

The 2026 Doyle Oration¹

When he delivered the first John Doyle Oration in 2024, Chief Justice Gageler spoke of the commanding yet insightful advocacy undertaken by the Solicitor-General for South Australia, John Doyle QC, over many years in the High Court's No. 1 Court in Canberra.²

When Chief Justice Gageler spoke of the qualities of the advocacy of Doyle QC in No. 1 Court he did so both as an eyewitness and as an expert witness. Chief Justice Gageler's entire professional life from the time of his graduation has been bound up in that courtroom, that building and that institution.

My pathway to the High Court has been somewhat different and the same is true of my John Doyle connection. My connection to Doyle QC³ is more remote; it is second generational and involves hearsay.

My connection is second generational because, as everyone in South Australia knows, one of John and Marie Doyle's many achievements, if not their towering achievement, is the production of what appears to be a never ending procession of successful Doyle offspring. One of them, Justice Sam Doyle of the South Australian Court of Appeal, was in his

¹ This is the revised version of the 2026 John Doyle Oration delivered on 21 August 2026 in Adelaide for the 2026 National Symposium of the National Judicial College of Australia.

² Chief Justice Stephen Gageler, 'John Doyle Oration' (Speech, National Judicial College of Australia, 6 April 2024).

³ As he was when he was Solicitor-General.

former life one of my colleagues on the team assisting the HHH Royal Commission. There was a sophisticated campaign by myself and another member of the Counsel Assisting team, who shall remain anonymous but I will call Lucy, to have Sam move to the Sydney Bar. Typically, my advocacy failed, although on reflection I think it was all Lucy's fault. Loyalty to the mother state of South Australia runs strong in the Doyle blood.

But what about the hearsay? Soon after I joined the Sydney Bar in 1992 I was meandering down Macquarie Street (some might say, unkindly, that I was touting for a brief) when I came across a senior lawyer with the New South Wales Crown Solicitor's Office looking very downcast. With no possible thought that by making a sympathetic enquiry it might lead to my being retained at some point in the future, I enquired, "why the long face?" I was then subjected to a mournful recitation about how poorly things had gone for the States in the High Court in the latest battle over federation. "Don't they listen to anyone?" I asked in an empathetic but unconvincing tone. "They listen to Doyle," I was told. "They always listen to Doyle."

So as is sometimes the case in our judgments, with the Chief Justice taking the high road to Parkes Place, and me taking the low road via Macquarie Street, we get to the same destination, and that destination is the sage advice, "listen to Doyle".

And when it comes to judicial education in this country, for many years we have been well served by listening to John, especially to what he said during the crucial years when the NJCA was being conceived of and then established in 2002. With the guidance of "listening to Doyle" in mind, I want to revisit, with the benefit of the passage of time, one of the original rationales for introducing judicial education and then highlight two structural features of the Australian judiciary that have consequences for the planning and implementation of judicial education.

In 2003, John was part of the Working Group on Judicial Education reporting to the Standing Committee of Attorneys-General. John put the Working Group's case for judicial education as follows:

"First, it is widely accepted that change is an inevitable incident of modern society, and appropriate professional development can assist judicial officers to participate in the process of change. Professional development programs can help judicial officers adapt to the increasing diversity in our society. They can help them adjust to the changing role of the judicial officer. Good quality professional development can refresh and enthuse judicial officers and can provide programs that will help them deal with the great expansion of available knowledge. Finally, litigation is expensive, and if

professional development can make judicial officers more efficient in their conduct of litigation, the community will benefit."⁴

There is a lot to unpack in that, but I would like to focus on the Working Group's references to the "changing role of the judicial officer", the "increasing diversity in our society" and the "great expansion of available knowledge" as justifications for judicial education and to do so in a contemporary context. In doing so I hope that what I say resonates with those of you participating in this symposium on memory, trauma, evidence and the Courts.

For as long as we need worry about, trial judges have told juries at least three things. The first is that, while the judge has the function of determining the law, it is the exclusive role of the jury to determine the facts. The second is that, in determining the facts, the jurors must act impartially and dispassionately; they must not be swayed by sympathy, emotion or prejudice. The third is that, in deciding the facts, the jurors must use their common sense, including their collective experience of human affairs.⁵

Trial judges still instruct juries to that effect. But as we know, the use of juries has vastly diminished so that generally speaking, in Australia these

⁴ Chief Justice John Doyle, 'The National Judicial College of Australia' (2003) 14 *Public Law Review* 69 at 71.

⁵ See, eg, Judicial Commission of New South Wales, *Criminal Trial Courts Bench Book* at [7-020].

days trial by jury is mostly only preserved for trials of serious criminal charges. In some jurisdictions, juries are also used in defamation trials⁶ and are available to be used in personal injury cases in some jurisdictions.⁷

In assuming the role previously undertaken by juries, judges do not just engage in fact-finding but they are also called upon to ascertain and then apply community standards or, to put that another way, to resolve so-called classic "jury questions" such as: what were the reasonable precautions a homeowner should take against a foreseeable risk of harm?⁸ Was an accused person's mental impairment so substantial as to warrant liability for murder being reduced to manslaughter?⁹ Was the accused's conduct dishonest by the standards of ordinary decent people?¹⁰ These types of assessments do not involve the application of a judge's subjective, much less idiosyncratic, opinions. Instead, in some contexts the judge must endeavour to make their best assessment of the content of those standards at a communal or societal level. Maybe it's my age but it seems that compared to 20 years ago ascertaining a communal

⁶ See, eg, *Defamation Act 2005* (NSW), s 21; cf *Defamation Act 2005* (SA) which while also an instance of the same uniform legislation does not contain equivalent provision for trial by jury.

⁷ *Supreme Court (General Civil Procedure) Rules 2025* (Vic), r 47.02; *County Court Act 1958* (Vic), ss 67-68. See also *Supreme Court Civil Procedure Act 1932* (Tas), s 29; *Juries Act 1962* (NT), s 7.

⁸ *Civil Liability Act 2002* (NSW), ss 5B and 5C; see, eg, *Jackson v Furner* [2024] NSWCA 66.

⁹ *Crimes Act 1900* (NSW), s 23A(1)(b).

¹⁰ *Criminal Code* (Cth), s 130.3.

or societal consensus on any topic these days seems fraught. We live in fractured times.

But the reduction in the use of juries with judges assuming the role of finding facts and ascertaining and then applying community standards is not all that has changed over the decades. The concept and content of the "law" that the jury had to apply, and that judges must now apply themselves, has changed immeasurably. For many areas of the law where jury trials were prevalent in days of yore, the law applicable to trials involved simple rules. Those rules were either derived from case law or short statutes. While those rules were value laden, the rules themselves were usually narrowly confined. For example, determining whether a divorce should be granted and what orders should be made as a consequence often came down to the narrowly focussed but completely irrelevant question of "who committed adultery?"¹¹ Juries were often used to answer that type of question.¹²

The functions imposed on judges nowadays by statutes addressing a range of areas including family and relationship breakdown, family violence, criminal law and public safety are far more complicated, and the expectations on judges are much greater than simply making a factual

¹¹ See, eg, *Matrimonial Causes Act 1873* (NSW), s 22; *Matrimonial Causes Act 1899* (NSW), ss 12, 14, 15; *Matrimonial Causes Act 1959* (Cth), ss 28, 37(3), 44, 45.

¹² *Matrimonial Causes Act 1873*, s 6; *Matrimonial Causes Act 1899*, s 69.

determination about such matters as alleged marital infidelity. The assessments that many statutes require be made by judges are now often value laden, open textured and factually nuanced. This is exemplified by, say, the obligation to make parenting orders that have regard to "the best interests of the child" as a paramount consideration¹³ and to do so by reference to a multi-factorial analysis that includes factors such as the arrangements that would promote the safety of the child or their carers from being subjected or exposed to family violence, abuse, neglect, or other harm.¹⁴

Another significant feature of modern judicial decision making under statute is the ever-increasing number and complexity of forward-looking assessments that judges must undertake, especially as to future risk. Criminal trials involve inquiries into past events. Has the prosecution proved the accused's guilt to the criminal standard? But in many contexts, legislatures require the modern judge to make assessments about what may happen in the future, and then balance the risk of that happening or not happening against the cost or risk of taking action or not taking action: is there an unacceptable risk that, if released on bail, an accused person will commit a serious offence?¹⁵ What do the best interests of the child in

¹³ *Family Law Act 1975* (Cth), s 60CA ("Family Law Act").

¹⁴ *Family Law Act*, s 60CC(2)(a)(i); *Bondelmonte v Bondelmonte* (2017) 259 CLR 662 at 669-670 [19]-[20], 673 [32], 674 [35]; *Blann v Kenny* (2021) 64 Fam LR 120 at 138 [93]-[95]; *Alberson v Elzares* [2021] FamCAFC 125 at [11], [59]-[60].

¹⁵ *Bail Act 2013* (NSW), s 19(2)(b).

the future require?¹⁶ Should the Court authorise the holding of a public assembly in the centre of a large city in two days' time?¹⁷

What I have only just outlined concerns the merger of the role of judge and jury in the person of the modern trial judge; that is, the fading away of the distinction between the role of the judge and the role of the jury that was reflected in the first of those three directions to the jury that I mentioned at the outset.

But what about the second and third of those directions given to jurors as applied to the modern trial judge, the obligation imposed on the judge to deliberate impartially but to also apply their common sense and their understanding of human affairs?

When I used to instruct jurors to apply their common sense and understanding of human affairs, I would often think to myself that we were asking a lot of them. Sure, in assessing how particular witnesses presented in court or how they acted in everyday circumstances, I could see how that instruction could have been of real use. But when it came to assessing how a person acted when they were attacked by someone wielding an axe or when they were trapped in a violent and abusive relationship, how would a juror apply their understanding or experience of

¹⁶ *Family Law Act*, ss 60CA, 60CC.

¹⁷ *Summary Offences Act 1988* (NSW), s 26.

human affairs then? The collective experience of jurors in assessing witness credibility or how people behave in everyday circumstances is broad, and the occurrence of, say, family violence and even sexual abuse is far more prevalent than many are prepared to admit.¹⁸ However to expect even the most broadly drawn and diverse of juries to have anything more than an incomplete or anecdotal understanding of those and similar topics without assistance is a very big ask.

This is also true for judges. I am not here to rehash the tiresome references to judges living and working in ivory towers. Yes, the judiciary does not yet fully represent the diversity of the Australian population, but not all knowledge of human experience and the human condition is derived from what we experience in our upbringing or through our own personal experience, including our own experiences of treatment by reason of class, gender or ethnicity. In fact, one of the great strengths of the Australian judiciary is the breadth of professional experience that practising lawyers collectively bring to their positions on appointment. Typically the range of judges appointed to a particular court will bring to their positions decades, if not centuries, of work experience as lawyers dealing with an array of clients and circumstances. However, one trend

¹⁸ The most recent ABS estimates on this point are that 22% of women and 6.1% of men have experienced sexual violence since the age of 15 and 27% of women and 12% of men have experienced violence by an intimate partner or family member since the age of 15: Australian Bureau of Statistics, *Personal Safety, Australia, 2021-22 financial year* (Catalogue No 4906.0, 15 March 2023).

that has continued since the early 2000s and gathered pace since is the increasing specialisation of the legal profession.¹⁹ This means that over time the range of professional experience of newly appointed judges is narrowing. A paradox of judicial appointments is that practitioners from an ever more specialised legal profession are appointed to judicial roles with ever broadening obligations.

In describing the breadth of knowledge and experience of our judiciary we must not lose sight of what judges learn from the work of judging itself. Judges, including and especially judges in crime and family law, are tasked with the function of listening carefully to evidence of sensitive and sometimes searing events, then deciding what happened in the past and sometimes determining what should happen in the future. The idea that judges do not learn about people and society from performing that function is ridiculous. The courts that most trial and first instance judges work in are a window into aspects of society that are rarely understood, much less described by others. But exposure to cases has its limits as an educational tool for judges; there is always a risk that a judge's experience in one or two extreme cases can colour their approaches to other cases or that they otherwise look for patterns in cases that may not be there.

¹⁹ "Consider the challenges that are ahead of us. Legislation will expand at an even greater rate, and become increasingly complex and technical. Advocates will become more and more specialised, and judges will be required to match their expertise.": Chief Justice Murray Gleeson, 'Judicial Selection and Training: Two Sides of the One Coin' (Speech, Judicial Conference of Australia, 31 May 2003).

So to return to the second and third jury directions I mentioned at the outset, how does a judge apply their understanding of human experience, limited as it necessarily will be, while also acting fairly and impartially? If the judge has no professional or personal experience or knowledge of the topic at hand, is that a strength? Does that mean that because they are starting from a clean slate of ignorance, they are truly impartial? They might be, but that does not help with our third jury instruction. When an experienced judge describes something as having a ring of truth about it, the subtext is that that is a truth borne out by experience or knowledge, professionally acquired or perhaps otherwise.

On the other hand, if a judge does have personal or professional experience with, or knowledge of, a particular topic, can they apply that knowledge or experience? Or perhaps more accurately, how could they not apply that knowledge or experience? The danger of a judge who knows almost nothing is matched by the danger of a judge who thinks they know everything. The particular circumstances that a judge may have dealt with in the past may not be representative; their experience may be skewed by client type, geography or all manner of factors.

And even if our judge is properly armed with sufficient knowledge of the overall context, their fundamental and non-negotiable obligation remains, namely, to conduct a fair hearing and decide the case according to the law

and to the evidence; that is, to deliver individualised justice. Overall trends and context are very important but each case is its own domain.

One important feature of judicial education is to occupy this difficult space; to help judges do their important jobs, including their roles as fact-finders, especially in finding facts concerning unfamiliar or extreme circumstances, to help judges with their roles as risk assessors and predictors of future behaviours or events and to help judges with their roles in ascertaining and then applying some standard such as reasonableness prevailing in a community that does not represent that judge's own idiosyncratic standard or opinion. To my understanding the symposium falls squarely within that rationale.

Of course there are other rationales and aspects of judicial education that I have not touched on and do not propose to address but which are the subject of much labour by the NJCA and the State judicial bodies, such as efficient court practice, judgment writing, wellness and leadership.

Instead I have focussed on some of the substantive functions of the modern judge. The judiciary had well and truly taken up the functions I described by the time John and the other members of the Working Group were beavering away in the early 2000s but the trend of conferring them by statute has continued and accelerated. The most obvious examples that spring to mind are the increasing use of judge-alone criminal trials at

a State and Territory level,²⁰ the post-sentence supervision regimes which require an assessment of whether an offender's release would pose an unacceptable risk to the community,²¹ preventative restrictions of liberty where a Court is satisfied that a person poses a risk to public safety,²² and the amendments to the *Family Law Act* designed to address the effects of family violence.²³

These are not functions assumed by judges but instead functions required of judges, required by statute. Those statutes are the expression of the will of Parliament. If Parliament by legislation requires the performance of these tasks by judges then I would respectfully suggest that there is a concomitant obligation to equip judges, courts and the judicial education bodies with the funds and resources to carry them out, including resources for judicial education. To not do so serves to frustrate Parliament's intention in passing the legislation in the first place. I am not suggesting this has not been done. I have not undertaken an audit. I understand that the recent programs concerning family violence and managing sexual

²⁰ See, eg, *Criminal Procedure Act 1986* (NSW), s 132; *Criminal Code Act 1899* (Qld), ss 614-615; *Juries Act 1927* (SA), s 7; *Criminal Procedure Act 2004* (WA), s 118; *Criminal Code Act 1924* (Tas), s 361AA; *Supreme Court Act 1933* (ACT), s 68B.

²¹ See, eg, *Crimes (High Risk Offenders) Act 2006* (NSW), ss 5B-5C, 5I; *Criminal Code* (Cth), s 105A.7; *Serious Offenders Act 2018* (Vic), s 14; *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld), s 13; *High Risk Serious Offenders Act 2020* (WA), ss 35, 48; *Criminal Law (High Risk Offenders) Act 2015* (SA), ss 5, 7; *Dangerous Criminals and High Risk Offenders Act 2024* (Tas), ss 7, 9; *Serious Sex Offenders Act 2013* (NT), ss 8, 9.

²² See, eg, *Vella v Commissioner of Police (NSW)* (2019) 269 CLR 219, which concerned the *Crimes (Serious Crime Prevention Orders) Act 2016* (NSW), s 5(1).

²³ *Family Law Act 1975*, ss 60CC, 65DAAA.

assault trials conducted by the NJCA across the country were funded by government.

What I seek to do is postulate or reiterate a general principle that reposing a set of statutory obligations on a judge, especially of the kind I have mentioned, carries with it a responsibility to address the practical realities of how courts and judges will discharge that obligation, including by allocating whatever educational resources may need to be deployed on the basis that I will outline.

Having suggested that principle, I want to outline two structural features of the judiciary that affect the implementation and delivery of judicial education and which are not common to other forms of professional development.

The first such structural feature is inherent in the fact that we are talking about judicial education; ie, the education of judges, who will not hesitate to remind you of their independence. One aspect of that independence is independence in judicial decision making. Judicial independence in decision making is not unbounded. Without seeking to be exhaustive, judges must observe fidelity to the law including the Constitution, statutes, the decisions of courts higher in the judicial hierarchy and, it has been said, the dicta of the High Court.²⁴ Judges should also afford respect to

²⁴ *Farah Constructions Pty Ltd v Say-Dee Pty Ltd* (2007) 230 CLR 89 at 150-151 [134], 159 [158].

decisions and reasons of other courts especially at the same level in the hierarchy. But within those and other constraints, judicial independence in decision making lives and breathes. Along with the observance of other judicial values, that independence serves to protect and promote diversity of judicial thought within and across courts. That independence and that diversity of thought are not some "price" to be paid by the community for having disputes decided by impartial courts. To the contrary, that independence and that diversity of thought are design features and ultimately strengths of independent courts.

And judicial independence in decision making has consequences for judicial education. One consequence is reflected in the NJCA's model of having judge-led or, perhaps more accurately, judge-designed education programs. But there are others. In his 2004 Blackburn Lecture, "Investing in the Judiciary", John noted that "[i]t is generally thought that judicial independence means that a judicial officer cannot be directed to participate in programs of professional development" although he queried whether that was correct.²⁵ If the question is whether an email can be sent to a judicial officer telling them they must participate, well, an email can always be sent, but whether it means anything or is a good idea is another thing. If the question is whether a legal or similar sanction can be applied

²⁵ Chief Justice John Doyle, 'Investing in the Judiciary' (Blackburn Lecture, 11 May 2004).

to a judge for not complying with such a direction or, even more starkly, what happens if Parliament passes a law requiring such attendance, then things get more serious. I do not want to speculate on the constitutional aspects of any legislation that purported to do that but at the very least it raises significant questions about whether the spirit of judicial independence is being respected. And I suggest trying to mandate judicial participation is likely to be counterproductive. The nature of many of those who hold judicial office is that if they are told what to do they will either do the opposite, ignore it or at least focus on what legal authority exists to require it and what the legal consequences are for not complying.

In his Blackburn Lecture John also noted that judicial education programs "must avoid any hint of 'compulsory re-education'" or of the deliberate shaping or forming of judicial attitudes on issues that will fall for decision.²⁶ The reasons for that are obvious and I would add that in my exposure to the NJCA's programs and those run by the Judicial Commission of New South Wales and the Judicial College of Victoria I have not seen or heard anything that comes close to transgressing that line. However such assessments can be subjective and it is at this point that we see how avoiding judicial education compelled by law is a protection of judicial independence and in turn the public. It is all well and good if we consider

²⁶ Chief Justice John Doyle, 'Investing in the Judiciary' (Blackburn Lecture, 11 May 2004).

the position of judges attending programs that involve themes consistent with legal values with which we all might agree, such as equality before the law. But what if the theme of the mandated education program was, for example, the exact opposite of that, a program that sought to deny equality before the law? If it came to be accepted that the executive government or others could mandate judicial participation in educational programs then any objections judges had to participating in a particular program would not be resolved at a level of principle but instead would reduce to a debate between the judiciary or part of it and the executive about mandating judicial participation in a particular program which the government could argue reflects its mandate. A debate at that level is not a debate I suggest the judiciary would want to enter upon.

One thing that may have changed since the early 2000s is that it is now not hard to find other countries where, if the executive had the capacity to mandate judicial participation in an education program of its choosing and a troublesome judge could be sanctioned for refusing to take part, it would exercise that power for improper ends. Ultimately, if a judicial officer forms a bona fide opinion that a program attempts to or has a tendency to improperly influence their judicial decision making do we want to see them sanctioned for refusing to participate? We have, and should aspire to have, judges participating in judicial education because they consider their

judicial oath or obligation to the public, their colleagues or their court requires it, because reflection on and insight into their judicial role warrants it, because the intellectual curiosity that judicial independence protects urges it or a combination of those things. We do not want judges attending judicial education courses simply because they were forced to.

The second structural feature of the judiciary affecting judicial education that I will refer to concerns the position and role of the heads of jurisdiction. This is also an aspect of judicial independence; not independence in decision making but the institutional independence of courts. Many Australian jurisdictions have legislation that adopts a model of court governance whereby broad authority for the administration of a court is conferred on a Chief Justice, Chief Judge or Chief Magistrate or other designated head of jurisdiction,²⁷ although some schemes provide for a division of responsibilities between a head of jurisdiction and another senior judge such as a President of a Court of Appeal.²⁸ One exception to this model is the High Court, where the administration of the Court is vested in all of its judges.²⁹

²⁷ See, eg, *Federal Court of Australia Act 1976* (Cth), ss 15, 18A; *District Court Act 1973* (NSW), s 18FAA; *Local Court Act 2007* (NSW), s 23(1); *County Court Act 1958* (Vic), s 8E; *District Court of Queensland Act 1967* (Qld), s 28A; *Supreme Court Act 1935* (SA), s 47; *Magistrates Court Act 1987* (Tas), s 15(6)-(8); *Magistrates Court Act 2004* (WA), ss 24-25; *District Court of Western Australia Act 1969* (WA), s 20; *Local Court Act 2015* (NT), ss 20, 22.

²⁸ See, eg, *Supreme Court Act 1970* (NSW), ss 27, 32, 39; *Supreme Court of Queensland Act 1991* (Qld), ss 15, 32, 37.

²⁹ *High Court of Australia Act 1979* (Cth), s 17.

While an individual judge has a protected area of decision making independence, they do not have an entitlement to sit on any particular case or any particular type of case. Instead, the head of jurisdiction is usually conferred with the responsibility of assigning judges to individual cases, types of case, or both.³⁰ The constitutional position of heads of jurisdiction has not been much explored in Australian cases but it has been held that the nomination of a particular judge to hear a particular case is not justiciable.³¹ As former Chief Justice Gleeson observed, "... where it is the function of a head of jurisdiction to assign members of a court to hear particular cases, the capacity to exercise that function, free from interference by, and scrutiny of, the other branches of government is an essential aspect of judicial independence",³² that is, the independence of the courts as an institution. Neither Parliament nor the executive government tells courts that a particular judge of a court is to sit or not sit on a particular case heard by that court.

It follows from the nature and extent of the authority ordinarily vested in Australian heads of jurisdiction that, both as a matter of principle and practice, they have ultimate responsibility for arranging for the provision

³⁰ See nn 27-28 above; see also *Rajski v Wood* (1989) 18 NSWLR 512 at 519-520, 526-527.

³¹ *Rajski v Wood* (1989) 18 NSWLR 512 cited in *Fingleton v The Queen* (2005) 227 CLR 166 at 190 [52] ("*Fingleton*"); see also *MacKeigan v Hickman* [1989] 2 SCR 796 cited in *Fingleton* at 191 [52]; *Minister for Immigration & Multicultural Affairs v Wang* (2003) 215 CLR 518 at 523 [12]; *Herijanto v Refugee Review Tribunal* (2000) 170 ALR 379; (2000) 74 ALJR 698.

³² *Fingleton* at 191 [52].

of judicial education to the judges of their court. At the end of the day they shoulder the responsibility for allocating to cases judges with the requisite knowledge, expertise and other attributes to hear those cases. The assessment by the head of jurisdiction of which judge is suitable for what case or class of case can be based on all manner of things and can include any expertise or knowledge acquired by that judge from participation in judicial education programs.

For heads of jurisdiction this is a balancing exercise. In his Blackburn Lecture, John noted the "difficulty that courts have in releasing judicial officers from their judicial duties to attend our programs".³³ I would give you my French translation of the phrase 'the more things change the more they stay the same' but it's getting late. Having performed the weekly task of allocating judges to cases, I can well understand the frustrations of heads of jurisdiction when cases don't settle or adjourn as you thought they might and you're left a few judges short. On the other hand, heads of jurisdiction are trustees for the medium to long term future of their courts and that future depends on having refreshed, rejuvenated and well-informed judges who can listen as well as write. In turn that means judges who are willing to engage with, and have undertaken, judicial education

³³ Chief Justice John Doyle, 'Investing in the Judiciary' (Blackburn Lecture, 11 May 2004).

programs. To use modern parlance, heads of jurisdiction are essential stakeholders in the planning and implementation of judicial education.

Nothing I have said is meant to understate the importance or wisdom of judicial officers attending educational programs. If ever there was a program that judicial officers of the higher courts should attend it's the NJCA's jewel in the Crown, the National Judicial Orientation Program, or, as it's commonly known, "baby judges". If a newly appointed trial or appellate judge declines to attend baby judges, that is a warning sign. It is to be remembered that the NJCA is the brainchild of John Doyle and Murray Gleeson. Any newly appointed judge who thinks they were too good a barrister to gain anything from judicial education, especially baby judges, may want to reflect on how they compare as advocates to either John Doyle or Murray Gleeson. They both had the insight to realise that professional practice as a barrister does not complete a person's preparation for being a judge.³⁴

The baby judges program is my segue to apologise because I may have misled you at the beginning of the speech, in that I did have one first-hand professional encounter with John. But that was with Chief Justice Doyle, and that was at baby judges school in Adelaide in 2012 just prior to his retirement. In the ethics session the discussion turned to whether or not

³⁴ Chief Justice Murray Gleeson, 'Judicial Selection and Training: Two Sides of the One Coin' (Speech, Judicial Conference of Australia, 31 May 2003).

judges could have a second job or side business. John posed the question why it might be thought to be appropriate for a judge to own a farm with a winery attached but not run a motor repair shop? The reference to wine was, I thought, a nice South Australian touch and the reference to a motor repair shop added a certain Port Adelaide or even old school Norwood flavour. Unfortunately I missed the answer. That is my fault because I did not "listen to Doyle". Please make sure you do.

Thank you, John. You represent, and you are responsible for, the very best of the Australian judiciary.

Thank you for listening.