

## Chapter 7

# Law Through the Lens of Biography

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Which member of the High Court was an active member of the Sydney Speleological Society?<sup>1</sup>

Which member of the High Court carried a pail of glue for a family member who was pasting up election posters for the Communist Party?<sup>2</sup>

Which member of the High Court experimented – for the ‘intellectual exercise’ – with drafting judgments using only words of old English derivation, and then words of only Latin derivation?<sup>3</sup>

Biography is the contemporary law teacher’s secret weapon. Biographical anecdotes offer a change of pace and an injection of humour into the classroom, as well as reinforcing the fundamental premise that lies at the heart of judicial biography: that judges are human, and that ‘*who ... a judge is matters*’.<sup>4</sup> Even in a system which has long recognised that judges do more than mechanistically apply the law,<sup>5</sup> the subject-matter based siloing of contemporary law teaching can run the risk of obscuring this premise.<sup>6</sup> For the contemporary student, the question is often asked: is judicial identity important for reasons beyond securing full marks for a legal citation? It is against this backdrop that judicial biography serves the key role of reintegrating the judicial brain (and writings) with the judicial body.

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1 Justice Mary Gaudron. See Pamela Burton, *From Moree to Mabo: The Mary Gaudron Story* (UWA Publishing, 2010) 55, 64-6, 88.

2 Justice Michael Kirby. See AJ Brown, *Michael Kirby: Paradoxes and Principles* (Federation Press, 1st ed, 2011) 20.

3 Justice HV Evatt. See John Murphy, *Evatt: A Life* (NewSouth Publishing, 2016) 135, 155.

4 Erika Rackley, *Women, Judging and the Judiciary: From Difference to Diversity* (Routledge, 2013) 132 (emphasis in original).

5 On the legacy of Professor Julius Stone to the Australian legal community, particularly in his critique of Australian legal positivism, see further Michael Coper, ‘Julius Stone: A Personal Reflection on His Influence Today’ (1997) 20 *University of New South Wales Law Journal* 253; Helen Irving, Jacqueline Mowbray and Kevin Walton (eds), *Julius Stone: A Study in Influence* (Federation Press, 2010). For a biographer’s perspective, Leonie Star, *Julius Stone: An Intellectual Life* (Oxford University Press, 1992).

6 As Professor Rackley has explained, in a world where the ‘fairy tale’ that judges do not make law has been exposed, there is one that remains. The fairy tale remaining to be exposed is that the identity of the judge does not matter. See Erika Rackley, ‘Representation of the (Woman) Judge – Hercules, the Little Mermaid, and the Vain and Naked Emperor’ (2002) 22 *Legal Studies* 602, 613-14.

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