JUDICIAL EDUCATION IN AUSTRALIA
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There are numerous judicial education programmes conducted in Australia each year. There is no single agency that is charged with responsibility for judicial education. Some programmes are open only to members of a particular court or courts. Few are open to all judicial officers in Australia. There are some “orientation” programmes for newly-appointed judges or magistrates, and there are also specific courses conducted as part of judicial continuing education. All judicial education in Australia is voluntary. Judges are not required to complete any induction or continuing education training.

The quality and availability of judicial education programmes vary across federal, state and territory courts. Until recently, there has been no attempt in Australia by a national body to plan and co-ordinate judicial education at a national level. This lack of a national approach is partly explained by the different court structures in each Australian state and territory and at the Commonwealth (or national) level. Each Australian state except Tasmania has a three-tiered court structure – Supreme Court, District or County Court, and Magistrates’ or Local Court. Each of Tasmania, the Northern Territory and the Australian Capital Territory has a two-tiered structure – Supreme Court and Magistrates’ Court. The Commonwealth has established the Federal Court of Australia, the Family Court of Australia and the Federal Magistrates Service. The High Court of Australia, at the highest level, is established pursuant to the Commonwealth Constitution. (There are also numerous other courts and tribunals in Australia that exercise specialised jurisdictions.)

Interest in judicial education has been slow to develop in Australia. Judicial education has not been organised in any well-ordered way. Why? Traditionally, judges in Australia were appointed in the later stages of their professional careers. Members of the High Court, Federal Court, Supreme Courts and County or District Courts were generally appointed from amongst experienced lawyers who specialised in court work. The following statistics are illustrative of this generally late recruitment. On appointment to the Federal Court, 4 of the presently serving judges were 40 years of age or less; 10 judges were 45 years
of age or less; 27 judges were 50 years of age or less; 39 judges were 55 years of age or less; 46 judges were 60 years of age or less; and 1 judge was 62 years of age on appointment. Why is this late recruitment significant?

Traditionally, newly-appointed judges have not undertaken any special course of judicial studies to equip them for judicial life. Since they were previously practising lawyers, usually with considerable courtroom experience as advocates, it was assumed that they could assume the responsibilities of judicial office without further education. Once on the bench, it was assumed that each judge would be responsible for arranging and undertaking whatever continuing education he or she thought appropriate and beneficial.

More recently, however, some judicial officers have been appointed at earlier stages in their careers, and from amongst lawyers in government service, legal academics and practitioners in private practice who were not advocates. For example, between 2000 and 2002, there were 6 appointments to the Federal Court. Four of the newly-appointed judges had been advocates with a good deal of court experience. Two of the new appointees were not advocates, although they had considerable experience in private practice.

Today, whilst some judges may still adhere to what I have referred to as the traditional view of judicial education, many do not. There is evidence that at the highest levels of the judiciary and in government the need for judicial education is recognised. Thus, in 1999, the Chief Justice of the High Court of Australia (the Hon. A M Gleeson AC) said:

Judicial education is no longer seen as requiring justification. We are past the stage of arguing about whether there should be formal arrangements for orientation and instruction of newly-appointed judges and magistrates, and for their continuing education. Of course there should.


The National Judicial College of Australia was established last year following the recommendations of the Australian Law Reform Commission and the National Judicial College Working Group. In January 2000, the Australian Law Reform Commission had recommended the establishment of an Australian Judicial College under the control of the judiciary (Managing Justice: A review of the federal civil justice system (Report No 89), p 175, recommendation 8). Over a year later, in May 2001, the National Judicial College Working Group submitted a report to the Standing Committee of (federal, state and territory)
Attorneys-General (a body described in J Wade, 'The Standing Committee of Attorneys-General', *Victorian Bar News* (No 86) Spring 1993, pp14-16). The report recommended that a national institution should be established to provide professional development for judicial officers of the Commonwealth and of the participating states and territories.

The purpose of the National Judicial College is to plan and co-ordinate judicial education at the national level. The College is to provide professional development. It may also conduct courses for senior court administrators, tribunal members and the like. It is intended that the College complement other judicial education programmes and work with state judicial education bodies. One advantage of nationally co-ordinated judicial education is that it may afford an opportunity to judicial officers from smaller jurisdictions to participate in judicial orientation and continuing education programmes that would otherwise be denied them.

There is other evidence of a recognised need for improved judicial education in the creation, last year, at the state level, of the Judicial College of Victoria. The Judicial College of Victoria aims to shift responsibility for judicial education from individual judicial officers to the state’s judiciary as a whole. Although the focus of this body is on Victorian state courts and tribunals, the Victorian College intends to work with the National Judicial College and the New South Wales Judicial Commission (discussed below) to ensure that judicial education in Australia is organised on an integrated basis.

Although the Judicial College of Victoria and the National Judicial College are very recent arrivals in the field of judicial education, judicial education is not a novel idea in Australia. For some time now, committees of judges have arranged annual and biennial conferences for the different courts. At these conferences, judges have an opportunity to learn from the work of academic and judicial commentators and to discuss matters of interest amongst themselves. Further, at least one Australian university is offering courses in the subject of judicial administration.

For some time too, there have been a small number of other institutions concerned with judicial education. Chief among them are the Judicial Commission of New South Wales (the NSW Judicial Commission) and the Australian Institute of Judicial Administration Incorporated (the AIJA). Subscriptions and the Standing Committee of Attorneys-General
fund the AIJA (which is affiliated with the University of Melbourne). The AIJA conducts occasional courses in such matters as court technology, case management and the like, as well as regular programmes.

The NSW Judicial Commission is established in New South Wales under the *Judicial Officers Act 1986* (NSW). The Commission has a number of functions, including continuing education and orientation programmes (as well as complaints examination). Amongst other things, it conducts an annual residential course for newly-appointed magistrates. The NSW Judicial Commission and the AIJA also jointly organise an annual National Judicial Orientation Programme. This programme, which is a 5-day residential programme, is designed for new appointees from within Australia and neighbouring countries. Senior judges speak with the newly-appointed judges and lead them in discussions upon such matters as judicial conduct, psychological and physical health, using computers in research and management, decision-making and judgment-writing, problems in evidence, social awareness issues and alternative dispute resolution. Participants are charged a fee, which is borne by their respective courts. There are ordinarily between 25 and 30 participants each year. They represent diverse jurisdictions. (Twenty-eight participants from 14 courts attended the 7th National Judicial Orientation Programme in 2001.) Attendance at the programme is voluntary on the part of the judges concerned.

In Australia, commitment to judicial education is likely to increase. At the community level, recent support for judicial education grew out of anxious debate about some apparently ill-advised comments by judges in socially sensitive cases. There are, moreover, a number of factors that are perceived to make judicial education desirable in Australia. This perception also affects the nature of education programmes that are offered or proposed. First, it is said that Australian society is a relatively diverse one; and that, in discharging their responsibilities, judicial officers are likely to encounter situations, attitudes and values outside their personal experience. Secondly, as legislatures strive to keep pace with the complex ethical, social and other issues raised by developments in science and technology, so too must judicial officers. Thirdly, the role of judicial officers in Australia has changed (notably in the area of judicial review of administrative action) and is changing. Finally, the efficiency with which a case is conducted in court may depend upon the skill of the presiding judicial officer.
There is, it seems, a belief in government circles and amongst many judges in Australia that, bearing in mind these considerations, the capacity of judicial officers to discharge their responsibilities would be enhanced by their participation in education programmes that take account of such matters. It is, however, generally agreed that judicial education must be judicially controlled.