

# Jurisprudent of London: Arts of Association

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## 1 Introduction

This essay presents part of a study of the office and persona of the jurispudent, and in particular, the jurispudent of London (if such an office exists and if it is not in abeyance).<sup>1</sup> Writing in the somewhat neglected traditions of office and training in the conducts of life, draws attention to the dignities, obligations, privileges and rights that are taken up by a jurispudent when they enter into institutional and public life.

The occasion for this particular engagement in the obligations and training in the office of jurispudent was the staging of two linked exhibitions by the British Museum and Australian National Museum: the *Indigenous Australia: Enduring Civilisation (Enduring Civilisation)* in London (from April through to September 2015) and the *Encounters: Revealing Stories of Aboriginal and Torres Strait Islander Objects from the British Museum (Encounters)* in Canberra (from November 2015 through to March 2016).<sup>2</sup> The exhibitions display artefacts and materials seized and received via various means from Aboriginal peoples in Australia in the eighteenth and nineteenth centuries that have been held and now displayed at the British Museum in London.

These exhibitions were developed in close relation between the two museums and in consultation with a significant Indigenous reference group (Sculthorpe 2015: 9, Australian National Museum (ANM) 2015: 15-17, 232-239). *Enduring Civilisation* marks the first major exhibition of those holdings of Indigenous materials at the British Museum, and *Encounters* marks the first return of many of those holdings to Australia. While the two exhibitions emphasise different aspects of Indigenous encounters with the British colonisation of what is now Australia, they were both concerned with the insistence on, and invitation to, the conduct of lawful relations. In response the question engaged here is 'What might it mean for a jurispudent of London to respond well to such an invitation and insistence?'

When this essay was presented in Australia, it began with an acknowledgement that its presentation took place on Indigenous country. Acknowledgment of country is an important convention and practice that acknowledges that the experience and conduct of life in Australian institutions resides in a place that is shaped by laws and by encounters between peoples and laws that must be honoured. The protocols are an acknowledgement of the presence of more than one law of Australia. For a university with a faculty of law such an acknowledgment is also an expression of jurisprudence and might be treated as a part of the practice of the common law. It is also an acknowledgment that those who live by the common law tradition are responsible for the care of their own law and the conduct of lawful relations.

Responding to the *Enduring Civilisation* and *Encounters* exhibitions in London there are obligations that might be taken up by jurists and jurisprudents. As jurists, jurisprudents or advisors, they might, for example, address political, ethical and legal concerns with heritage, repatriation, and reparation or more broadly the protocols and authorisation of the conduct of lawful relations in the meeting of nations (whether or not directed toward projects of treaty-making and reconciliation) (McMillan 2014, McVeigh 2014). To take up such obligations as a jurispudent of London is to acknowledge a particular

inheritance of place and patterns of lawful, and lawless, relations (of kinship as well as nation and state). The official responsibilities of the conduct of the meeting of laws might be addressed under the topic of respect and the practice of the arts of association in a particular time and place. The challenge, as noted by June Oscar, a Bunaba Woman, member of the reference group for the *Encounters* exhibition and ambassador, is that the institutions of government and justice surrounding the British museum ‘remain an outstanding testament to London’s web of Imperial power’ (Oscar 2015: 23). She also notes that the histories and laws of London have become entwined and shared with Bunuba people – albeit through forced exclusion and without negotiation (Oscar 2015: 26).

Here the conduct of lawful relations is addressed as an aspect of the unofficial training in the persona and office of jurispudent of London. In part, this is addressed here because the contemporary office of jurispudent of London is in need of reestablishment; and it in part because of a paucity (and need) of established protocols in London for the conduct of lawful relations. Accordingly this essay addresses and reports on the cultivation and training of a *persona*, the insistence on lawful relations, and the quality of the meeting of laws. In doing so I am aware that there are many Indigenous and non-Indigenous jurisprudents of Australia who address the protocols and responsibilities of the conduct of lawful relations.<sup>3</sup> There is also a sense that the answer to the question posed is relatively simple: ‘Know your own law, acknowledge the relationship of laws and respond with the appropriate protocols’. This essay follows some of the repertoires, and the sense of the seriousness and superficiality, that a jurispudent of London might make available for such a response.

## 2 Official and Unofficial

Since the 1980s, law and humanities scholarship has developed a number of distinct modes of investigating forms of law and the ways in which we might conduct lawful relations (Genovese & McVeigh 2015). One way centres on the question of how might a life be lived

and lived well. This concern, one that has found expression in Greek, Roman and Christian traditions, is also addressed in contemporary traditions of philosophy, history, and jurisprudence. As the historian Pierre Hadot, has extensively discussed, the classical disciplines – especially philosophy – treated their daily tasks as ‘spiritual exercises’ as a training in conduct. For Roman and Christian traditions such exercises were also directed to ways of living with and meeting the obligations of their office (Minson 2009, 2014).

How obligations of office are understood depends in large part on the authority under which it was created and the attendant formulation of the responsibilities, rights and privileges. Some offices, like those of state (judge, legislator, governor, soldier), church (bishop, priest), are instituted in formal ways and are still often bound by oath to a higher authority. The vocational training of the contemporary lawyer is more or less explicit in its cultivation of a *persona* and training in a conduct of office. Such a training might cultivate an openness to the proper administration of justice or a disinterest in pursuing political ideologies whilst in office, or an awareness of the responsibilities of living within a tradition of law as well as a training in reasoning and procedure. Other offices, like that of the scholar and jurist, are, today, more diversely delineated. The status of many other offices such as those of artist, poet and critic are contested. Ann Genovese has also noted that for many the formation of the person or self has had to take place apart from formal offices. Feminist projects of women training themselves to take up public and scholarly lives have been conducted first in the creation of *persona* rather than office (Genovese 2014), and Genovese in this issue). The engagements of Indigenous peoples with Australian laws have never been less that pluri-jural as are the juridical and cultural personae that address the plurality of laws (McMillan 2014).

To get some purchase on the office of a jurispudent of London, I have previously tried to re-imagine the worth of the ‘man, or reasonable man, on the Clapham omnibus’. I found the literal, symbolic and allegorical forms that the omnibus could take helpful for engaging with institutional arrangements of thinking with office, jurisprudence and

place (and certainly more helpful than the ‘reasonable man’). It also provided a limit to what was authorised by way of an understanding or responsibility that arises by being of a place. The 68 Bus and bus route here provides the location for the unofficial training of the jurispudent of London.<sup>4</sup>

The 68 bus route itself starts at Euston bus station and the burial site and memorial for Matthew Flinders. It proceeds through Bloomsbury, taking in the British Museum, most of the colleges of the University of London, the Inns of Court and the High Court, the old commercial heart of Imperial London and the Australian High Commission at Aldwych. Across the River Thames, depending on ambition and patience, it passes by the major cultural centre of Southbank, the Imperial War Museum and destinations further south. There are emblems and places enough on this route to suggest that jurispudents have been at work in London and one might take up a responsibility to pattern the *Enduring Civilisation* and *Encounters* exhibitions into London and its jurisprudence.

Despite the somewhat erratic routines of arriving by bus from South London, a jurispudent could hardly excuse themselves arriving at the British Museum without some sense of the conduct of lawful relations. However travel on the 68 Bus should not be undertaken without resources.<sup>5</sup> My own were an English translation of Montaigne’s *Essays* (1987) and Paul Carter’s *Meeting Places* (2013). They both touch on the forms of unofficial training in the persona of the diplomat and jurispudent, and they both worry about how to meet well.<sup>6</sup> On the return trip I read the subtly discordant exhibition catalogue, *Indigenous Australia: Enduring Civilisation* (Sculthorpe 2015) for the same purpose.

I am acutely aware that locating the responsibilities of a jurispudent of London along a bus route sets ‘trivial intimacies’ and distractions against great wrongs and complexities (Spivak 1999: 113). The conduct of office and of lawful relations raised in response to the two exhibitions that interests me here is that of the art of association and, particularly, that of relations of amity and complicity. One aspect of being complicit addresses forms of moral and juridical wrongdoing –

the complicity that points to the wrong kinds of association. Another aspect of complicity, however, directs attention to the alliances of complicity and, as its etymology suggests, the complication or folding in of relations – all forms of accomplishment. Within the old Imperial museums of London, these complicities have been judged both in terms of specific moral and legal wrongs, as well as in terms of a more general sense of complicity shaped by a failure to take responsibility for, and acknowledge, continuing wrongdoing (Sanders 2002). Alongside these two senses of complicity and wrongdoing I would like to organise an obligation to be complicit in the creation of lawful relations.

Montaigne's *Essays* have long been treated a vehicle of humanist argument about the cultivation of the character or persona necessary to live a life in public and private. They have, however, rarely been treated as a resource for the conduct of lawful relations. Perhaps this is because he was suspicious of the office of jurist (too scholastic) and of official life (too venal) (Tournon 2005). However, Montaigne is sensitive to the obligations both to the plural forms of office and to cultivation of personae necessary to live in public (Montaigne 1987: 1.28, 205–220). At the centre of his accounts lies a concern with relations of amity and complicity, of friendship and diplomacy, and the mediation necessary to cultivate and realise forms of *honestum* (honour, honesty, morality) in relation to the conduct of public life (Montaigne 1987: 1.28, Freidrich 1991: 208–9, 313–16). The *Essays* too have been an important resource for the living of a certain kind of English life since the sixteenth century (Hamline 2013). Montaigne's writing of his self portrait, the study of his self and the cultivation of a worldly, humane, persona of the 'gentle or noble man' provide, and report on, one kind of training in diplomatic conduct (Hampton 2009). Such a persona may or may not have continuing importance. However, I do think that the cultivation of a certain *sprezzatura* or lightness and diplomacy, is useful for living with the responsibilities of a jurisprudent of London (Noirot-McGuire 1997, Calvino 2007: ).

Montaigne joins the cultivation of forms of amity and association to the practice of writing and self-examination and the conduct of

office. Much depends on being able to training oneself to re-arrange law, language and life.<sup>7</sup> I am sympathetic to Montaigne's preferred techniques of orientation and reflection on events. His reliance on displacement, hesitation and delay, he wrote, help train him to judge and transform his relations towards the world. His training is one of how to live with human imperfection: how to judge with the bad conscience of the claims of civilisation and barbarity, how to test the claims of authority, and how to establish the appropriate forms of communication in the flux of the world (Noirot-Maguire 2007). However, it is a limited training; it will tell you more about *nomos* and prudence than *physis* or the sense of cosmology required to appreciate an order of existence (Black 2011).

### 3 Office of Curator: Laws of Relationship

Although the *Enduring Civilisation* and *Encounters* exhibitions are very closely linked, my comments here will be directed mainly to the British Museum's exhibition curated by the head of Oceania section of the British Museum, Gaye Sculthorpe. I want to draw attention to the sense in which the exhibition was presented both in terms of an encounter of laws (and civilisations) and as an assertion of the need for the conduct of lawful relations.

As the title of the exhibition indicates, the focus of the *Enduring Civilisation* exhibition is on the troubled work of civilisation. The objects on display come from the collection of the British Museum from the eighteenth century to the present. The exhibition includes materials appropriated and exchanged in the eighteenth and nineteenth centuries as well as specifically commissioned contemporary works. The commentary and catalogue considers the context and content of the exhibition in terms of objects, culture and knowledge.<sup>8</sup> Like the exhibition itself, it does so in terms of country – a term that encompasses a relation of land, place and spiritual attachment (Sculthorpe 2015: 20-34).

The exhibition and the catalogue divide the objects in the museum and the narrative of the exhibition into three parts: understanding

country, encounters with country and out of country. This formulation can be read in a number of ways. The tone of the first part is predominantly educational, and elaborates the care of the land (as hunting, gathering and exchange), the transmission of ecological and cultural knowledge as material practices and as part of a 'dreaming' (Sculthorpe 2015: 82-9). This part of the exhibition moves from questions of ceremony (forms of responsibility), to the place of objects in the cultural life of Aboriginal and Torres Strait islander peoples (laws of relationship) and their place in and of country (cosmology) (Black 2011: Chapter 2). Much of this part of the exhibition was given over to the display of old and new objects. For example, baskets collected in Queensland in the 1850s are displayed alongside contemporary baskets made from 'ghost' nets. This might be viewed as the work of jurisprudence as well as of complicity – the folding together of 'millennia-deep understandings about the world' (Sculthorpe 2015: 68).<sup>9</sup>

The second part of the exhibition addresses the Indigenous encounter of the British Imperial arrival and narrates responses and representations from early engagements of trade and contest to contemporary re-occupations of Indigenous land and law. These encounters are represented in terms of the military, political and cultural responses and resistance to the British (and then Australians). In this way, for example, a number of juridical and jurisprudential forms of encounter such as the Flinders Petition of 1846 and the Batman Land Deed are presented as documents of combat, conciliation and displacement (Sculthorpe 2015: 145-9). The exhibition also follows the question of the quality of lawful relations into more recent encounters such as those given shape through the formation and maintenance of the Aboriginal Tent Embassy in Canberra (from 1972) (Sculthorpe 2015: 194-7; Schaap 2015).

The final part of the exhibition turns attention to 'out of country'. It addresses the life of Indigenous people and objects post-colonisation: in part insistence of lawful relations and diplomacy and in part a contemporary engagements by Indigenous artists invited to address Indigenous objects held by the British Museum (shown more fully in



the exhibition *Unsettled* (2015) at the Australian National Museum). Joining questions of civilisation to those of country allows a number of concerns to be taken up and circulated. In the Introduction to the catalogue book, Prince Charles states that civilisation and spirituality are important and the sponsors of the exhibition, BP, note their commitment to the care of the land (Sculthorpe 2015: 8). Also noted are the enduring ties and connections – complications – between the British Museum and Indigenous Australians that are focus to the exhibition. Gaye Sculthorpe, summarises one narrative of the British Museum collections by noting the materials ‘speak of how [Australia] was made home and the hands that made it so ... they tell a story, unfolding still, of resilient and creative peoples who forged a distinctive and enduring way of being in the world’ (Sculthorpe 2015: 117). (More sharply, and enigmatically, Sculthorpe also notes ‘Australia is the monument ... to the diverse genius of the first peoples to call it home’ (Sculthorpe 2015: 117)).

Alongside the story of an enduring civilisation that continues to shape Australia through its knowledge and culture there is also another one of law and lawful relations.<sup>10</sup> As Gaye Sculthorpe notes ‘[s]ometimes art is a funerary rite, or an initiation into new ways of seeing. Some art presents legal and historical arguments’ (Sculthorpe 2015: 117). This story is presented in the catalogue in terms of endurance, encounter and resilience – as it is. However it is also narrated as one of jurisprudence and of the care for the conduct of lawful relations. The resilience is not one of universal culture or only one of an enduring culture, it is one of insistence on the conduct of lawful relations. These relations and their obligations come from an understanding of country and law shaped by a cosmos and a cosmology (Black 2011).

The key points of engagement of this exhibition all addressed questions of authority and law. The opening image as you enter the exhibition is the painting ‘Pukara’. It relates to knowledge of spinifex men.<sup>11</sup> This painting is paired with a painting of women’s knowledge – ‘Kungkarangkalpa (Seven Sisters)’ (that marks the end of the encounters section of the exhibition).<sup>12</sup> In the catalogue these paintings are linked

to those used in Native Title claims where paintings were presented as law and as evidence of a relationship to land (Sculthorpe 2015: 84-8, 202-4). They might also be viewed as a jurisprudence.

Much of the potency of the exhibition, I think, emerged out of the sense that the exhibition is realising a jurisprudence (McVeigh 2014). I will note two examples. The first relates to authority. Gawirrin Gumana's memorial pole or 'larrakittj' (Sculthorpe 2015: 95, 117). At the head of the pole are two ancestral figures asserting the authority of a law, Barama and Captain Cook. In the exhibition, the pole is located between the sections relating to understanding country and to encounters on country. The two figures are not specifically identified. One interpretation of their relation might be of a contest of authority. However, drawing on the work of Christine Black, the larrakittj might also be viewed as patterning of the objects and the British Museum back into relationship with forms of Indigenous knowledge and jurisprudence. It shows the ways that the authority of Captain Cook becomes a patterned into part of Barama's authority (Sculthorpe 2015: 116-17).<sup>13</sup>

The second example concerns jurisprudence and place. The exhibition catalogue concludes with a brief discussion of Gunybi Ganambarr's 'Buyku' which depicts a waterhole at *Baraltja*. In the exhibition catalogue, Gaye Sculthorpe reports Ganambarr's observation that the shape of the Great Hall of the Reading Room of the British Museum shares a geometry and pattern with the circular forms of the fishtraps of the Dhalwangu clan area (Sculthorpe 2015: 250-5).<sup>14</sup> The image, *buyku*, joins a number of important Yolngu artefacts in the exhibition and catalogue. It gives form to what was once the British Library Reading Room and the central image of public learning in Britain. The old reading room and new courtyard have become part of an expression of the jurisprudence that might be actualised in the fishtrap ceremonies. This image also forms the central motif of the *Encounters* exhibition at the National Museum of Australia.

In sum, the exhibition addresses, and has, several civilising missions that engage different forms of complicity related to the sources of

authority of the British Imperial project, the Museum collection policy, and the curation of the exhibition. I have emphasised here the way that the British Museum has been patterned into relationship with forms of Indigenous knowledge, experience and jurisprudence. It is through this patterning that situation of the exhibition that questions of what might be remembered, forgotten or repatriated are addressed in the conduct of lawful relations. In this account the British Museum is to be obligated according to more than one jurisprudence – so too are visitors and critics, including, I imagine, jurists of London.

The exhibition at the Australian National Museum *Encounters: Revealing Stories of Aboriginal and Torres Strait Islander Objects from the British Museum* more or less assumes the political context of the British Empire and the improper acquisition and retention of objects by the British Museum.<sup>15</sup> Where the British Museum exhibition was muted in its representation of loss and of the repatriation of the objects and materials held, the Australian National Museum exhibition takes the return of artefacts as the point of encounter. In one direction the central axis of the *Encounters* exhibition draws up a fishtrap in order to make the seizure of the Gweagal shield and spears collected or seized by Captain Cook in 1770 a visual focal point of dispossession (Sculthorpe 2015; ANM 2015: 48-50; Nugent 2009). In another direction, the exhibition was concerned with the plurality of encounter stories and presented through the ‘reconnection between object and community’ (ANM 2015: 37). The stories told in the exhibition set the artefacts back into relation with the people from whom and places from where they were removed.<sup>16</sup> The story of jurisprudence related here, is one of repatriation and the return of objects to their proper law and jurisdiction. This is not so much a matter of giving objects a context but of bringing law to life or life back to law.

The brief account of the exhibitions offered here has been related through the office of curator and presented as a jurisprudence. Alongside this, I have treated some of the exhibits and parts of the exhibition catalogues as offering examples, and presenting exercises, in the conduct of office. In doing so I have linked the work of curation and the care

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of people, persons and places in encounter to the practices of writing history, and the conduct of jurisprudence. The catalogues, for example, report on the exhibition and the practices of curating, consulting and historical contextualisation of the 'difficult' history of the British and Australian presence in Australia. They also provide a report and guide on how to conduct oneself in relation to the exhibition, and, it might be imagined, the meeting of laws and the conduct of lawful relations.

The two exhibitions do not put an end to disputes over questions of authority or the authorisation of a jurisprudence or the complications of public institutions. What is invited, I think, is a consideration of the forms of law of relations and the complicity and association that might be met in the conduct of lawful relations in particular institutions in time and place (McVeigh 2014).

### **4 Jurisprudent of London**

How might a jurisprudent of London respond to the jurisprudence expressed in the exhibition? The obligations and practice of office are certainly not without dispute. Even if jurisprudents of Australia have taken up and articulated similar responsibilities to those of the curators of the Australian National Museum, it is not necessarily the case that a jurisprudent of London would be meaningfully able to, or should, do so.

At one level the protocols of the engagement of lawful relations between Indigenous and non-Indigenous peoples and laws already exist. One aspect of this is the ongoing political and diplomatic engagement of the acknowledgement of Indigenous nations, country and law. There was, for example, a ceremonial engagement of creating a meeting place of jurisprudences, and perhaps laws. There were ceremonies at the British Museum as well as public engagements by HRH Prince Charles, the Australian High Commission and the sponsors, British Petroleum. While the British Museum exhibition was witnessed and drawn into relation with Indigenous jurisprudence and knowledge in a number of ways, this is not case for those who attend the exhibition. Their obligations are held in place by the authority of the British Museum.

The obligation of bringing laws into relation, however, extends into London; and given that the office and authority of the jurispudent has long become associated with that of the scholar, this should include the institutions of the university.

Running from north to south, the 68 bus route takes in the British Library, much of the University of London (UCL, SOAS, IALS, Birkbeck College, LSE, Kings College); the law schools of the University of Law and Southbank University; the schools of Arts and Humanities at the Courtauld Institute, and the University of the Arts (LCF, LCC, Camberwell College of Arts); and, the learning and practice of the Inns of Court. Within the University of London and elsewhere, Indigenous knowledge and jurisprudence has been a contested part of the repertoires of jurisprudential, sociological and anthropological knowledge (Memmot 2005). A non-exhaustive study of these institutions finds that within the Universities along the 68 bus route, contemporary juridical engagements of non-Indigenous jurisprudence with Indigenous jurisprudences have largely been conducted by migrant jurispudents from post-colonial and settler states. In doing so they have concentrated on the ways in which the jurispudents of common law tradition in Australia have failed to address its own relation to Indigenous peoples and their jurisprudence. Less attention has been paid to the continuing obligations of a jurispudent of London.

The ways in which a jurispudent of London might understand a meeting of laws and the conduct of lawful relations depends both on their understanding of the laws for which they are responsible, and on the ways in which peoples, jurisprudences and laws are brought into relation (Goodrich 2014). The orientation to being responsible to both traditions and place is not one that rests easily with the jurisprudences of the common law. Despite the very evident sense that it the law of a place, it is one that proceeds by a restricting its range of responsibilities and forms of understanding (McVeigh 2011, Barr 2015). For many Indigenous jurisprudences this is not the case (Neidjie 1989, Black 2011).

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If a jurispudent of London were to fulfil their responsibilities of office in offering a training in the conduct and forms of lawful relations, then one part of that training relates to the forms of welcome and diplomacy and another to the maintenance of relations of place (Black 2011, Dorsett & McVeigh 2012, Anker 2014). In the present context the jurispudent of London takes up a public role as jurist or scholar but not necessarily within the university. Alongside the writings of Montaigne, whose *personae* move in and out of public office, I want, briefly, to address writings by Annelise Riles and Paul Carter. Of interest here is not a specific protocol or prescription (or criticism) of the conduct of lawful relations but their effort to find the pitch of engagement between the unofficial training of the persona of the jurispudent and the formulation of the meeting of laws.

### A Unofficial Character

At the centre of Renaissance diplomatic and jurisprudential traditions lies a concern with negotiation and mediation, and the relationship between the honourable and the useful that still shadows contemporary common law jurisprudence. One tradition, exemplified by the Italian poet Torquato Tasso, would make the role of the ambassador one of mediation in the name of the honourable (or the good). Diplomacy is an expression of the humanist or Christian values of the peacemaker and the law of nations. Another tradition, found in the work of the Italian jurist Alberico Gentile, would make the ambassador the useful agent of the Prince subject to the laws between nations (states) (Hampton 2012: 52-4, 59-61). Montaigne turns our attention away from the authority of the Prince and of law and instead focuses the honour of the Ambassador on the persona of the diplomat (Hampton 2012: 68-72).

Montaigne starts his essay 'On the Useful and the Honourable' with a concern with speaking earnest trivialities (which defends himself against by saying he does not take himself very seriously) and with betrayal (which he does). He also notes that an ambassador cannot rely on the either the honour of the Prince, who must nearly always

be useful, or justice (the honourable) which may have no purchase on political action (Montaigne 1987: III.1, 891-907).<sup>17</sup> What is required of an ambassador is the ability to mediate disputes and to create forms of common language and communication through which to negotiate. Drawing on his own experience, Montaigne treated the work of the ambassador as one shaped by presenting or representing his own personal status and reputation as honourable. His own reputation, wrote Montaigne, was in part associated with his 'open manner' and in part his forms of truth-telling that were, he claimed, free from personal interest (1987: 893). In the practice of negotiation or mediation it is necessary to be temperate (one must treat all with respect) and to cultivate an openness of communication by saying only that which can be told to both sides. To achieve this (and here, Montaigne limits public office) it is necessary both to state the limits of one's commitment to negotiation and to demonstrate one's own private honour (and honesty) (Hampton 2012: 66). (In times of civil war there is no option but to take up public life and to take sides, but, even then, it is important to maintain a limit to the engagement with public office (Montaigne 1987: 894). It is dishonourable not to take sides; however, it is unwise to assume responsibility for disputes that arise from the animosity of Princes.)

A jurisprudence, I have suggested, is in some respects a training in, and report on, conduct. Montaigne's writings, his self-portraiture, might, in this regard, be a portrait of the formation of a self adequate to the tasks of diplomacy. For example, in his essay 'On Coaches' he presents an investigation into virtues of kingship and, by way of a detour here, the virtue of the ambassador (and jurispudent of London). 'On Coaches', like many of Montaigne's essays proceeds by the accumulation of topics. Its central topic is the relation between civility and barbarity and its judgment is that the virtue of kings is justness and not liberality, and those of the diplomat honesty and not duplicity. However these judgments turn out not to be what is most engaging to Montaigne. His concern with coaches also joins these topics to his own dislike of coaches, coaches as a vehicle of Royal display, and coaches as a vehicle for the consideration of the Spanish Imperial project and the treatment of Amerindian peoples. The coach also carries a discussion of causes,

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a consideration of the impossibility of true knowledge, and reflection on quality of the civilisation of the New World and the honour of their Kings.

By turning an old concern with judging the mask of character, it is, for Montaigne, writing that tests the search for the appropriate ethos or demeanour for public life. 'On Coaches', is not, I think, presenting a technique designed to achieve intersubjectivity or reciprocity. It is a challenge to appreciate the relationship between the justness of judgment and what is honourable in conduct. The movement and transformation of the coach (cause, topic, vehicle) tests the virtues of rulers as it shifts in pace and topic from the epistemological trouble with causes (how do you evaluate the judgment of someone who attributes the blessing of a sneeze to the purity of the head? Or considers enslavement of peoples natural? Or if someone cannot tell if Indigenous peoples live with law?); to those of representation in the use of coaches as a part of the ostentatious display of the authority and glory of the sovereign; and, further, to the ethics and cruelty of the colonial war of the Spanish in the Americas (whatever the virtues of the Spanish, the peoples of the Americas shared them; the Spanish, however, were corrupted both by their cruelty and their singular concern with trade) (O'Neill 2001: 184-8). It is not so much the judgment passed on greedy kings that is at issue, but the play of causes and the inability to establish grounds that tests the formation of character and invites the complicity of investigation of new worlds. (Montaigne, of course, might well fail his own test. His comments on Amerindians and the Americas have been criticised both for their provisional criticism of Empire (Spanish), and the ways in which he takes the peoples of the Americas uninvited into his intellectual project (Melehey 2010: 180-9)).

In writing 'On Coaches' Montaigne arranges his complicities so the concern with conduct is not treated separately from the ways in which he makes Amerindians the accomplices of his training of himself. In return Montaigne is joined to a project of experience that might be a test of understanding and action of a jurist of London.



## **B Techniques and Protocols**

Whether a jurispudent of London might be called to act as an advocate or ambassador for the honour of the laws that govern London (or the UK) is one issue. How one might respond with honour and usefulness is another. If Montaigne offers a training in character, our contemporary legal disciplines provide plural modes of address in establishing the proper mode and manner of the meeting of laws (McMillan 2014, McVeigh 2014). Annelise Riles, amongst others, has argued that the disciplines of the conflicts of law (private international law) and comparative jurisprudence should be treated as part of a technique and art of jurisprudential meeting (and communication) (Riles 2008). For Riles it is not such much the honour of the ambassador, but that of their technique that is important.

In thinking about conflicts of law in Western court systems, Riles notes that conflicts turn on questions of jurisdiction and authority as well as on the relations of laws and values. The question of whose laws and which values, Riles suggests, should be recognised as central to the methodologies and techniques of conflicts of law (Riles 2008: 276). In doing so they must find the means to address presumptions of conflict, commensurability and identity both between, and within, laws and jurisprudences (Riles 2008: 294).

Such a jurisprudence of conflicts draws attention both to the sources of authority of its own law and the means of addressing another law or culture. For Riles – as perhaps for the putative jurispudent of London on the 68 Bus – such engagements should not be understood in terms of the discovery of external facts for assimilation and adjudication but as a kind of investigation, possibly collaborative, of a meeting of cultures (or here, jurisprudences) (2008: 296). Riles, for example, finds resources for turning the methods used in conflicts interpretation as a training in the formation of a cosmopolitan ethic through the ability collaborate (Riles 2015). Riles' own, familiar, formulation emphasises the complexity of forms of collaboration in thinking through problems of social action and jurisprudence 'as if' from the point of view of another (2008: 301, Strathern 1992).

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At the centre of Riles' account of conflicts and collaboration is a concern with the description of what people do in conflicts and how lives are lived. As an official jurisprudence, the sense of conflict and collaboration are met by a deliberate negotiation of technical means and through specific forms of ceremony and collaboration (Riles 2015). Such accounts of collaboration offer a juridical mode of amity and complicity that addresses the ability to respond to the jurisprudence expressed in the *Enduring Civilisation* and *Encounters* exhibitions. It looks to establish a *modus vivendi* through the maintenance of common protocols of address. Such protocols, for the jurist of London, do not unify the city under one law or ethos but engage techniques of jurisprudence.

### C Placement

The final resource and source of reading on the 68 Bus was Paul Carter's *Meeting Places* (2013). Paul Carter is an Anglo-Australian who has taken up the office of public worker. His work in the office of public worker is addressed here for the ways in which it takes up forms of meeting as matters of encounter, ceremony and the creation of meeting places.

Carter's jurisprudence owes something to Giambattista Vico's (1984) insight that the topics of rhetoric and jurisprudence are related to earlier expressive poetic forms that nourish law (Harrison 1992, Melatinsk 2000: 3-7). Like Montaigne, Carter's written work takes the form of essays full of diversions and plural points of engagement. Establishing the protocols of just passage, developing the arts of arrangement of meetings, and actualising an *eros* of sociality (or lawfulness) requires a variety of approaches. This eclecticism is also in part a training in the preparation of grounds. Reading *Meeting Places* travelling north from Camberwell in South London towards Bloomsbury, the book is as striking for its emphasis on the possibilities and dangers of meeting.

For Carter, and others, the moderns have rather lost the ability to be held in, or by, place or law. Their place-revealing and place-making skills have been lost along with the sense that there are topics,

repertoires of conduct and value that could hold public life in place. This loss, as both the *Enduring Civilisation* exhibition and Montaigne note, is frequently projected onto Indigenous peoples. It is, however, an experience that can also be felt within the traditions of common law thought as well as in the writings of sociologists and anthropologists (Rush 1997). There is little in London that remains untouched by Imperial and colonial projects, and, as a consequence, its jurisprudence is considered by many to be deracinated and muted. It struggles to establish and maintain the humanised juridical and social *eros* associated with the jurisdiction of female goddesses and women (Drakopoulou 2007, Carter 2013: 161).<sup>18</sup>

If Riles offers a meeting through legal technique, and Montaigne through a training in in character, then Carter's writing of meeting places are arranged through the *eros* of encounter and the dramaturgy of mimesis (Carter 1997). In this respect the office of public worker embraces that of both the curator and jurispudent. Carter typically proceeds by establishing relations between language or rhetorical topic (*res*) and place (*res*) (Carter 2009: 21-8, 2013: 109). To do so he returns to the classical Greek term *hedra* and interprets it again as the 'proper place of something' or 'a place that something occupies or moves to or from (this is read from Plato's *Timaeus*). Just as the sense of the agora or public place is a linking of physical and institutional existence, like say a museum or a bus route and its bus, Carter's account of *hedra* directs attention to place as a proper fit – in this case the complex relations that non-Indigenous peoples and institutions of Australia and the United Kingdom have with the Indigenous peoples (of Australia).

Carter's own jurisprudence of relationship proceeds by drawing an analogy between *hedra* and the Arrernte concept of *utyere*. As explained by Arrernte elder Margaret Kemarre Turner, *utyere* is like 'a big twirl of string that holds us there with our families' (Kemarre Turner 2010: 15-19, Carter 2013: 109-13). What Carter finds interesting about this analogy is the sense that this can make of *hedra* and of place as a network of meeting and dispersal that comes from the land. Rather than being a line between points, it emerges from country and marks

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a place by organising relations. Complicitly, for Carter, *hedra* becomes what ‘can be thought as the inevitable relay between listening and speaking’ (Carter 2013: 110). The matter of exchange is not relayed by clear unmediated speech but in an echo that repeats and shadows the communication of place.

The patterning of Greek poetics into Indigenous knowledge and then back to modern ‘western’ practical wisdom itself has a history of complicity and appropriation in much the same ways as the material collections of museums. Durkheim, for example, interests Carter because he offers an account of religion that cites the Arrernte (or Spencer and Gillen’s account of the Arrernte) as authority for his argument that *religio* should be understood as a sense of being united with others through social transformations (Carter 2010: 113). Carter, returning to Kamarre Turner, notes that *utyere* does not involve the ecstatic unity of *religio*, but the learning involved in living and meeting in relation to place. It is a matter of choreography and reproduction rather than the unities of geometry. Lives are lived in a net of relations rather than the creation of a bond.

For Carter, jurisprudence is part of the ceremony that expresses law and organises lawful relations. The complicity in an unofficial training remains with the prospect of meeting well (it is difficult to meet well in advance, or in the absence, of a meeting).

## 5 Concluding Comment

The complicities of jurisprudence presented in the *Enduring Civilisation* and *Encounters* exhibitions have been presented here through the patterning of lawful relations between the peoples and laws in both Britain and Australia. The conceit of this essay has been that it is possible for a jurispudent of London to take up again the obligation to create a pattern of relations adequate to respond to the jurisprudence expressed in the two exhibitions. The elegant forms of Garrawin Gumana and Gunybi Ganambarr have patterned the British Museum into a place of lawful relations; those of Montaigne, Riles and Carter might offer extended, if partial, responses to a patterning of a

jurisprudence of London. The challenge for a jurisprudent of London is to find a place through which to arrange a meeting.<sup>19</sup> The art of meeting in this case might be to meet by not meeting too often.

### Notes

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- 1 I use the term jurisprudent broadly as someone who cares for the conduct of lawful relations. I use the term jurist to describe those concerned with legal knowledge and legal science. The classifications overlap although they need not.
- 2 The Australian National Museum's *Encounters* (2016) website can be found here <http://www.nma.gov.au/exhibitions/encounters>; the website for the associated exhibition *Unsettled: The Story Within* (2016) is here: <http://www.nma.gov.au/exhibitions/unsettled>; and the British Museum's *Enduring Civilisation* (2015) site is here: [http://www.britishmuseum.org/whats\\_on/exhibitions/indigenous\\_australia.aspx?fromShortUrl](http://www.britishmuseum.org/whats_on/exhibitions/indigenous_australia.aspx?fromShortUrl). The two exhibition catalogues are titled: *Indigenous Australia: Enduring Civilisation* (Sculthorpe 2015) and *Encounters: Revealing Stories of Aboriginal and Torres Strait Islander Objects From the British Museum* (Encounters 2015)
- 3 Even a brief reference would be extensive. There are accounts of encounters to be found from first settlement to the present, including the *Enduring Civilisation* and *Encounters* exhibitions. I note here just two brief examples. The first from Ninti One (Merne Altyerre-ipenhe Reference Group et al 2011) is an example of a code of conduct shaped around an understanding of two laws. The second is from the collaborative work of Lee Godden, Marcia Langton and Maureen Tehan and others of the *Agreements, Treaties and Negotiated Settlements Project* website (2016).

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- 4 Details of 68 bus route (see Armstrong 2016). Another account of the jurisperdents of London might begin at the Inns of Court (Coquillette 1988, Goodrich 2014).
- 5 Trip undertaken 9<sup>th</sup> June 2015.
- 6 I have used Michael Screech's translation of Michel de Montaigne *Essays* (1987). For general reference I have put book and chapter numbers. For specific references I cite Screech's translation. MA Screech was a Professor of French Language and Literature, University College London. John Florio, Montaigne's first English translator John Florio, was a resident of Shoe Street just off Fleet St, London. Montaigne did not visit London. The two essays discussed here 'On the Useful and the Honourable' (1987: III.1) and 'On Coaches' (III.6) (Montaigne 1987: can be read at a brisk pace in a journey from Euston Bus Station to West Norwood.
- 7 One of the themes of Montaigne's *Essays*: 'On Books' (II.10) and 'On Anger' (II.31) (1987: 457-471, 809-816).
- 8 Gaye Sculthorpe, John Carty, Howard Morphy, Maria Nugent, Ian Coates, Lissant Bolton, and Jonathon Jones.
- 9 Mahnah Angela, Torenbeck, Wagalgai ghost net basket (cited in Murphy 2015).
- 10 I have kept to the terminology of story although mindful of the different disciplinary values attached to the term. Bill Neidje's *Story About Feeling* (1989), for example, is a major text of Indigenous jurisprudence.
- 11 See Hogan S et al (2013).
- 12 See Hogan A N et al (2013). These two paintings also feature on the cover of the catalogue and on the website.
- 13 Garwirrin Gumana Barama/Captain Cook (The British Museum 2015). On the mask and the 'janus-faced' character of common law see Goodrich (1995: 152-167). See also Montaigne 'On Lines of Vergil' (1987: 947-1016, 949).
- 14 For example: 'Gunybi Ganambarr' (Annandale Galleries 2012).
- 15 The *Protection of Cultural Objects on Loan Act 2013* (Cth). The legislation regulates the movement of cultural objects (Department of Communication and the Arts).

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- 16 Listen to Henrietta Marrie, a Gimuy Walabura Yidinji Elder at the National Museum Australia *Encounters* website. See also the exhibition *Unsettled* that ran alongside the *Encounters* exhibition. This exhibition also emphasises the vitality of the objects even though they are still in museums in London and Canberra (Unsettled 2015-16).
- 17 The other directly diplomatic essays are ‘On Liars’ (I.9), ‘Ceremonial at the Meeting of Kings’ (I.13) and ‘The doings of certain ambassadors’ (I.17) (Montaigne 1987: 32-38, 50-51, 77-80).
- 18 For a recovery of an older jurisdiction see, for example, John Levin’s project on Whitefriars and *Alsatia* (2016). It is readily accessible from the 68 bus.
- 19 See an account of the ceremony and performance of Waiata Telfer (Narrunga-Kaurna) (Neal 2015: 16, 112-13). Lucy Neal’s work on transition and ceremony is centred on the Tooting Lido in South London. Amongst other ways the Tooting Lido can be reached by taking the 249 Bus from West Norwood.

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