indifference to the imposition of the death penalty upon some of those whom he prosecuted during his time at Crown Law, and his minority judgements in *Koowarta* and *Mabo* as insensitive and inconsistent with his religious beliefs. Buti's interesting subtitle – *A Matter of Conscience* – shows us Wilson not as a hypocrite but as a man of duty. Throughout his life, Wilson was able to separate himself from his office; he did his duty as a matter of conscience. His staunch advocacy for the Stolen Generations illustrates – as Justice Kirby has noted – Wilson's ability, late in life, to adopt views and positions different to those he previously held, and to *expand his mind in harmony with his heart*.

Wilson never really retired. He slowed down towards the end but, as Buti tells us, he in fact died standing up. There was not much left in Ron Wilson's in-tray when he moved on, he had achieved much and gathered many admirers. He was at the forefront of many of Australia's key legal and social events, tireless, travelling non-stop, never in business class and remaining 'just Ron' to all he met. Despite the constant travel, he remained a strong family man, lovingly supported by his wife, Leila. Buti brings this humility, compassion and kindness out beautifully with tales of his frugality on the High Court and within his own home (much to the chagrin of his fellow judges and wife). It is telling that Rudd's Labor government has begun its first term with an apology to the Stolen Generations, which Wilson and his team had recommended in the *Bringing Them Home Report*. Ron would have been pleased, but would also have noted that there were 53 other recommendations in the *Bringing Them Home Report* yet to implement. ■

Notes: **1** Wilson had an interesting legal pedigree; his father was a Geraldton lawyer who had declined an invitation to become a magistrate. **2** Near the end of my time as a law student at UWA, I recall the excitement at the appointment of Sir Ronald ('call me Ron') Wilson to the High Court. **3** Notably with the assistance of the Alliance's current WA president and other local Alliance members.

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