

AUSTRALIAN BROADCASTING CORPORATION

THE LAW REPORT

TUESDAY, 23 JULY 1985

TRIBUTE TO EMERITUS PROFESSOR JULIUS STONE, AO, OBE QC

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The Hon. Justice M.D. Kirby, CMG
President of the Court of Appeal

A HERO OF SCHOLARSHIP

Julius Stone is a member of the Trinity of Australian law teachers who have had a mighty impact on our public life, Geoffrey Sawyer, Zelman Cowen and Jules.

Last week I received a letter from Geoffrey Sawyer. Writing of Stone, he declared:

"What a hero of scholarship he is ... [ever] struggling away - with new editions, new books, new awards ..."

Then, leafing through a Festschrift published in Stone's honour in 1983¹ I noticed that Sir Zelman Cowen described his record of achievement as "immense". He is, declared the former law teacher turned Governor-General, "by general agreement regarded as one of the great legal scholars of his day".

Where the other members of the Trinity have spoken what can I, a mere acolyte add about Julius Stone - my teacher?

Stone came to the Sydney Law School in 1942. He was quite a catch for the Antipodes - a prize handed to us (as we now know) only because prejudice and anti-semitism stood in the way of the advancement in the northern hemisphere, which his

intellectual attainments deserved.

By the time Stone taught me International Law and Jurisprudence in 1960 and 1961 he already had to his credit two generations of Australian lawyers. They were moving, with that inexorable turn of the cycle of our profession, to positions of prominence in the Bar and on the Bench.

FACING THE UNCOMFORTABLE QUESTIONS

"Big Julie" we called him. Though diminutive in physical stature, every one of his students recognised his intellectual vigour and international reputation. It was whispered that he would become Australia's first judge on the International Court of Justice. This was not to be so. That post fell to Sir Percy Spender. Stone then deflected his enormous energies to teaching, to writing and to encouraging two more generations of law students.

He was not the usual law lecturer. No reader of dog-eared lecture notes. He wandered around the class-room interrogating, ruminating, challenging us all. He brought to Australia the Gospel of legal realism and was profoundly influenced by the writings of the American Roscoe Pound. This is the way the impact of fine law teachers works. They influence each other and a bit of it rubs off even on the law student, cramming the law's detail into his head for annual exams.

Stone confronted his wide eyed audience of students, nearing the end of their law course with the uncomfortable questions: What was it all about? What was the struggle for justice seeking to attain? He taught the theories of the great legal thinkers. He astonished us with the unpardonable view of some of the realists, that the judge's decision could actually

depend, in part, upon what he had for breakfast. He took us through his texts, remarkable for the copious footnotes which often extended over many pages: meandering through this theory and that. And he chose a few of us to help him in the never ending task of writing new books and revising old ones.

I was one fortunate to be called to this service. Handsomely, he acknowledged the help of those students. And generations of them felt privileged to contribute to his factory of publications. I still remember sitting with him, under a reproduction of the Rembrandt's *Staalmeesters* looking severely down on us, grappling with the intricacies of a chapter of his new book. He puffed away on his pipe. He listened thoughtfully to my defence of my thesis. Quietly, patiently he searched and tested. If unconvinced he would say so, but ever so gently.

HIS WORK CONTINUETH

Some angry spirit constantly urged Julius Stone on to more and more endeavour. It was an infectious spirit. And as increasing numbers of his students have attained positions of influence in public life; in politics and in the judiciary the impact of his legal realism is now felt. As Kipling said of his teachers, his work continueth - broad and deep continueth. And its full impact is yet to be felt.²

FOOTNOTES

1. A.R. Blackshield (Editor) "Legal Change - Essays in honour of Julius Stone". Butterworths, 1983.
2. See M.D. Kirby, "Law Reform as 'Administering to Justice'" in Blackshield, *ibid*, 201.