

COURT EDUCATION IS NOT JUST FOR LAWYERS

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Introduction

1. Like Kathleen Burrow and myself, Mary Gaudron was the beneficiary of a Catholic education. Before her appointment as the first female Justice of the High Court of Australia in 1987 at the age of 44, Mary Gaudron was also the first female Solicitor-General to have been appointed in any jurisdiction in Australia. As Solicitor-General for New South Wales, Ms Gaudron QC said that she:

"...should like to see a greater awareness in the community at large of legal rights, responsibilities and remedies available. Perhaps in the long term I should like to see that the law is not something apart from ordinary life... People should see that the law is there not to stand against them, but for their benefit." ¹

* Justice of the High Court of Australia. I gratefully acknowledge the assistance of my associates, Jamie Blaker and Olivia Ronan, in the preparation of these observations.

¹ Burton, *From Moree to Mabo: The Mary Gaudron Story* (2010, UWA Publishing) at 186.

2. These aspirations, albeit expressed some 40 years ago, have contemporary relevance. They posit insufficiencies in general community knowledge of important elements of the law, in conscious recognition of how laws and the rule of law affect everyday life. Embedded within Ms Gaudron's aspirations are also normative goals: just laws; a legal system that operates fairly for the benefit of all members of the community, and not as a tool of oppression; and adequate access to justice.

3. Accepting that Mary Gaudron's aspirations remain relevant and appropriate, education is an obvious means towards their achievement. Awareness of rights, responsibilities and remedies is not only necessary to invoking rights and claiming remedies (and to discharging responsibilities in an informed way). It is also required for informed discussions about the strengths and weaknesses of our legal system, and about what might be required for people to know that the law does not stand against them, but operates for their benefit.

4. My particular subject today is one aspect of civic education: court education. A working definition of "court education", developed by Jacqueline Charles, a legal educator and recipient of a 2019 Churchill Fellowship, is as follows:

Court education involves formal and informal education experiences, predominantly for young people, that occur within a court building or are concerned with

the operation of courts, as part of a broader civic education program and in law related subject streams of school curricula².

5. My remarks will begin by reflecting on the goals of educating young people about the courts — one of the basic institutions of our liberal democracy. I will then describe how the courts themselves are contributing and may contribute more to students' education about the legal system.

Why have court education?

6. The value of court education cannot be understood separately from the broader value of civic education. The unique aim of civic education is 'the formation of individuals who can effectively conduct their lives within, and support, their political community'³. Put another way, the purpose of civic education is the shaping of the young into *citizens* – participants in public life who are committed to the political community's basic values, and are capable of participating effectively in the subsisting system of government. That is a definition broad enough to accommodate the fact that civic

² Charles, *Court Education Project 2019-2021: Churchill Fellowship Report* (2021) at 20.

³ Galston, 'Civic Education in the Liberal State' in *Philosophers On Education: New Historical Perspectives* (Taylor & Francis, 1998) at 468.

education has throughout history been associated with political systems apart from our current system of liberal democracy⁴.

7. Within a liberal democracy, civic education also has more particular purposes including purposes reflected in the Catechism of the Catholic Church, and in papal teachings. The Catechism states that, as far as possible, citizens should take an active part in public life and that "[i]t is the duty of citizens to contribute ... to the good of society in a spirit of truth, justice, solidarity, and freedom... Submission to legitimate authorities and service of the common good require citizens to fulfil their roles in the life of the political community"⁵. The 1963 papal encyclical *Pacem in terris* states as an ideal that each person in civic society, and their neighbour, 'recognize[s] both his rights and his obligations toward others' and, 'guided by justice, apply themselves seriously to respecting the rights of others and discharging their own duties'⁶.

⁴ In that sense, civil education has been administered '[i]n most times and places': Galston, 'Civic Education in the Liberal State' in *Philosophers On Education: New Historical Perspectives* (Taylor & Francis, 1998) at 467-8.

⁵ *Catechism of the Catholic Church (2nd ed)*, [2239].

⁶ *Pacem in Terris, Encyclical of Pope John XXIII on Establishing Universal Peace in Truth, Justice, Charity, and Liberty* (April 11, 1963).

8. In the United States, the American Federation of Teachers suggested the importance and nature of civic education in a liberal democracy in the following terms:

"Democracy's survival depends upon our transmitting to each new generation the political vision of liberty and equality that unites us... Such values are neither revealed truths nor natural habits. There is no evidence that we are born with them. Devotion to human dignity and freedom, to equal rights, to social and economic justice, to the rule of law, to civility and truth, to tolerance of diversity, to mutual assistance, to personal and civic responsibility, to self-restraint and self-respect— all these must be taught and learned."⁷

9. The link between civic education and democratic survival goes back to Aristotle⁸. At a time when there is good reason to think that democracy around the world is imperilled⁹, civic education in our shared liberal democratic values has a renewed importance.

10. While democracy is healthy in Australia, the results of the Australian National University's Australian Election Study, conducted in 2019, suggest that trust in Australian government has fallen to its

⁷ "Education for democracy: a statement of principles," (Washington, DC, American Federation of Teachers, 1987) at 8.

⁸ Civic education was linked to the survival of democracy in Aristotle's writings, when Aristotle wrote that 'the education of a citizen in the spirit of his constitution... consists in his doing the actions by which... a democracy, will be enabled to survive': *The Politics of Aristotle*, 233, (1310a), referred to in Guttman at 20.

⁹ Diamond, 'Democracy's Arc: From Resurgent to Imperilled' (2022) 33 *Journal of Democracy* 163.

lowest level since the study's inception in 1969¹⁰. The study also found, on the basis of voter responses, that satisfaction with democracy in Australia is at its lowest level (59%) since the constitutional crisis of 1975¹¹. As former New South Wales Chief Justice Bathurst said last year, "[t]he judiciary must take this decline in public trust seriously"¹².

11. Meanwhile, also in 2021, the Australian Curriculum Assessment and Reporting Authority published the results of the latest National Assessment Program testing of Australian high school students on the topic of Civics and Citizenship. That report records that only 38 per cent of Year 10 students and 53 per cent of Year 6 students reached the "proficient" standard on issues of civics and participatory citizenship¹³, suggesting that students' understanding

¹⁰ Cameron and McAllister, *The 2019 Australian Federal Election: Results from the Australian Election Study* (Australian National University, December 2019) at 15.

¹¹ Cameron and McAllister, *The 2019 Australian Federal Election: Results from the Australian Election Study* (Australian National University, December 2019) at 15.

¹² Bathurst, 'Trust in the Judiciary' (2021 Opening of Law Term Address, 3 February 2021) at 2.

¹³ Australian Curriculum, Assessment and Reporting Authority, *National Assessment Program Civics and Citizenship: 2019 National Report* (2020) available at <<https://nap.edu.au/docs/default-source/default-document-library/20210121-nap-cc-2019-public-report.pdf>> at 23-25. *Did any questions fall within court education subject matter?*

of Australian democracy and government has "plateaued", or even declined, compared to previous years¹⁴.

12. These statistics suggest that there is ample room for the courts and the judiciary to assist with the education of our young people about the courts and the court system, in the interests of liberal democracy.

Court education as an aspect of civic education

13. One component of civic education concerns our system of government. That system empowers its citizens with ultimate, albeit institutionally mediated, control over the laws by which the community lives. Without sufficient awareness of the basic structure of our system of government and the ideals it is built to serve, citizens cannot be expected to participate effectively in the institutions of government. And they cannot be expected to keep the institutions accountable and in good health, and to defend them, as the citizenry in a democracy is depended upon to do.
14. When it comes to the elected institutions of government, how citizens may participate is clear. The main forms of participation include voting at free and fair elections; and contributing to the

¹⁴ Australian Curriculum, Assessment and Reporting Authority, "Students are engaged in the community but test scores on democracy stall" (media release, 21 January 2021) available at <<https://www.acara.edu.au/docs/default-source/media-releases/20210121-media-release-nap-cc-2019-report.pdf>> .

public discourse that affects those elections and that affects the decisions of elected officials in between elections. Other forms of participation involve citizens taking up particular roles or offices, such as in the public service, or as members of parliament.

15. It is less obvious how citizens can be said, or expected, to participate in the courts. There is a sense in which citizens will rightly want to stay away from the courts. "Stay out of court" is generally good life advice. Of course, the performance of jury duties is vital to liberty – and so it has for centuries been described as the "palladium of liberty"¹⁵. But the duty to participate as a juror comes rarely, sometimes late, and sometimes never, in a person's life. One can of course also participate in the courts by becoming a member of the legal profession. But again, that profession comprises only a small segment of our community.
16. There is however a very broad sense in which all citizens can participate in the proper functioning of our courts, and in upholding the rule of law. Controlling neither the purse nor the sword¹⁶, in our system of government, the strength of the courts derives ultimately from their perceived legitimacy in the exercise of judicial power. That legitimacy is a function of how the general community views the

¹⁵ Blackstone , Commentaries, (1769), bk 4 at 343-344, referred to in *Cheng v The Queen* (2000) 203 CLR 248 at 290-291.

¹⁶ Alexander Hamilton, 'The Federalist No 78 - The Judiciary Department', *Independent Journal* (Saturday, June 14, 1788).

courts. Citizens legitimate the court when they respect them as institutions, and when they respect and obey court orders.

17. In Australia, we have a healthy culture of respect for court judgments and orders. But it is important not to take that culture of respect for granted. Within the general public, what needs to be maintained is a diffuse understanding of the importance of the rule of law, and the role of the courts in administering it. What needs constantly to be demonstrated to and accepted by the broader community is that the courts are fulfilling their functions well, by delivering justice according to law. If courts are not fulfilling their functions well, it is also critical that the community be duly informed.
18. An important way that the courts demonstrate their legitimacy is by conducting their proceedings in public. Another way is by publishing reasons for judicial decisions. But most members of the community do not have the time to come along to courts to observe their operation. If they do, they may find the proceedings very hard to follow: the issues are often complex, and cases are generally not conducted with an eye to explaining the process to any lay observers. For similar reasons, even though written court judgments are now widely available, they tend not to be readily comprehensible to the lay reader. Accepting that more could be done to address these issues, education is plainly an additional and important tool to secure informed community acceptance of the courts' legitimacy. To

my mind, an important goal of court education must be to demonstrate the exercise of judicial power, so that students may consider the legitimacy of judicial power.

19. Court education in the legal system dovetails with other aspects of a broader civic education. "By understanding the fundamentals of the legal system, students are able to contextualise how political and governmental systems operate and support a civil society."¹⁷ Relevantly, the 2019 *Alice Springs (Mparntwe) Education Declaration* stated its goal that all young Australians become active and informed members of the community, and that this would entail young Australians' commitment to national values of democracy, equity and justice.
20. Otherwise, the following outcomes of court education have been posited: an ability to recognise legal issues, know about legal resources and how to access them to solve legal problems; understanding that courts and the judiciary uphold the rule of law and are fundamental for civil society; community support for court decisions; and skills to serve on juries.¹⁸

¹⁷ Charles, *Court Education Project 2019-2021: Churchill Fellowship Report* (2021) at 21.

¹⁸ Charles, *Court Education Project 2019-2021: Churchill Fellowship Report* (2021) at 22.

Education provided by Australian courts

21. What resources are or might be available for teachers charged with responsibility for court education, as an aspect of civic education? In particular, how do the courts and the judiciary facilitate and provide court education?
22. At present, the High Court engages in three primary categories of court education, available equally to school students and adult members of the public.
23. *First*, the Court conducts public education and visitor programs. Visitors are invited to tour the Court building in Canberra accompanied by one or more of the team of trained High Court guides. The guides, many of whom have practised as lawyers or are current law students, provide an informative overview of the role and history of the Court, and help visitors form an appreciation of the unique and symbolic architectural, design and artistic aspects of the Court building¹⁹. Where possible, this includes sitting in for a portion of a hearing before a single Justice or the Full Court. The Court provides short handouts to assist visitors to understand the case before the Court. Especially for school students on the east coast, a tour of the High Court will often feature on school excursions to Canberra. The Parliament and Civics Education Rebate

¹⁹ High Court of Australia, *Annual Report 2020-21* (2021) at 24. See the building's history set out at: <https://www.hcourt.gov.au/about/the-building>

(PACER) programme, an initiative of the Commonwealth Government, also provides financial assistance to support excursions to Canberra with a view to improving civic education²⁰. The Court's student program has a particular focus on explaining the High Court's role in the Constitution, its appellate jurisdiction, the anatomy of a case and how the Court fits into the democratic system of government.

24. Unsurprisingly, the COVID-19 pandemic resulted in a significant decline in foot traffic through the Court. In a typical year prior to the pandemic, the Court would receive more than 70,000 visitors, approximately half of whom were school students. In the 2020-21 financial year, however, that number was reduced to 8,500, roughly 1,000 of whom were school students²¹. While these figures are yet to be published, I understand that in the 2021-22 financial year, there was a modest increase to these figures: there were approximately 9,000 visitors, approximately 2,000 of whom were school students.

25. *Secondly*, the High Court houses the Australian Constitution Centre Exhibition, which is funded jointly by the Australian Government and the Constitution Education Fund, a not-for-profit

²⁰ See PACER, *Parliament & Civics Education Rebate* (2022) available at <<https://www.pacer.org.au/>> .

²¹ High Court of Australia, *Annual Report 2020-21* (2021) at 24.

organisation which aims to increase public understanding, awareness and appreciation of the Australian constitutional framework²².

26. The Centre's multimedia exhibition, which is usually open to the public (although presently affected by COVID-19 restrictions), is aimed at school students between Years 5 and 10 and opened in April 2018. The exhibition provides students with an introduction to the topics covered in the Centre's teaching and learning resources, including the Australian Constitution; the six foundational constitutional principles (namely, democracy; the rule of law; the separation of powers; federalism; nationhood; and rights and responsibilities); our parliamentary democracy and the values underpinning the Australian constitution²³. The Centre has also published 34 sample lesson plans spanning Years 5-10, designed to complement the Australian Humanities and Social Sciences (HASS) curriculum.

27. *Thirdly*, the High Court's online resources are perhaps the primary source of information on the work of the Court. While the High Court itself offers a modest number of online resources for

²² Constitution Education Fund, *The Constitution Education Fund Strategic Plan 2021-22* (2022) available at <<http://cefa.org.au/constitution-education-fund-strategic-plan-2021-2022>> .

²³ See Australian Constitution Centre, *About the Educational Australian Constitution Centre* (2022) available at <<http://www.australianconstitutioncentre.org.au/about-us.html>> .

primary and secondary students²⁴, the remainder of its online resources are targeted at the general public.

28. During the 2020-21 financial year, the Court saw a significant uptake of its online resources: audio-visual recordings of Full Court hearings held in Canberra were accessed almost 37,000 times; parties' written submissions were accessed some 157,000 times; the Court surpassed 20,000 subscribers to alerts of upcoming judgments, case summaries, judgment summaries and Court publications; and there were approximately 1.9 million visitors to the Court website²⁵.
29. Apart from the High Court, superior and statutory courts across Australia offer an array of court education experiences and resources aimed specifically at school students, although in-person events have, as with the High Court, been seriously affected in recent years.
30. At the Commonwealth level, putting aside the COVID-19 pandemic, the public engagement and education initiatives usually offered by the Federal Court of Australia typically involve hosting

²⁴ See, for example, an activity booklet featuring Harry the Emu and Charlie the Kangaroo: High Court of Australia, *Primary Students' Activities*, available at <<https://cdn.hcourt.gov.au/assets/education/Student-Activity-Book.pdf>>.

²⁵ High Court of Australia, *Annual Report 2020-21* (2021) at 25.

work experience students and tours, as well as offering court resources for university mooted competitions²⁶.

31. By way of example at the State level, in Queensland, the Sir Harry Gibbs Legal Heritage Centre, operated by the Supreme Court of Queensland, facilitates courtroom experiences for over 8,500 school students each year, and provides tailored programs to suit curricula and learning requirements²⁷. Similar school programs, often (though not always) with accompanying resources, are conducted in every State and Territory²⁸. In Queensland, the Supreme Court Library provides tailored programs for student visitors, which can include a guided case study designed to introduce students to the art

²⁶ Federal Court of Australia, *Annual Report 2020-2021* (2021) at 65.

²⁷ Sir Harry Gibbs Legal Heritage Centre, *Schools program* (2022) available at <<https://legalheritage.sclqld.org.au/schools-program>>.

²⁸ See, for example, Rule of Law Education Centre, *Court Education* (2022) available at <<https://www.ruleoflaw.org.au/court-education/>>; Court Services Victoria, *Court Education Program* (2022) available at <<https://www.courts.vic.gov.au/resources/court-education-program>>; Courts Administration Authority of South Australia, *School visits* (2022) available at <<https://legalheritage.sclqld.org.au/schools-program>>; Supreme Court of Tasmania, *Tours* (2022) available at <<https://www.supremecourt.tas.gov.au/the-court/attending-court/tours/>>; Law Society of Western Australia, *Francis Burt Law Education Programme* (2022) available at <<https://www.lawsocietywa.asn.au/francis-burt-law-education-programme-2/#francis-burt-law-education-programme>>; Supreme Court of the Northern Territory, *Teachers/Students* (2022) available at <<https://supremecourt.nt.gov.au/teachers-and-students>>; ACT Courts, *Education resources* (2022) available at <<https://www.courts.act.gov.au/about-the-courts/education-resources>>.

of reading a judgment and an informal information session with a judge.

32. Many jurisdictions also publish standalone educational resources aimed at varying stages of primary and secondary schooling. For example, the County Court of Victoria has published a study guide for teachers, titled *Justice in Action*, which follows two fictitious court proceedings and is designed to align with the outcomes and content of the VCE Legal Studies syllabus²⁹.
33. According to Ms Charles, some common characteristics of the programs and resources offered by Australian courts include that they are delivered predominantly to young people in a constructivist pedagogical approach; have (sometimes incidental) links to school curricula³⁰; feature modes of delivery including experiential excursions and presentations; often feature accompanying teaching resources and activities; and focus on building an understanding of

²⁹ County Court of Victoria, *Justice in Action: A Study Guide for Teachers* (2018) available at <<https://www.countycourt.vic.gov.au/files/documents/2018-10/justice-action-study-guide-teachers.pdf>>. Charles names this resource as a "best practice" example in curriculum and learning outcomes in court education: *Court Education Project 2019-2021: Churchill Fellowship Report* (2021) at 42-43.

³⁰ At least in the High Court, these links are incidental – that is, the Court does not, through its educational offerings, deliver any "curriculum" per se, that being an executive and not a judicial function.

the law, courts, justice, trials, advocacy and careers in the legal profession³¹.

34. Needless to say, a significant challenge for court educators is to provide content and experiences that are engaging and relevant. On the one hand, law can rapidly descend into impenetrable detail. On the other, even very young children have an instinctive interest in fairness and in the application of just rules as protection against brute power. An example of a relevant and interesting resource is the Law Society of Western Australia's 2020 resource for teachers discussing the issue of "Kids in Jail"³². The topics of juvenile incarceration and the campaign to raise the age of criminal responsibility from 10 to 14 is likely to engage an adolescent audience. Opportunities for students to meet and speak with judges and lawyers can also generate enthusiastic and thoughtful discussion.

³¹ Charles, *Court Education Project 2019-2021: Churchill Fellowship Report* (2021) at 23-24.

³² See Law Society of Western Australia, *Sir Ronald Wilson Lecture: Kids in Jail - Raising the Age of Criminal Responsibility in Australia* (25 August 2020) available at <<https://www.youtube.com/watch?v=DHjjDLX0ukI>> ; see also accompanying slides at <<https://www.lawsocietywa.asn.au/wp-content/uploads/2020/08/2020AUG18-Powerpoint-SRWL-Pauline-Wright.pdf>> .

The growth of informal and broader court education

35. As educators strive to provide students with a variety of learning techniques and diversify the classroom experience, modern technology has made it easier to disseminate information³³. There are two relatively recent developments in the use by courts of modern technology which, to my mind, stand as examples of "informal" court education, in the sense that they are not designed to complement any particular school curriculum and are offered to the general public, and provide educators with alternative and innovative education resources.
36. The *first* development is the court-sponsored podcast. Good podcasts can be accessible, informative and entertaining. Between 2019 and 2021, for example, the Supreme Court of Victoria authorised the production of *Gertie's Law*, a podcast featuring stories of historic cases, interviews with judicial officers and court staff, and the operation of the justice system in that State³⁴. In shorter form, in May 2021, to mark the 40th anniversary of the

³³ Wood and Breach, "Assessing the impact of a high impact practice: Implementing a criminal justice shared learning experience using the true crime podcast *Serial*" (2021) 32 *Journal of Criminal Justice Education* 464 at 465.

³⁴ See Supreme Court of Victoria, *Gertie's Law Podcast* (2022) available at <<https://www.supremecourt.vic.gov.au/about-the-court/multimedia-on-demand/gerties-law-podcast>>.

Court building, the High Court published a four-part oral history of the Court³⁵.

37. There are also excellent educative podcasts about law and justice published by others apart from courts. These include the ABC's *Section 71* podcasts³⁶ about notable decisions of the High Court, hosted by now Dean of the St Thomas More Law School at the Australian Catholic University, Professor Patrick Keyzer; *More Perfect*,³⁷ a series about famous and infamous decisions of the Supreme Court of the United States and *Birds' Eye View*,³⁸ made by and with women in the Darwin Correctional Centre.

38. The *second* development that might be described as informal court education is the broadcast of court proceedings of significant public interest via the internet, such as on YouTube. In this year alone, hearings in the matters of *Djokovic v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* (in both the

³⁵ See High Court of Australia, *Podcast Part 1 - The Vision* (2022) and links to subsequent episodes, available at <<https://www.hcourt.gov.au/about/podcast-1>>.

³⁶ Presently available at <<https://discover.abc.net.au/index.html#/?query=section%2071&page=1>>

³⁷ Presently available at <<https://www.wnycstudios.org/podcasts/radiolabmoreperfect>>

³⁸ Presently available at <<https://www.birdseyeviewpodcast.net/>>

Federal Circuit and Family Court of Australia³⁹, and before the Full Court of the Federal Court of Australia⁴⁰), *Roberts-Smith v Fairfax Media Publications Pty Ltd* (and related matters⁴¹) and *R v Dawson*⁴² collectively garnered hundreds of thousands of online viewers, both within Australia and abroad. The Supreme Court of New South Wales reported in October 2021 that the Court's streams of the "vaccine mandate" case, *Kassam v Hazzard*⁴³, received 1.4 million views, including 390,000 on the first day of the hearing⁴⁴.

39. The advantages, or otherwise, of broadcasting court proceedings have been the subject of considerable debate since the

³⁹ Proceeding MLG 35 of 2022 in the Federal Circuit and Family Court of Australia. See also *Djokovic v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2022] FedCFamC2G 7.

⁴⁰ Proceeding VID 18 of 2022 in the Federal Court of Australia. See also *Djokovic v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2022] FCAFC 3.

⁴¹ Proceedings NSD 1440, 1485, 1486, 1487 and 1826 of 2018 in the Federal Court of Australia. Judgment in those matters is presently reserved.

⁴² Proceeding 2018/37257 in the Supreme Court of New South Wales. See, in particular, *R v Dawson* [2022] NSWSC 1131.

⁴³ Proceedings 2021/249601, 2021/252587 in the Supreme Court of New South Wales. See also *Kassam v Hazzard* [2021] NSWSC 1320.

⁴⁴ "One million view NSW COVID-19 vaccine mandate case", *SBS News* (15 October 2021) available at <<https://www.sbs.com.au/news/article/one-million-view-nsw-covid-19-vaccine-mandate-case/nlx2soctr>>.

advent of television⁴⁵. In broad terms, proponents highlight the potential for courtroom broadcasts to "facilitate greater transparency, accountability and understanding of the law, judicial process and decisions"⁴⁶.

40. In 2020, psychologists studying 170 university students in China found that the broadcasting of court hearings had the capacity meaningfully to influence public trust in the legal system, with videos making a unique contribution to that process, over and above the publication of written judgments⁴⁷. This came, in particular, from an increased appreciation of procedural justice and interpersonal treatment in the course of the litigation (for example, the judge's treatment of an accused).

41. The idea that courts have significant potential to contribute meaningfully to civic education is not new: judicial officers frequently observe that the courts are well placed to provide reliable

⁴⁵ For an early rebuke of a proposal to televise court hearings in the United States, see Cedarquist, "Televising court proceedings, a plea for order in the court" (1961) 36 *Notre Dame Law Review* 147.

⁴⁶ See, eg, Stepniak, "The broadcast of court proceedings in the internet age: The role of courts" (2004) 85 *Australian Law Reform Commission Reform Journal* 33.

⁴⁷ Jian Xu and Cong Liu, "How does courtroom broadcasting influence public confidence in justice? The mediation effect of vicarious interpersonal treatment" (2020) *Frontiers in Psychology* 1.

information about their own work⁴⁸. More recently, and perhaps reflecting a more Trumpian lexicon, others have observed that education provided by and about courts can play an important role in countering misinformation about the legal system⁴⁹. For some time now, superior courts have regularly published case summaries of matters of significant public interest when judgment is delivered to explain the decision in lay terms, and the High Court publishes summaries for all its Full Court decisions. Earlier this year, the Australian Law Reform Commission recommended that Commonwealth courts should create accessible public resources that explain the processes and structure in place to support the independence and impartiality of judges and the mechanisms in place to ensure judicial accountability⁵⁰.

42. I am not well placed to know the extent to which "informal" court education resources might be integrated into primary or secondary school education. Nevertheless, it strikes me that increasing public interest in court proceedings, as well as the uptake of "true crime" and legal media formats, presents an opportunity for

⁴⁸ Schulz, "Views from Chambers: A discourse analysis of judicial speeches in Australia 1995-2006" (2009) 18 *Journal of Judicial Administration* 144 at 154, citing Doyle, "Media relations and community education issues – Linking courts and tribunals with the community" (paper presented at the Sixteenth Annual AIJA Conference, Melbourne, 4-6 September 1998) at 3.

⁴⁹ Nielsen and Smyth, "What the Australian public knows about the High Court" (2019) 47 *Federal Law Review* 31 at 55.

⁵⁰ Australian Law Reform Commission, *Without Fear or Favour: Judicial Impartiality and the Law on Bias* (Report No 138) at 14, 497-501.

educators to integrate court education in regular lesson programming outside of formal court visits or other more rigid aspects of the curriculum. Such an approach also has significant benefits for the accessibility of court education, extending an awareness of court proceedings and the judicial process to students who are not in a position, for whatever reason, to be taken physically to a courtroom on school excursions.

Looking overseas and into the future

43. In both the United Kingdom and the United States, we see recognition of the importance of court education. The United Kingdom Supreme Court has a YouTube channel with almost 20,000 subscribers on which it live streams all its proceedings.⁵¹ Other videos on the channel include short plain English video summaries of judgments delivered by Supreme Court justices to small court room audiences, including young people. A video about a selection process for new Supreme Court justices, presented by Lord Reed, President of the Court, states that the successful candidate should demonstrate willingness to engage in "outreach activities".⁵² Another video records a mock trial of Magna Carta Barons at Westminster Hall presided over by Lord Neuberger, former President of the Supreme Court, Justice Stephen Breyer, then of the US

⁵¹ See: <https://www.youtube.com/user/UKSupremeCourt> .

⁵² See: https://www.youtube.com/watch?v=bwmwfRyJ_74 .

Supreme Court, and Dame Sian Elias, former Chief Justice of New Zealand.⁵³

44. In the United States, two not-for-profits, Street Law and the Supreme Court Historical Society offer an annual six day professional development institute to secondary school social studies teachers to strengthen and expand their instruction about the Supreme Court of the United States.⁵⁴

45. Finally, the Australian Judicial Officers Association is currently working on a project to develop asynchronous online court education for students covering two Magistrates court case studies. The project is an adaptation of an online course provided by Kings College London and called "The modern judiciary: who they are, what they do and why it matters".

Conclusion

46. When I sit in Court, I sometimes see a group of school students come to visit. I do wonder what they will make of the proceedings that play out before them and I worry about whether adequate tools are available to make the experience meaningful and

⁵³ See: <https://www.youtube.com/watch?v=8MU7tK6HM3Q> .

⁵⁴ See: <https://streetlaw.org/our-work/strategic-initiatives/supreme-court-summer-institute/> .

educative. I think that the teachers' task must be a very difficult one. I also think of the students' humbling potential.

47. This reminds me of the eight year old Mary Gaudron who, in 1951, was watching on, at a political rally in the country town of Moree. Mary stood in a crowd around Dr HV Evatt, then the leader of the Australian Labor Party. Dr Evatt had been a Justice of the High Court between 1930 and 1940, and represented Australia as the third President of the General Assembly of the United Nations in 1948. It has been said that Dr Evatt persuaded the then sceptical Australian government to vote in favour of the Universal Declaration of Human Rights⁵⁵. Dr Evatt was making a speech, opposing a proposed constitutional amendment by the Menzies government that would outlaw the Communist Party. Dr Evatt saw the proposed amendment as an attack upon freedom of speech. According to legend, Mary raised her hand and asked: "Please sir, what's a Constitution?". Dr Evatt explained that it was the law by which Parliament was governed. Undaunted, Mary had another question sourced in her Catholic education: "Is it like the Ten Commandants?" Dr Evatt said: "You could call it the Ten Commandments of government". Finally, Mary asked where she could get a copy. Dr Evatt replied "You can write to me, Dr HV Evatt, Parliament House Canberra, and I will send you one". She did and he did, and the

⁵⁵ Kirby, 'Herbert Vere Evatt, the United Nations and the Universal Declaration of Human Rights After 60 Years' (2009) 34 *UWA Law Review* 238, 240.

young Mary was set on a path that led to the High Court of Australia.⁵⁶

48. For me, the lesson of this story is that there will be unexpected opportunities for lighting and fuelling the flames of curiosity about our courts. It must be one of the great pleasures for a teacher to recognise that they have inspired curiosity in a student. Mary Gaudron's story holds out the promise that, whether as professional teachers, parents, relatives or simply members of the community, we can inspire curiosity in our young people about the courts as an aspect of our liberal democracy, and as part of their formation as active and informed members of our shared community.

⁵⁶ Pamela Burton, *From Moree to Mabo: The Mary Gaudron Story* (UWA Publishing, 2010) 1-3.