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Book Review

Jessica Milner Davis and Sharyn Roach Anleu (eds)
(2018) *Judges, Judging and Humour*. Cham, Switzerland:
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Nigel Stobbs

Queensland University of Technology, Australia

Keep it always with you that laughter who knock at your door and say, 'May I come in?' is not the true laughter. No! he is a king, and he come when and how he like. He ask no person; he choose no time of suitability. He say, 'I am here.' ... Oh, friend John, it is a strange world, a sad world, a world full of miseries, and woes, and troubles; and yet when King Laugh come he make them all dance to the tune he play. ... Ah, we men and women are like ropes drawn tight with strain that pull us different ways. Then tears come; and, like the rain on the ropes, they brace us up, until perhaps the strain become too great, and we break. But King Laugh he come like the sunshine, and he ease off the strain again; and we bear to go on with our labour, what it may be.

Bram Stoker (2009) *Dracula*.

The law is a serious business. It is not funny, especially for litigants and those who stand accused. For such individuals, it is mostly a dreaded ordeal of stress, financial ruin and soul crushing delays. However, as Van Helsing pragmatically observes, despite the misery, woe and trouble of our world King Laughter, when he arrives, cannot be denied (even in the absence of a party-pooping vampire). Humour has a way of making an appearance in the most dire of circumstances and miserable of environments. In the courtroom, humour most frequently arrives via the agency of judicial empathy and compassion. As the Honourable Michael Kirby AC CMG states in his foreword to *Judges, Judging and Humour*, 'In a judicial environment [humour] generally arose because the purveyor of the balm of humour [the judge] had a kindly heart'. The judge recognises and acknowledges the irony of the moment and offers 'something with which both sides could empathise'. Kirby notes that a most judges do not possess a natural gift of humour. However, judges (particularly trial judges), who serve an institution that exists primarily to reduce tensions and stressors in our communities, are likely to be exposed to the most tragic, desperate and inexplicable vagaries of human behaviour and thus are no strangers to irony. Given the editors' acknowledgement of the notorious and perennial difficulty that our American cousins seem to have in appreciating the British/Australian sense of irony and our frequent delight in it, the lack of content on the American criminal justice system in the book is understandable. To some extent,

it may also be a relief, as ‘the contrast between understatement and overstatement’ is perhaps wafer thin and skewed heavily towards the latter these days. The chapter entitled, ‘Judicial Regulation of Humour in the United States’ represents a doctrinally and analytically robust and useful contribution to this edited collection, but contains very few jokes or amusing anecdotes.

As they state, the editors set out to create a book that explores the ‘surprisingly varied intersections between humour and the judiciary’. Such intersections include those in which judges themselves are the targets of humour (an all too common dynamic that tends to stray into shallow, cynical sarcasm when engaged in by the popular press), legal cases that comment on humour, instances in which humour is used as a tool to address certain aspects of legal procedure and portrayals of judges in works of satirical and comic entertainment.

Among the most cherished nuggets of humour that circulate within the legal profession are the anecdotes of passive aggressive banter between barristers and judges, each of whom do their best to avoid words of open hostility when frustrated by the other’s lack of comprehension or orneriness. In her chapter entitled, ‘Judges and Humour in Britain: From Anecdotes to Jokes’, Christie Davies relates an exchange between legendary advocate F E Smith and a certain judge:

Judge: *I have read your case, Mr Smith, and I am no wiser now than I was when I started.*

Smith: *Possibly not, My Lord, but far better informed.*

(Birkenhead 1959, as cited in Davies, 2018)

The scholarly analysis of the nature of humour itself, the cultural and demographic differences that contribute to how humour is employed and observed within a range of different jurisdictions, the role of humour in the relationship between different legal professions and actors and the examination of the relationship between the judicial use of humour and power relations is woven into the engaging and tightly edited chapters. This is a book that can be read ‘for pleasure’ or used as a source of quality scholarship. The chapters are organised into three parts (Part I: Humour about Judges, Part II: Judges’ Use of Humour in the Courtroom and Part III: Judicial Decisions About Humour); however, I first found myself engaged in the rewarding activity of flicking through the pages in search of extracts of amusing anecdotes and funny comments by judges and comic panels. It is my bet that most readers will do the same. God knows we need some distraction in the mirthless world of the lawyer and the academic.

Correspondence: Dr Nigel Stobbs, Faculty of Law, Queensland University of Technology, 2 George Street, Brisbane 4000 QLD, Australia. Email: n2.stobbs@qut.edu.au

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