

## **“Every picture tells a story”; picturing judicial biography**

**By**

**Leslie J Moran**

**Professor of Law**

**School of Law**

**Birkbeck College**

**Malet Street**

**London WC1E 7HX**

### **Abstract**

In this article Leslie Moran turns to objects that are often marginal to legal biography and neglected by those engaging in legal biographical projects; pictures. Drawing upon his previous and current work on judicial portraits the article outlines three biographical dimensions of these legal images. The first explores the legal biography potential of what lies within the frame of a judicial portrait. The second focuses upon the biographical dimensions of the process of portrait making. The third draws upon the now well established insight that the meaning of the object, the judicial portrait, is not generated exclusively by, or confined to, what is to be found within the frame of the picture. This provides an opportunity to consider the role of pictures as a method for use by those engaging in legal biographical projects.

Key words: judicial portraits, biography and aesthetics, biographical sources, biographical methods

### **Biography**

Leslie Moran is Professor of Law at Birkbeck College, University of London. He has researched widely in areas relating to judiciary, visual culture and law, sexuality and law and criminal justice. He has published many articles and books including *Law's Moving Image*, (2004, Cavendish), an edited collection about the interface between law and film. His work is interdisciplinary and draws upon many methodologies, from textual and picture analysis to empirical studies using surveys, focus groups and interviews. He teaches criminal justice, crime media culture, company law and judicial studies. His current research project examines the production, management and use of images of judicial authority from live rituals and ceremonial events, painted portraits and press representations to courtroom drama and TV reality court shows. He is principle investigator of an AHRC network entitled *Judging images: the making, management and consumption of judicial images*. The project begins in January 2014 and will run for 18 months.

Turning the pages of legal biographies in general and judicial biographies in particular you could be forgiven for thinking that phrases such as ‘every picture tells a story’ and ‘a picture speaks a thousand words’ have little significance. Words are the legal biographical data par excellence: diaries, correspondence, papers. Biographies of members of the judiciary have a particular textual preoccupation: judgments. If there is a portrait it might grace the front cover. Its main purpose is likely to be ‘eye candy’ to draw the eye to better market the book. The portrait is not an object of serious contemplation; a window into the soul of the legal subject. Once caught, the eye must move quickly on to the serious business that lies behind it: the written text. Sometimes pictures reappear in the middle of the book, as an assemblage that tells a parallel biographical tale somewhat disconnected from the ‘real’ biographical heart of the project which is in the words. Pictures rarely become a primary biographical source or an object of biographical reflection. This short essay seeks to disrupt the resistance to pictures and to offer some examples of what pictures can offer.

My particular research interest is images of the judiciary. Various scholars have suggested that image making and image management is a central preoccupation of those who hold judicial office.<sup>1</sup> The image of the judge is produced and managed through a wide variety of cultural forms and cultural practices that include reported judicial writings, through live performance, the geography and aesthetics of the courts, via official portraits in a variety of media, painting photography, sculpture, drawing etc, in popular print media, film, TV and via the internet.<sup>2</sup> One aspect of my research I want to draw on here is judicial portraits.

What is the significance of judicial portraits for those interested in judicial biography? This paper touches on three biographical dimensions of these legal images. The first explores the legal biography potential of what lies within the frame of a judicial portrait. The second issue focuses upon the biographical dimensions of the social process of portrait making. A third matter to be considered draws upon the now well established insight that the meaning of the object, the judicial portrait, is not generated exclusively by, or confined to, what is to be found within the frame of the picture. This provides an opportunity to consider the role of pictures as a method to be used by those engaging in legal biographical projects.

### **Biographical meaning within the frame; they all look the same**

As a biographical sources judicial portraits tend to be condemned as, ‘bland...and predictable...dismissed as vacuous statements and indifferent art’.<sup>3</sup> The reasons for this are easy to identify. Judicial portraits are highly formulaic; wig, robes, dark indistinct background, the odd book if you are lucky. In short they all look the same. The face of the sitter, which perhaps most clearly differentiates one sitter from another and has well-established associations with the character and individuality of

the sitter, makes up a small part of the image. The full bottomed wig, worn by most judicial sitters, further obscures key individualising characteristics such as hair, the shape of the face, the ears and so on. Furthermore, facial expressions are standardised; all depict a certain gravity, a sturdy tranquillity, deep introspection. It is an aesthetics that negates the quixotic or the particular or the idiosyncratic. Last but not least, a majority set the figure of the judge against a dark background with little or no detail visible. Props are rare and strictly limited to books or papers.<sup>4</sup> As such their biographical potential appears to be lacking.

But this state of affairs is based upon ignorance and misunderstandings about the nature of official portraits. They can tell us much about the nature, meaning and formation of biographical subjects. One reason for their biographical potential is that they represent not one but two subjects. The first is the individual sitter. The second is the institutional subject. Formal judicial portraits are a particular sub-genre of portraiture. In part they are portraits of legal professionals and in part they are portraits of state officials. Portraiture of members of professions, Jordonova argues, has distinctive qualities. These portraits have a double function: first in the (self) fashioning of the sitters, and secondly in the self-fashioning of the institution. Through these portraits the individual's image is fabricated according to the abstract ideas, values and virtues associated with the institution and the collective. Through the sitters image these institutional values and virtues are made visible, public and more accessible. This plays a role not only in the construction and representation of the identity of the individual sitter but also importantly in the composition and construction of collective identities and of the identity of the institution.<sup>5</sup> Judicial portraits are also state portraits, which Jenkins defines as a distinctive type of portraiture, being representations of rulers or their deputies. As state-portraits, the nature of the dual function of the portrait shifts. The image of the individual sitter is fashioned by, and made to embody and thereby represent, a set of abstract principles, qualities and characteristics of the State<sup>6</sup>. The judiciary are state officials particularly associated with justice under the rule of law.

The aesthetics described above fashions the sitter according to a long established tradition developed to represent social, political and institutional elites in a society. In line with that tradition, the surface of the portrait of each sitter shows a preoccupation with the symbols of power, status, authority and legitimacy. The picture formats, poses, backgrounds, props and so on form the subject of the image according to the values and characteristics of the institution: of independence, integrity, impartiality and majesty. The sitter's public persona is made to appear as a subject selflessly dedicated to the word of the law. Likeness and individuality in the judicial portrait are produced according to the need to fashion the individual office holder as an exemplar, as the embodied ideal of the values and virtues of the institution. In this regime of representation the differentiation of one sitter from another is not an aesthetic preoccupation. The individual subject is shaped by an aesthetics that

produces the sitter's image as the embodiment of the virtues of sameness: repetition, endurance, continuity and consistency.

In this scheme of things the minor detail of the portrait, the position of the body, the hand, the appearance of a particular prop, or addition of a particular background may not only tell you much about the individual but it may also open a window that reveals how that individual was shaped by and shaped the institution. Let me give two examples from a research project examining portraits of the Chief Justices of the Supreme Court of New South Wales (NSW) Australia.<sup>7</sup> The first is the portrait of Chief Justice Kerr who was Chief Justice from 1972-74. His portrait, which has many features in common with the portraits that precede and follow it, is distinctive because he is shown holding (rather than wearing) his full bottom wig. How are we to make sense of this difference? One reading of the repositioned wig offered by Roddy Meagher who was a barrister at the time of Kerr's period in office and later a judge in the NSW Supreme court, suggested that the hand held wig captures something of Chief Justice Kerr's personality: in this case his vanity. Kerr, Meagher explained,<sup>8</sup> was known to be particularly proud of his full head of hair. Another reading might be suggested by reference to a biographical note that accompanies a reproduction of Kerr's painted portrait in the book, *Portraits of the Chief Justices of New South Wales*. During the short period of time that Kerr occupied the post of Chief Justice he played a key role in developing new administrative structures to reduce the developing bureaucratic burden that was affecting the judges. Quoting a fellow judge, Mr Justice Moffitt, Bennett explains, 'The Chief Justice, by force of his personality has achieved these results...'<sup>9</sup> The wig in the hand, flouting centuries of tradition, may be a reference to not just the personality of the office holder but the fashioning of that personality as a sign of a particular changing qualities and characteristics of the institution: the judicial virtue of strong personality, determination, and superior management skills. A second example a portrait of Chief Justice Spigelman who held office from 1998 to 2011, accompanies his biographical note on the court's website.<sup>10</sup> Again, in many respects this image follows the aesthetic tradition described above. But a more careful examination of the image suggests that such a conclusion is problematic. The backdrop and the use of props is something of a departure. While this portrait follows the convention of using the book to fashion the character of the Chief Justice it is also makes use of a wider range of props than is to be found in any of the other portraits of Chief Justices of the NSW Supreme Court. The body of the judge is flanked on his left by a small set of scales and (on the right) by a carved figure, a bird that sits on top of the low bookcase. Above, and dominating the background is a large painting. The painting is of an interior with two Chinese porcelain pieces. At the centre of the painting is a shaped opening (a window?) that looks out onto an oriental garden. The Chief Justice is positioned between the two painted porcelain pieces; a vase with a Chinese design to his right and the figure of a horse to his left. The opening/window and garden scene that frame his head and shoulders is made up of a cascading

willow, water, bridge and an oriental building. In part the backdrop and props may tell us something of his keen interest and involvement in the arts. They may also refer to a longstanding interest in things Chinese.<sup>11</sup> Do these aspects of the portrait shift the focus of the image away from the institutional function of the image and towards the portrait of an individual? It certainly seems to be the case that the background detail adds layers of meaning relating to the sitter's character and personality. But the picture must also be read as the depiction of the sitter as an institutional subject. The sitter's interest in things Chinese is here portrayed as a virtue of judicial office, maybe symbolising the judicial importance of cultural awareness and the judicial virtue of sensitivity to diverse social and cultural experiences. While the traditional symbols of the office, and the virtues associated with them, still crowd the image, the change in the minor detail, such as the background and introduction of additional props may also indicate an attempt to fashion the qualities of virtues of office differently.

### **Biography and the process of judicial portrait making**

Making portraits is a complex social process. It tends to involve a number of parties, including those who commission the work, the artist making it and the sitter. I want to use my own experience of interviewing artists who have been involved in making portraits of Michael Kirby who served as a Justice of the High Court of Australia from 1996-2009 to offer some insights into ways in which data relating to the making portraits is a valuable judicial biographical resource.<sup>12</sup> Biographical research is a part of the artistic practice of the painters I have interviewed. It may be undertaken prior to meeting the sitter. It is always an aspect of the live encounter between the artist and the sitter. An example illustrating this is taken from an interview with Sydney artist Judy Cassab who painted a portrait of Michael Kirby in 1997. In response to my question, 'How did you go about capturing the character of Michael Kirby?' she explained;

I have an immediate contact. I ask people about their childhood and about their youth and about their experiences. Everybody likes to talk about themselves. He was a particularly intelligent and witty, amusing man with humour and wisdom and it was a really a great thing to paint him.

In addition to illustrating the way the social interaction between painter and sitter has a biographical focus this comment is of interest in other ways. Most obviously it offers some evidence of the sitter's character and attitudes. Later in the same interview Cassab explained;

We found each other's company stimulating. We had interesting talks. I have a feeling, and it's an abstract feeling, that every word that one exchanges somehow finds its way into the expression of the face. So much so that if it wouldn't be so small, if you would see the life size face, you would find that one eye is smiling the other one is sad, which doesn't happen in real life. One

corner of the mouth expresses something else than the other. And I am consciously trying to do that, to bring it to life. Otherwise a photograph would do.<sup>13</sup>

Here the interview provides an insight to help understand the portrait. In part it is as if the content and tone of the conversation between painter and sitter, the biographical detail, moves through the body of the painter through the brush and paint into the face that emerges on the canvas.

An extract from another interview, this time with Sydney based artist Josonia Palaitis adds another dimension to the biographical nature of the process of making the portrait and the particular aesthetics of the representation. During the course of an interview with Palaitis we discussed the process of making the portrait of Michael Kirby that now hangs in the President's Court of the Court of Appeal of NSW. She explained, the genesis of that portrait had its origins in an unexpected letter from Justice Kirby, 'all about portraits'. The President's Court portrait is not the first Palaitis has painted of this particular sitter. Her first portrait of him was made in 1983 when he was head of the Australian Law Reform Commission. In the intervening period, she explained she followed his career, read bits of information about him' and kept in touch with him.<sup>14</sup> The letter, in part an inquiry about the fate of the first portrait (it lives in the artists 'celebrity storeroom'), provoked her to ask Kirby to sit for a second portrait. As a result of her invitation a number of meetings took place between the artist and the sitter. During the course of one of these meetings Kirby expressed his enthusiasm for a painting by Goya entitled, Don Ramón Satué subtitled 'A Spanish judge'. Palaitis explained;

We talked about this particular painting that he always liked. I had seen the painting. It was a long time ago. I can't remember how I thought about it when I saw it. Then I looked at images of it. I thought to myself, "Well this is a good starting point. This is a bit different. Why don't I think about this particular portrait that he likes. It is a good portrait."<sup>15</sup>

It's a point corroborated by Kirby who explained that his enthusiasm for the Goya portrait, '...had interested her.' He continued, 'And so, by dialogue between artist and subject, over and over again we discussed it.'<sup>16</sup>

Kirby has explained his particular interest in the Goya portrait. He explained that he originally encountered the painting when it was hanging in the entrance to the Rijksmuseum in Amsterdam,<sup>17</sup> a location he describes as '[I]n pride of place...'<sup>18</sup> He goes on to explain he was attracted to the portrait by the sub-title, 'The Spanish Judge'. The particular aesthetics of Goya's portrait and Goya's 'theory of portraiture' also drew him to the portrait. Kirby explains;

Goya, like many painters of his era, accepted a theory about portraiture: that there are two sides to the human face. They display respectively joy and grief; softness and hardness; kindness and cruelty.<sup>19</sup>

Another is the lack of detail; the lack of props, colour and background detail. In this image, Kirby suggests, the judge is presented, 'in austere, sombre simplicity.'<sup>20</sup> In response to the artists concern about the expanse of austerity, of 'so many blacks' Kirby explained;

I knew from Jo Palaitis's other works that she is usually happiest with light, colour and bright objects. I warned her that "lawyers love black". "Put more black into it", I repeatedly urged. Eventually, the portrait emerged: dark and sombre with a Goya-like luminous blackness.<sup>21</sup>

The style and composition of the work marries together the artists curiosity and technical skill with a particular aspects of the sitter's passion and character which it them represents.

### **Portraits as a biographical method**

Michael Kirby's comments on the portrait by Pilaitis provide a link to my last point which is about the use of portraits as part of the method of researching biography. In his writings on the portrait Kirby offers an example of the ways in which the encounter with the portrait generates meaning and links to memory. First a point about the artist's particular approach to portraiture which she described as photo realist;

[It] is a very particular term that applies to a particular group of painters... In a way that generic term, photo-realist, is reasonably applicable to me as I work from photos, that is my reference, one of my working references. The visual representation on the canvas is what you would expect most people who were seeing the subject would see in real life... It is a very technical style of painting.<sup>22</sup>

Michael Kirby's response to the effect of photo-realism is of particular interest. First, he commented on the surface effect of this approach to portraiture, 'every vein and wrinkle and hair and blemish [is] recorded for all to see'. His reaction to this is somewhat ironic. The painted surface, he explains, '...burrows deep under my blemished skin. It detects and reveals moods and emotions that are part of my inner being.'<sup>23</sup> Kirby's experience is that his encounter with the portrait is an experience of getting under his skin. He describes it as one that enables him to recognise and articulate an aspect of himself that was hidden, unrecognised, unspoken. He gives an example. The portrait shows him as being, '...more angry than I feel inside.' He continued;

Yet perhaps the artist recognises, better than I do, the feelings of the inner heart. Maybe the many injustices in the law and in life, witnessed over thirty years as an Australian judge, take a toll that the professional office holder learns to suppress. Obedience to the law obliges the limits of the judicial

function. Yet being a party to apparent injustices can sometimes make even a judge angry.<sup>24</sup>

Kirby's encounter with his own portrait gives rise to a reflection; it touches a memory, of his experiences as a judge. He locates the source of meaning in the portrait; '...perhaps the artist recognises, better than I do...'

One aspect of Kirby's comments needs further comment. There is a need for caution in order to avoid what has been described as the 'illusion of immanence': an assumption or expectation that all the meaning is within the frame of the image.<sup>25</sup> Law and Urry argue one of the objectives of research into social phenomenon must be to resist the temptation to either assume that meanings are fully contained within objects of fixed by them. Nor should the goal be to strive to fix the meaning of a thing or a set of social interactions that are made in and through an object. The meaning, they suggest is produced, '...in dense and extended sets of relations. It is produced with considerable effort, and it is much easier to produce some realities than others'.<sup>26</sup>

Thus in making the experience and the meaning of the portrait a viewer brings a wide array of assumptions about the nature of portraiture and the thing portrayed into play. The meaning of the subject-image is the effect of complex social processes and social relations. As noted earlier it begins but is not reducible to the exchanges between the one producing the image, here the painter, the sitter and, where relevant, the party commissioning the image.<sup>27</sup> The technique of photo-realism, together with the assumptions that the portrait makes public the hidden depths of character and personality enable Michael Kirby to articulate experiences and aspects of himself that he had never before experienced as present. The location and display of the image (which also involve questions about the formats and forms of production and reproduction) and the various audiences viewing the portrait in a variety of locations all play a role in making the various meanings of the image.<sup>28</sup> Showing a portrait to the sitter, their family, colleagues, friends, fellow workers, members of the public, may well illicit similar meanings but it may also generate a variety of idiosyncratic meanings that shed light on the biographical subject of the portrait. Together they have the potential to generate a wealth of meaning of direct relevance to related biographical projects. While Kirby has a unique perspective on his own experiences of himself what I want to suggest here is that portraiture may be a device that has wider use in generating biographical data.

## Summary

Portraits and judicial portraits in particular have much to offer those who are engaging in legal and judicial biographical projects. The biographical potential of judicial portraits is all too easily overlooked or self consciously dismissed. An engagement with this visual data opens new avenues of understanding not only the biography of the human subject who has occupied judicial office but also the biography of the judicial institution itself. An empirical study of the making and management of these visual images potentially offers a mine of information about the various parties that shape and make the portrait and the biographical data that is generated in and through that interaction. This data also has the potential to enhance understanding of the interface between aesthetics and biography. Last but by no means least, portraits are a means of exploring 'hidden' experiences and meanings not only of the subject of the image but of others. I'd urge you to look

again. Look at the portraits that hang in the corridors and lecture halls of law schools and the law libraries, that populate the walls of the corridors of legal professional institutions and the courtrooms of our courthouses, that adorn the walls and clutter up the storage facilities of local and national gallery collections, gather dust and sometimes attract attention on window sills, lay in the dark of closed albums, on our bookshelves, in closed draws and cupboards. Portraits offer a rich, largely untapped and underused biographical resource.

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<sup>1</sup> Haltom, William (1998) *Reporting on the courts: how the mass media cover judicial actions*, Chicago: Nelson Hall; Geyh, Chris G. (2007) 'Preserving public confidence in the Courts in the age of individual rights and public skepticism' in K. Bybee (ed.) *Bench Press: the collision of courts, politics and the media*, Stanford: Stanford University Press; Baum, Lawrence (2006) *Judges and their audiences: a perspective on judicial behavior*. Princeton: Princeton University Press.

<sup>2</sup> I've explored some of these dimensions in a variety of publications. For example on live performance see Moran Leslie J (2013) 'Pedestrian crossings; some reflections on the occasion of a contemporary judicial spectacle' *Dance Theatre Journal* 30 25(1), 30; in the press see Moran Leslie J. (2013) 'Mass mediated 'open justice': Court and judicial reports in the press in England and Wales' *Legal Studies* 1-24 and Moran Leslie J. (2012) 'Every picture speaks a thousand words: visualising judicial authority in the press' in Priska Gisler, Sara Steinert Borella and Caroline Wiedmer (eds) *Intersections of Law and Culture*, London, Palgrave; in television see Moran Leslie J, Skeggs Beverly, and Herz, (2010) 'Ruth Herz Judge playing Judge Ruth Herz: reflections on the performance of judicial authority' with Beverley Skeggs and Ruth Herz, *Law, Text, Culture* 14, 198-220.

<sup>3</sup> Townsend-Gault, Charlotte (1988) 'Symbolic facades: Official portraits in British Institutions since 1920', *Art History*, 11(4), 511, 511-512.

<sup>4</sup> Goodrich, Peter (1999) 'The iconography of nothing: Blank spaces and the representation of law in Edward VI and the Pope' in C. Douzinas and L. Nead (eds) *Law and the Image: the authority of art and the aesthetics of law*, Chicago: The University of Chicago Press.

<sup>5</sup> Jordanova, Ludmilla (2000) *Defining features: Scientific and medical portraits 1660-2000*. London: Reaktion Books, 14-15.

<sup>6</sup> Jenkins, Marianna (1947) *The State Portrait: Its origins and evolution*. USA: College of Fine Arts Association of America, 1947, p. 1

<sup>7</sup> Moran Leslie J. (2009) 'Judging pictures: a case study of portraits of the Chief Justices Supreme Court New South Wales.' *International Journal of Law in Context*, 5(3), 61-80; Moran Leslie J. (2012) 'Imagining the judge: fragments of a study of judicial portraiture' in Kjell Å Modéer and Martin Sunnqvist, (eds) *Legal staging: Visualisation – Mediatization – Ritualisation: Legal Communication through Language, Literature, Media, Art and Architecture*. Copenhagen: Copenhagen University Press.

<sup>8</sup> Interview transcript Roddy Meagher 17/04/07 on file with the author.

<sup>9</sup> Bennett John M. (1977) *Portraits of the Chief Justices of New South Wales 1982-1977*, Sydney, John Ferguson, 61.

<sup>10</sup> Available at

[http://www.supremecourt.lawlink.nsw.gov.au/supremecourt/honourable\\_james\\_jacob\\_spigelman.html](http://www.supremecourt.lawlink.nsw.gov.au/supremecourt/honourable_james_jacob_spigelman.html) [accessed October 12 2013]

<sup>11</sup> During the course of his swearing in ceremony reference was made of his involvement (while still at school) in establishing an Asian Society to promote dialogue between Chinese and non-Chinese students. See The Honourable J W Shaw QC MLC Attorney General Of New South Wales, 'Swearing in ceremony of the Honourable J J Spigelman QC as Chief

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Justice of The Supreme Court of New South Wales' 25<sup>th</sup> May 1998. Available at 'http://www.agd.nsw.gov.au/lawlink/supreme\_court/ll\_sc.nsf/pages/SCO\_speech\_spigelman\_250598 [accessed 10 October 2013]

<sup>12</sup> It's also a valuable biographical resource about the artists but this is not my concern here.

<sup>13</sup> Cassab Judy (2007) *Transcript of an interview with Judy Cassab 14 February 2007*. Copy on file with the author.

<sup>14</sup> Palaitis, Josonia (2007) An interview with Josonia Palaitis in Sydney Australia 9<sup>th</sup> March 2007. Transcript on file with the author.

<sup>15</sup> Above note 14.

<sup>16</sup> Kirby Michael (2006) Hanging Judges and the Archibald Prize, [www.michaelkirby.com.au/images/stories/.../2088-Hanging\\_Judge.pdf](http://www.michaelkirby.com.au/images/stories/.../2088-Hanging_Judge.pdf)

<sup>17</sup> [http://www.rijksmuseum.nl/aria/aria\\_assets/SK-A-2963?lang=en&context\\_space=aria\\_encyclopedia&context\\_id=00047993](http://www.rijksmuseum.nl/aria/aria_assets/SK-A-2963?lang=en&context_space=aria_encyclopedia&context_id=00047993)

<sup>18</sup> Above note 16, 3.

<sup>19</sup> Above note 16, 4.

<sup>20</sup> above, 16, 4.

<sup>21</sup> See Kirby Michael (2007) 'On the presentation of a portrait by Josonia Palaitis.', 11. Available at [www.michaelkirby.com.au/.../2227-PORTRAIT\\_HANGING\\_NOV\\_200...](http://www.michaelkirby.com.au/.../2227-PORTRAIT_HANGING_NOV_200...) [accessed October 21 2013].

<sup>22</sup> Above note 14.

<sup>23</sup> Above note 16.

<sup>24</sup> Kirby note 21, 12.

<sup>25</sup> Soussloff, Catherine M. (2006) *The Subject in Art: Portraiture and the Birth of the Modern*. Durham: Duke University Press, 5.

<sup>26</sup> Law, John and Urry John (2004) 'Enacting the social' *Economy and Society* 33(3): 390, 395-6.

<sup>27</sup> Brilliant, Richard (1981) *Portraiture*. London: Reaktion.

<sup>28</sup> Pointon, Marcia (1993) *Hanging the Head: Portraiture and Social Formation in Eighteenth-Century England*. Newhaven: Yale University Press.