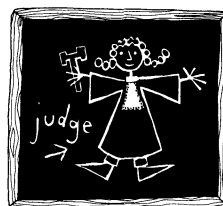


LEGAL STUDIES

Justice must be seen to be done



In the article *To Judge is 'to Sleep: Perchance to Dream: Ay, There's the Rub*, Sarah Murray examines the dilemma posed by judges who fall asleep during a trial.

The article suggests that, in such cases, justice can't be seen to be done and therefore public confidence in the justice system is undermined.

Carefully read the article and answer the following questions:

1. Using your textbook, outline the role of the following in a criminal trial:

- Judge
- Prosecution
- Defendant
- Jury.

2. What is the importance of s 80 of the *Commonwealth Constitution*? How is this section of the *Constitution* relevant to the role of a judge?

3. Outline the issues raised in the case of *Cesan v The Queen*. What issues relating to the role of a judge in a trial are raised in this case?

4. What do you think that the term 'miscarriage of justice' means?

5. The article suggests that a miscarriage of justice: 'is a broad category which may for example be shown by establishing flaws in the trial process which may render it unfair.'

Suggest circumstances in which you might consider that a trial may be unfair.

6. How does the role of a judge differ when there is a jury present?

7. The article concludes that: 'Courts need to ensure that they do not unwittingly trivialise the fact that the judge "slept" and in so doing taint the public's confidence in the courts.'

a. What features of the judge's role do you think instill public confidence?

b. How does the role of the judge contribute to an unbiased and fair hearing?

8. Plato's advice

The article concludes that: 'as Plato sagely extolled, how far better it is to arrange one's life so that one has no need of a judge dozing on the bench.'

Undertake research into the alternatives to taking a case to court. Prepare a poster on the alternatives.

Your poster should cover the following topics:

- Alternative methods for resolving a dispute other than taking a case to court?
(Consider methods such as mediation, conciliation and arbitration in your answer);
- The advantages and disadvantages of each alternative method of dispute resolution;
- Outline the role of tribunals in resolving disputes;
- Select one tribunal in your state or territory. Describe the role and function of the tribunal that you have selected;
- The advantages of taking a case to a tribunal instead of a court.

JULES ALDOUS teaches legal studies at Shelford Girls' Grammar School in Melbourne.

