

# The Judges of Western Australia: Part II



KATE OFFER<sup>†</sup>

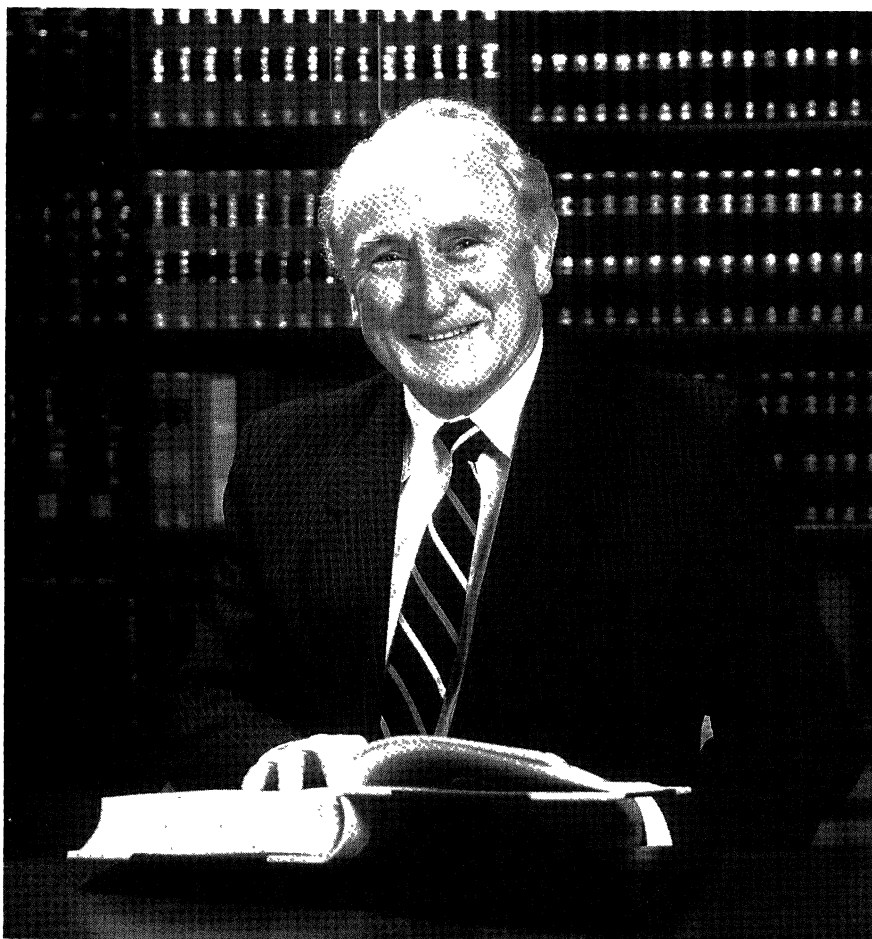
*In this, the second in our series of pen portraits of the judges of Western Australia, Kate Offer provides short biographies of three Supreme Court justices: Des Heenan, Tony Templeman and Christine Wheeler.*

## DES HEENAN

Desmond Charles Heenan was born on 4 November 1930, the day that Phar Lap won the Melbourne Cup. He was born in Western Australia, as were his parents, although the Heenan family was originally from Ireland, arriving in Queensland in the 1850s. His Honour's grandfather came to Western Australia during the 1890s Goldrush and settled in Esperance, farming there, owning the Pier Hotel and eventually becoming mayor of the town. Justice Heenan's mother was a school teacher and his father was a hotel keeper who owned the now heritage-listed City Hotel in Perth. Two of Justice Heenan's uncles were lawyers — Neville, who fought in France in World War I and was awarded the Military Cross, and Eric, father of Eric Heenan QC. Eric Heenan Snr married Joan McKenna, one of the first women practitioners in this State, and both of them practised as partners of the firm EM Heenan & Co in Kalgoorlie and later in Perth.

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Justice Heenan was educated at St Louis Jesuit School, the predecessor to John XXIII College. He graduated from the University of Western Australia with a Bachelor of Laws in 1953 and completed a Bachelor of Arts degree in 1956, majoring in Latin and Ancient History. He articulated at EM Heenan & Co, at first receiving £1 per week which he supplemented by earning £12 per week as a square dance caller. Justice Heenan became a partner of the firm soon after his admission to practice and remained a principal until 1967. EM Heenan & Co was then a small firm and the judge practised in many areas including criminal, family and commercial law. During his time with the firm, he acted for Eric Edgar Cooke, the last man to hang in Western Australia, junioring Ken Hatfield QC in the trial for wilful murder.

In April 1967 he went to the Independent Bar and in March 1970 he was appointed a judge of the District Court. Justice Heenan was one of the original

four judges of that Court, together with Judges Good, Jones and Pidgeon. He became Chairman of the Court in 1982, the title later changing to Chief Judge. He was appointed a Justice of the Supreme Court in January 1995.

His Honour finds it hard to say what it was that originally attracted him to life on the Bench although, like many other judges, he viewed such an appointment as the culmination of legal practice and the next step on from the Bar. He enjoys writing judgments, at least once the first draft is completed, and says that the Irish in him finds people fascinating and for that reason he particularly enjoys presiding over criminal cases. He concedes that some of the work can be tedious. He also finds it frustrating that in criminal matters there is little that he can do to change the underlying factors which have led to the offending.

Justice Heenan nominates two of the States longest running trials over which he presided as a District Court judge as highlights of his career — the four and a half month long Fremantle Prison riot trial and the Laurie Connell horse race-fixing trial, although the Connell trial he says was a test of endurance as much as anything else. The judge was impressed by the patience shown by the accused during the Prison riot trial. The length of the trial gave him more than the usual opportunity to get to know the people he would eventually sentence.

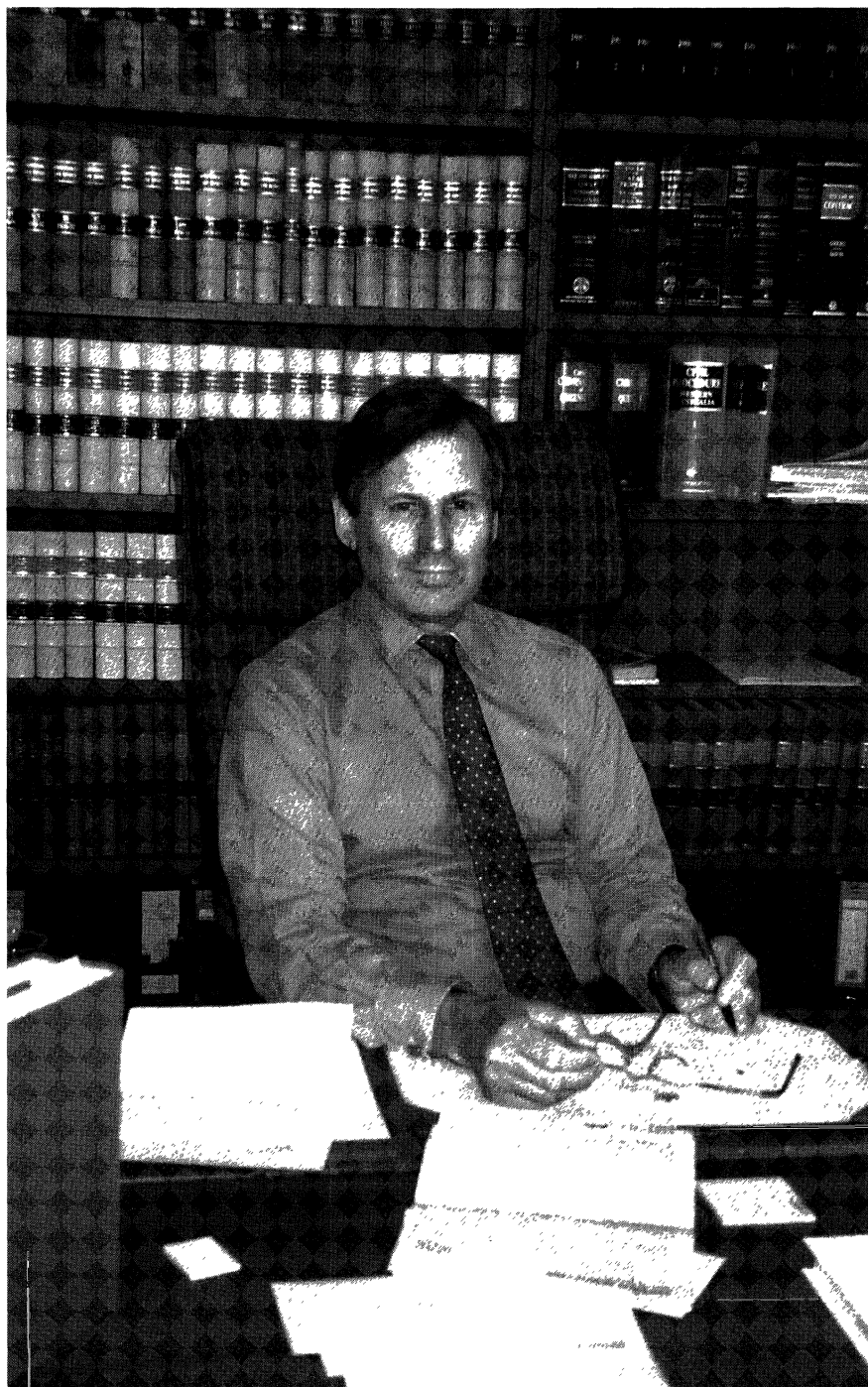
Justice Heenan admires former Supreme Court Justice John Hale who he says spoke 'cooly, slowly and not often'. His Honour particularly admired the precision of his judgments and his strict yet considerate court-room manner. Justice Heenan believes that such a manner is appreciated by the community as well as the people involved in the case itself.

Justice Heenan is President of the Guardianship and Administration Board. He served as Chairman of the Board of the St John of God Hospital, Subiaco, from 1978 to 1991. He is a member of the Peppermint Grove Tennis Club and the Weld Club and enjoys following Australian Rules football, gardening and swimming.

## TONY TEMPLEMAN

Anthony John Templeman was born in London, England, on 15 December 1943. His mother was a secretary before marrying and his father was a coal merchant at the Old Oak Coal Company in London. The company had been started by his Honour's grandfather, Herbert William Templeman, after World War I. Herbert Templeman broke with family tradition in starting the company as members of the Templeman family, who are from the village of Whitelackington in Somerset, were for many generations the local blacksmiths.

Justice Templeman was educated at Latymer Upper School, London, going on to Sheffield University where he completed a degree in Technical Science.



Afterwards he commenced employment as a chemical engineer. In 1968, his employer, BP, brought him to Perth as a 'troubleshooter' at the Kwinana plant. During his time in Perth Justice Templeman developed an interest in legal matters and he subsequently decided to embark on a career in law. Upon his return to England in 1971 he entered King's College London where he studied law for two years before reading for the Bar Finals. He was called to the Bar in 1974 as a member of Lincoln's Inn and practised at the Chancery Bar until 1979. His Honour and his family then returned to Perth where he began working at Mallesons Stephen Jaques (then Stone James & Co), becoming a partner in the firm in 1982.

Justice Templeman joined the Independent Bar in 1983 and took Silk in 1987. His Honour practised in virtually every civil law field, but with a particular emphasis on commercial and company law matters. He also gained admission to practise in the Australian Capital Territory and New South Wales.

Justice Templeman was a Commissioner of the Supreme Court of Western Australia for a total of two months in 1989 and 1990. In 1991 and 1992, he acted as senior counsel assisting the Royal Commission into the Commercial Activities of Government ('WA Inc'). At the conclusion of the Royal Commission, he and his family returned to England and his Honour rejoined his old chambers in London. He returned to Perth to take up an appointment to the bench of the Western Australian Supreme Court in October 1996.

Justice Templeman had a total of twenty two years in practice before his appointment to the Supreme Court at the age of 52. He considers his appointment to be the highlight of his career. The judge enjoys the working atmosphere of the Supreme Court and, like many of his judicial colleagues, he enjoys the objective role of a judge which differs from the more partisan approach required of a barrister. He finds resolving factual disputes and getting to the truth of a matter fascinating although it is not always possible to determine exactly what has transpired in a given situation. He feels that the adversarial nature of the legal system sometimes inhibits the disclosure of the whole truth.

His Honour is the nephew of Lord Templeman who was a High Court judge and later a Lord of Appeal in Ordinary. The judge admires his uncle greatly both professionally and personally. He benefited from his uncle's support and interest when he decided to embark on a career in the law and describes Lord Templeman as a man of compassion and courage who has a strong sense of justice.

Tony Templeman was a member of the Western Australian Barristers Board from 1987 to 1991, Chairman of the Courts Federal Committee of the Law Council of Australia from 1987 to 1989, President of the Western Australian Bar Association from 1988 to 1990 and Chancellor of the Anglican Diocese of Perth from 1990 to 1992. He enjoys watercolour painting and spends much of his spare time doing carpentry, bricklaying and making home improvements.

## CHRISTINE WHEELER

Christine Wheeler was born in Sydney on 16 January 1954. Her father was a school teacher and her mother a secretary. Both parents were born in Australia. Although no one in the judge's family practised law, her grandfather served as an associate to a High Court judge following his retirement from the navy.

Educated at Kent Street Senior High School and the University of Western Australia, Justice Wheeler completed a Bachelor of Jurisprudence with Honours in 1975. Shortly thereafter she became the professional assistant to the then Solicitor-General, Sir Ronald Wilson. After two years in that position she left for London to study for a Master of Laws, which she attained with distinction. She then returned to Perth and completed her Bachelor of Laws in 1979.

Her Honour articulated at the Crown Law Department and worked as a legal officer there until her promotion to assistant Crown Solicitor and head of the Policy and Law Reform Unit in 1984. This position involved opinion and advisory



work relating to proposals for law reform as well as a great deal of constitutional law work. In 1988, she became senior assistant Crown Counsel appearing principally in the High Court and also in the Federal and Supreme Courts. Her Honour's main area of practice was in constitutional and administrative law, but she was also involved in a wide range of criminal and civil law work from time to time. She continued to practise in the constitutional and administrative law areas after she joined the Independent Bar in May 1994, as well as accepting briefs in the commercial and criminal law field. She was appointed a Queen's Counsel later that year, making her the first female in this State to take Silk.

Justice Wheeler became a Supreme Court judge in October 1996 when she was 42 years old. This makes her one of the youngest judges of the Supreme Court, not to mention the first female ever to be appointed to the role in Western Australia. At her welcome to the Supreme Court she said that she hoped the appointment of a female judge might enrich the law, not only because of the different perspective a woman might bring to the court, but also because she believes the appointment of women makes it harder for the courts to be dismissed as unrepresentative. Prior to her appointment, her Honour had served as a Commissioner of both the Supreme and District Courts and as a Judicial Registrar of the Industrial Court of Australia.

Justice Wheeler considers her appointment to the bench to be the highlight of her career. She enjoys her judicial role as she finds it interesting to be deciding cases rather than presenting them. However, she often finds presiding over criminal cases frustrating, and is concerned that some of our rules of evidence, such as hearsay, do not do justice to the intelligence and common sense of people on juries. She feels such rules unnecessarily restrict the ability of witnesses to tell their stories sensibly. She shares the concern of her fellow justices about the constant workload that comes with the role, but she appreciates that the relatively steady nature of the work gives her more scope to plan her family life.

Justice Wheeler admires both Sir Ronald Wilson, her former boss, and Sir Gerard Brennan for their intellectual honesty and Justice Mary Gaudron for the way she has encouraged other women in the law. She also has high regard for two local District Court judges — Chief Judge Kevin Hammond for his patient and unfailingly polite court-room manner and Judge Antoinette Kennedy, the first female judge in this State. Justice Wheeler believes that Judge Kennedy had to put up with an enormous amount of scrutiny when she was initially appointed.

Her Honour is a member of the Senate of the University of Western Australia and was previously President of the Fremantle Society, a group concerned with heritage issues in the Fremantle area. She was President of the Society of Women Lawyers of Western Australia for four years and has served on a number of Law Society committees. In her free time, Justice Wheeler enjoys bushwalking, canoeing and spending time with her family.