

# Judges and Magistrates of Western Australia



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*In this the fifth in our series of pen portraits of the judges and magistrates of Western Australia, we provide short biographies of Justices Nicholas Hasluck and John McKechnie and Magistrate Julie Wager.<sup>1</sup>*

## NICHOLAS HASLUCK

As an awarded novelist, a former editor, a member of the Order of Australia and the son of a Governor-General, Nicholas Paul Hasluck is no ordinary man.

Hasluck was born in Canberra on 17 October 1942. However, he spent much of his childhood in the Perth suburb of Claremont and completed his junior certificate at Perth's Scotch College. At the age of 15 he returned to Canberra with his father who was serving as a minister in the Menzies government. Hasluck completed his secondary education at Canberra Grammar School in 1959. In his final year at school he decided to pursue a career in law. He had been accompanying a friend to the local courts, and, as a fledgling author, he was attracted by the interesting dramas and story lines that unfolded in the courtroom. He was also attracted to law by the lack of mathematical and scientific equations that legal study seemed to entail.

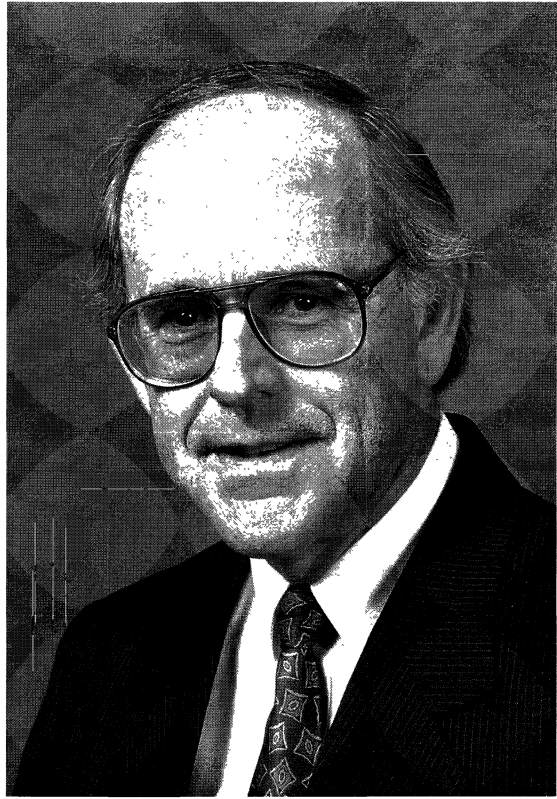
His father, the late Sir Paul Hasluck, was a major influence in young Nicholas's life. Sir Paul had spent his life as a journalist, historian, author and politician. After

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<sup>†</sup> Members of the Student Editorial Board, UWA Law Review, 2001/2.

1. Previous pen portraits appear in UWAL Rev, vols 27(1), 27(2), 30(1) and 30(2).

serving as Minister for Territories from 1951 to 1963, he went on to become Governor-General of Australia from 1969-1974. The exposure to politics and government that his father, Sir Paul, gave to his son had a lasting impact. Through his father's involvement in Papua New Guinea, Nicholas was able to witness first-hand the benefits which government activity can have on the development of a new country. Years later this experience was to stimulate his interest in local government and constitutional law.



In 1960 Hasluck returned to Perth from

Canberra and enrolled in the Faculty of Law at the University of Western Australia. After graduating in 1963, he was articled to David Anderson, who later became a Family Court judge. After only nine months in articles he decided to travel to England where he enrolled at Oxford University and began studying for his Bachelor of Civil Law. His time at Oxford was spent at Wadham College, which has become renowned for its association with eminent Western Australian lawyers. Its alumni include Chief Justice David Malcolm, Justices Geoffrey Kennedy and Carmel McClure, the current federal Attorney-General Darryl Williams QC and the late Frank Beasley, foundation Law Dean at the University of Western Australia. It was Beasley who recommended Wadham College to Hasluck.

In 1966 Hasluck graduated from Oxford and married. Instead of returning to the law, he decided to broaden his horizons and 'live the London life'. He got a job working for the legal publishers Sweet & Maxwell, as editor of the Criminal Appeal Reports. He later became sub-editor of *The Police Review*, the journal of the British police force. It was this experience that kindled his interest in journalism and fostered his literary aspirations. The work also broadened his reach, giving him a deeper understanding of how the law was laced with human-interest dramas and stories.

After one year with Sweet & Maxwell, Hasluck returned to Perth to complete his articles. In 1968, after being admitted to practice, he founded a new law firm with Robert Holmes à Court. Two years later he was recruited by Keall Brinsden (now Corrs Chambers Westgarth) where he developed an expertise in land development law. In 1984 he left to join the Western Australian independent bar.

In the early 1970s Hasluck became involved in the Liberal party, the party which his father had served with such distinction. Initially he envisaged that he would seek pre-selection for a government seat. His political aspirations however were pushed into the background when in 1978 he was appointed Deputy Chair of the Australia Council, a position he held for four years. It was about this time that he began his career as a prolific author of fiction, poems, essays and short stories. His gift for writing was formally recognised in 1984 when he won *The Age* Book of the Year Award for *The Bellarmine Jug*. In 1990 he shared the Western Australian Premier's Award for Fiction for *The Country Without Music*. Hasluck is today regarded as one of Western Australia's most eminent authors.

In 1988 Hasluck became a Queen's Counsel and the following year he was appointed President of the Western Australian Equal Opportunity Tribunal. On 1 May 2000 his talent and contribution to the legal profession were recognised by his appointment as a justice of the Supreme Court of Western Australia.

The transition to the bench has required Hasluck to make some adjustments to his natural style. He no longer has the freedom to speak his mind on any subject, a luxury he enjoyed as a barrister. He also has had less time to spend enjoying his leisure pursuits, which include bushwalking, tennis and travelling the world gaining inspiration for his writing.

His new role has, however, given him an opportunity to reflect on how society has evolved over the past few decades. He has witnessed what he believes is a shift of focus from community values to materialism. Symptoms of this shift include the increasing prevalence of drug-related crime. These changes have required the legal system to respond by establishing such initiatives as the Western Australian Drug Court, an innovation which Hasluck praises.

Hasluck has valued every phase of his extraordinary legal career: the adventure of starting a new law firm, the collegiality of a middle-sized firm of like minded colleagues, the intellectual freedom of the independent bar and finally the responsibility and of being a Supreme Court judge.

These achievements alone would be enough to satisfy any lawyer's ambitions. What has made Justice Nicholas Hasluck truly remarkable, however, has been his ability to combine his legal career with a second life as an eminent and prize-winning author.

[N.B.]

### Novels and other works by Nicholas Hasluck

<b>Novels</b>	<i>Quarantine</i> (Macmillan, 1978) <i>The Blue Guitar</i> (Macmillan, 1980) <i>The Hand That Feeds You</i> (Fremantle Arts Centre, 1982) <i>The Bellarmine Jug</i> (Penguin, 1984) <i>Truant State</i> (Penguin, 1987) <i>The Country Without Music</i> (Penguin, 1990) <i>The Blossville File</i> (Penguin, 1992) <i>A Grain of Truth</i> (Penguin, 1994) <i>Our Man K</i> (Penguin, 1999)
<b>Poetry</b>	<i>Anchor and Other Poems</i> (Fremantle Arts Centre Press, 1976) <i>On the Edge</i> (Freshwater Bay Press, 1981) (co-author, W Grono) <i>Chinese Journey</i> (Fremantle Arts Centre Press, 1985) (co-author, C Koch)
<b>Essays</b>	<i>Collage: Recollections and Images of UWA</i> (Fremantle Arts Centre Press, 1987) <i>Offcuts From a Legal Literary Life</i> (UWA Press, 1993)
<b>Short Stories</b>	<i>The Hat on the Letter 'O' and Other Stories</i> (Fremantle Arts Centre, 1978; revised 1988)

## JOHN McKECHNIE

John Roderick McKechnie, Western Australia's first Director of Public Prosecutions and a current justice of the State Supreme Court, was born in Perth on 1 November 1950. His father was a chartered engineer, his mother a housewife. He grew up in Perth, attending Dalkeith State School from 1956 to 1962. He was a member of the Pelican Point Sea Scouts, and spent his weekends sailing and rowing on the Swan River.

In 1963 McKechnie enrolled at Scotch College. He was a shy teenager, and to overcome this he joined the public speaking and debating clubs at Scotch, developing skills that would later serve him as an advocate.

While at Scotch College, McKechnie tried his hand at a number of other activities, including rugby and rowing. His secondary education was, however, overshadowed by the death of his older brother in 1963. McKechnie is certain that this death motivated him to try and compensate his parents for their loss. It gave him the drive to excel in his secondary and tertiary education. McKechnie feels that his dedication to his studies came not from any ingrained work ethic, but from a desire not to disappoint his parents.

After graduating from Scotch College in 1967, McKechnie was undecided about whether to pursue a career in medicine or law. The turning point came when he spent some time with an American lawyer and his family in New York as part of a Rotary Club student exchange program. McKechnie remembers in particular that the American lawyer's passion for the law inspired him to pursue a career in it.

McKechnie enrolled in the Faculty of Law at the University of Western Australia in 1969 and graduated in 1972. He did not undertake Honours or postgraduate studies, claiming that 'I didn't have the brainpower for that'.

During his time at Law School, McKechnie was selected with former State ombudsman Murray Allen to represent the University at the Australian Law Students Association mooting competition in New Zealand. He was elected President of the Association in 1972.

After graduation, McKechnie undertook articles with Jackson McDonald & Co in Perth. He was articled to David Charters<sup>1</sup> and Paul Seaman.<sup>2</sup> He regards the time he spent with them as invaluable. It was with Seaman that McKechnie honed his skills in trial process and litigation.

During this period, McKechnie defended a man who had been charged with motor manslaughter. The Crown Prosecutor, Ron Davies, was apparently impressed by McKechnie's advocacy skills and three weeks later he was invited to join the Crown Law Department. He accepted.

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1. Later his Honour Judge Charters of the District Court.

2. Later the Honourable Justice Seaman of the Supreme Court.

McKechnie's initial intention was to spend about five years with the Department before going to the bar. At some stage, however, he was seduced by the nature of the work and the quality of the people in the Department. He spent a great deal of time assisting the then Solicitor-General, Kevin Parker QC. McKechnie practised in a wide range of Crown Law work, including constitutional law, administrative law, personal injuries litigation and criminal matters. He appeared regularly in the Court of Criminal Appeal and the High Court.



Towards the end of 1989, McKechnie took silk. He was 39 years old. A few months later he was appointed Crown Prosecutor. For the first time in his career, he was working solely in the criminal law field.

In December 1991 McKechnie was appointed Western Australia's first Director of Public Prosecutions. He describes this role as a difficult but rewarding one. Of particular importance to McKechnie was maintaining both independence and accountability to the public.<sup>3</sup> He feels that anyone undertaking the role must command respect, but not popularity.

During his eight-year term as DPP, his Department processed on average around 2 500 prosecutions a year. In 1992 it employed 20 counsel; by the end of his term in 1999, it employed over 50 counsel.<sup>4</sup>

McKechnie's contribution to the Western Australian legal system was formally recognised in 1999 when he was appointed a justice of the Supreme Court. He remembers feeling that it was an honour to be appointed to the Bench and, at the

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3. See J McKechnie 'Directors of Public Prosecutions: Independent and Accountable' (1996) 26 UWAL Rev 268.

4. *Office of the Director of Public Prosecutions, Western Australia 2000-2001* (Perth, 2001) 19.

same time, an enormous responsibility. His new role as Supreme Court judge meant that he now had to consider matters from a different perspective.

McKechnie maintains a number of pursuits outside the courtroom. He has coordinated and taught the Forensic Advocacy course at the University of Western Australia since 1987 and taught Criminal Law as a Visiting Fellow in 1985-1986. He is the Chair of the Articled Clerks Training Program and a Council Member of the Presbyterian Ladies College.

McKechnie feels that it is 'desperately important' for lawyers to maintain a balance in their lives. He has seen too many lawyers unnecessarily sacrificing their personal lives in the interests of their career. McKechnie is critical of the attitude of those lawyers for whom family life, sport and other recreational activities are secondary to the law. He firmly believes that, apart from anything else, lawyers must have a broad range of experiences outside the law to draw upon if they wish to excel in that profession.

McKechnie spends as much time as he can with his wife, Beth, and their five children. He particularly enjoys sailing his catamaran with them.

McKechnie claims that he is a 'pretty unremarkable person'. However, his accomplishments as Western Australia's first Director of Public Prosecutions, Queen's Counsel and justice of the Supreme Court of Western Australia suggest that he is no ordinary lawyer.

[G.M.]

## JULIE ANNE WAGER

Julie Anne Wager was born at King Edward Memorial Hospital in Perth on 13 September 1962, becoming a sixth generation Western Australian. Her father was an Associate Professor in Engineering at the University of Western Australia and her mother ran the family home in Dalkeith. Julie attended the local primary school and completed her secondary education at Hollywood Senior High School. In 1980 she enrolled in the Law Faculty at the University of Western Australia. She obtained a Bachelor of Jurisprudence in 1984 and a Bachelor of Laws in 1985.



Magistrate Wager undertook articles at the Legal Aid Commission (WA) under the wing of Len Roberts-Smith QC.<sup>1</sup> Following Legal Aid, she worked as a duty solicitor at the Children's Court. She then joined the law firm of Clairs Keeley, where she specialised in family law. In 1988 she accepted an offer to return to the Legal Aid Commission as the acting solicitor in charge of the Criminal Law Division. Three years later she established her own law firm, where she specialised in criminal law for the next nine years.

In 1996 Magistrate Wager was elected President of the Criminal Lawyers Association of Western Australia for two years. From 1998 to 2000 she served on the Council of the Law Society of Western Australia and in 2000 acted as the Society's media spokesperson on criminal law.

She was appointed a stipendiary magistrate in October 2000 to set up and preside over the Drug Court program in the Court of Petty Sessions in Perth.

The Drug Court of Western Australia was originally a two-year pilot program aimed at drug offenders who steal or commit other crimes in order to finance their habits. After pleading guilty, the offender's sentence is postponed while he or she

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1. Now a justice of the Supreme Court of Western Australia.



is before the Drug Court. During this time the offender must meet the stringent requirements of individually tailored programs established by the Court. Such programs include strict routine drug testing, allied to a system of penalties and rewards that will ideally result in total rehabilitation.

Does Magistrate Wager ever get emotional, considering the cases she has to deal with on a daily basis in the Drug Court? Of course, but she uses her emotions in a very practical and positive way to assist offenders to understand their problems and devise strategies to overcome them. She believes that solving an offender's problems involves looking behind the drugs and alcohol to discover the underlying cause of the insecurity and fear of reality that affects so many of the people who appear before her.

Magistrate Wager believes in calling a spade a spade and makes a determined effort to speak simply and directly to those who appear before her in the Drug Court in language they understand. She believes strongly that people being processed by the criminal justice system must know exactly what is happening to them and be made aware that their own actions and attitudes can influence the final outcome.

Magistrate Wager is a warm, approachable and down-to-earth woman, but at the same time highly professional and knowledgeable in the law. She has acquired a clear understanding of the problems of drug users, having been exposed to them for so many years as a solicitor and on the bench.

With regard to legal education, Magistrate Wager believes that articled clerks must receive adequate training and be encouraged to ask questions and take active roles from the start. She questions the modern view that students with the highest grades make the best practitioners and challenges this 'narrow view of what a successful graduate is'. The principals of law firms should be responsible for the training of articled clerks and they should take this responsibility very seriously, she says, 'as having a competent and confident legal profession depends on it'.

Overall Magistrate Wager believes that the criminal justice system works reasonably well in its present state and has done so for many years. She does not believe in sudden change, but rather advocates incremental and carefully considered reform. Change for the sake of it, she says, 'is a dangerous thing'.

She has served on a number of committees including Justice Pigeon's Committee on Child Witnesses and Children's Evidence, and Justice Miller's Committee for Assisting Unrepresented Appellants in the Court of Criminal Appeal (WA).

Magistrate Wager does not worry too much about the future. She is satisfied with where her career path has taken her. She is clear that whatever new and exciting opportunity awaits, a decision will only be made at that time.

Magistrate Wager is fond of contemporary music and sport. In her spare time, she maintains a rigorous daily gym routine and enjoys trekking and adventure holidays in remote and exotic locations.

[W.M.]