

## ***OWEN DIXON: A BIOGRAPHY***

By Philip Ayres, Melbourne University Press, 2003, pp. xx + 400.  
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Owen Dixon (1886–1972) sat on the High Court from 1929 to 1964, and was Chief Justice from 1952 to 1964. Although he also served as Minister (ambassador) to Washington and as United Nations appointed mediator between India and Pakistan in regard to Kashmir, it is Dixon's work on the Court that is of lasting significance. Particularly important are those cases that concern the relation of Commonwealth to State powers, and of judicial review to the rights of parliament.

It is perhaps necessary to introduce a review of a biography of Dixon by this brief outline because, as Philip Ayres himself notes, Dixon is not widely remembered today outside of legal circles. Ayres' biography is meticulously researched and written, and is beautifully produced with a fine selection of photographs of Dixon from babyhood to old age.

Ayres' biography tells a story of an intensely private man, fiercely protective of that privacy. Dixon was shocked to find that his letters to Sir John Latham had been made available to the public through Latham's bequest to the National Library, and he declined to offer his own papers to the Library when asked. With the cooperation of Dixon's family, Ayres has made extensive use of Dixon's private papers, especially his diaries. Access to these private papers allows Ayres to give a day by day account of various periods of Dixon's life, even a minute by minute account in some cases, as in regard to Dixon's trip to London in 1923/24.

Ayres' thick description of the events of Dixon's life turns up some piquant vignettes. There is an expanded version of the notorious incident, recounted by Dixon himself, in which Gerald Pigott journeyed across Melbourne for the purpose of expressing horror at Dixon's use of 'firstly' as an adverb. Dixon's characterisation of the motor car as a 'lethal weapon' is noted in regard to his refusal to drive. And his ambivalence to Jews emerges in relation to the London ophthalmologists consulted about the eye problems of his son Franklin. Ayres also tells tales of Dixon's hatreds, such as Justice Starke, and of his judicial and personal improprieties.

However, Ayres seems reluctant to move much beyond the everyday minutiae of Dixon's life into the detail and wider significance of his work on the Court. Important cases such as *ex parte Nelson* (1929), *Trethowan* (1931) and the Communist Party dissolution case (referred to by Dixon as the 'Commo case') are mentioned with too brief discussion. In regard to *Trethowan*, for example, Ayres notes that Dixon 'analysed questions of parliamentary sovereignty at a depth never

before attempted', but the book provides almost no detail on what the case was about and what was at stake in its resolution, apart from a brief footnote at the back of the book. These questions of parliamentary sovereignty lie at the heart of Dixon's legacy as judge.

When Ayres comes to sum up Dixon's significance, he does so in terms of his 'greatness'. The book's last chapter is entitled 'The Measure of Dixon's Greatness' and attempts a 'stocktaking'. The chapter presents a list of Dixon's exemplary qualities, and concludes, 'Dixon exercised a profound influence on the law in his lifetime and in a variety of specific areas his influence continues, but his greatest legacy is the phenomenal quality of his example as barrister, judge and citizen.' It is certainly the case that Dixon's judicial legacy is important, but there is little evidence given in the book for the lasting significance of his professional or civic example. (I also have a sense that Dixon would have been troubled by the use of 'phenomenal' in this way.)

Dixon's own strict division between his private life and his professional work is respectfully followed by Ayres, and there is a lot to be said for this kind of respect in a biographer. However, it does serve in this case to cloister Dixon's inner life from any great scrutiny, and in so doing, to render him a very much less complex person than he was. Dixon appears to have suffered some form of depression or at least melancholia throughout his life. Colleagues noted a certain coldness in Dixon, and an immunity to the claims of the emotions. In a discussion of Dixon's haemorrhoids, Ayres notes that Dixon refused surgical treatment as it would have meant undergoing general anaesthetic, to which he was averse because he did not like to 'lose control'. Dixon's awareness of the power and complexity of the emotional life did however seem to guide him in a careful analysis of the insanity defence in the rape and murder case of *Sodeman* (1936), for example.

Ayres' focus on Dixon's daily calendar gives too little consideration to Dixon's inner life, but it also pays too little attention to the wider context of cases before the Court, as in *Trethowan*, and to the reasoning and outcomes of those cases. This biography of Dixon has many merits. However, there is still a great deal to be done in writing the history of the High Court and its leading figures, and of the relation of law to politics in Australia. ▲

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