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Abstract
We have been waiting a long time for a detailed biography of Chief Justice Sir Owen Dixon. One was expected from James Merralls QC but now we have a substantial work by Philip Ayres of Monash University.

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BOOK REVIEW: *Owen Dixon* by Philip Ayres

John Farrar *

Owen Dixon by Philip Ayres, The Miegunyah Press, an imprint of Melbourne University Publishing, Carlton, Victoria 3053.

We have been waiting a long time for a detailed biography of Chief Justice Sir Owen Dixon. One was expected from James Merralls QC but now we have a substantial work by Philip Ayres of Monash University. Philip Ayres is not a lawyer but he is a good biographer and he has had access to the surviving personal papers.

The book chronicles the difficult experience which Dixon had as a young man, coping with his father's deafness and alcoholism. This made him rather austere and a lifetime teetotaller. He started off with no advantages except his own genius and a capacity for hard work. His academic success was modest and he benefited perhaps more from his training in the Classics than his legal education at the University of Melbourne. He could not afford pupillage but had worked in his father's firm of solicitors, served one year's articles, and was helped and advised by prominent members of the Bar. Like all the best lawyers he was largely self-taught.

He was a very successful barrister who soon learned that he was as good as, or better than, members of the English bar and he was generally unimpressed by the Law Lords. He became an acting judge of the Victorian Supreme Court in 1923 and was a reluctant appointee to the High Court in 1929. Given the degree of dysfunction in the High Court at the time one is not surprised at his reluctance. Dixon was a hard-working judge who often reserved judgement not simply to decide cases but to decide them rightly. He had an interesting war time career off the Bench and was easily flattered by the great and the good in Washington during his time as Minister to the USA in 1942-1944. He later served as UN Mediator in Kashmir.

He was Chief Justice of the High Court of Australia from 1952 to 1964. He was a great judge and an even greater Chief Justice. He was a master of the Common Law and Equity. There were two main reasons for this; his deep knowledge of the cases and his capacity (unusual amongst Australian lawyers) for a confident handling of legal principle as well as legal rules. His approach to judicial method as 'strict and complete legalism' was much more subtle than many people think, including some current members of the High Court. Dixon predated judicial

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openness about policy, an openness that does not always connote skill in handling the subject matter. Like Holmes, Frankfurter and Learned Hand he looked to the quality of the process by which decisions are made and valued 'impartiality, thorough analysis and sound reasoning' rather than substantive results in themselves (Cf Justice Lewis Powell Jr's Foreward to Gerald Gunther, *Learned Hand; The Man and the Judge,* Harvard University Press, Cambridge, 1994, xii). Dixon followed Justice James Parke who said in *Mirehouse v Rennell* in 1833:

'Our common law system consists in the applying to new combinations of circumstances those rules of law which we derive from legal principles and judicial precedents; and for the sake of attaining uniformity, consistency, and certainty, we must apply those rules, where they are not plainly unreasonable and inconvenient, to all cases which arise; and we are not at liberty to reject them, and to abandon all analogy to them, in those to which they have not yet been judicially applied, because we think that the rules are not as convenient and reasonable as we ourselves could have devised.' This involves a subtle distinction and in some respects a question of degree. Ayres brings out something of this subtlety in Dixon's position in Chapter 12 which examines his record as Chief Justice.

On legal education, Dixon always had a good word to say about his old law teacher Harrison Moore but was critical of 'the Americanisation of the Law School in Melbourne' under Zelman Cowen, as Mary Hiscock remembers. He thought Oxford had more to offer a student than Harvard. This seems paradoxical given his social success in the USA, his friendship with Frankfurter and his poor view of many English lawyers. He was, however, impressed by Sir William Holdsworth, Henry Tylor and Kenneth Wheare at Oxford.

Was Dixon a great man? Dixon was undoubtedly a great lawyer and judge. Disraeli once said 'to be a great lawyer one must give up the idea of becoming a great man'. Dixon's virtues were pre-Christian. On the other hand there was a darker side to him. He was a workaholic. His humour was rather sardonic, and he seems to have been a bit of a racist. Yet none of us is perfect and we all must be taken in the round. As the Bible says, Judge not, that ye be not judged.

Philip Ayres has done a fine job although he is sometimes uncritical in his treatment of Dixon. His handling of Dixon's personal life is sensitive. His treatment of the war years is very interesting. His handling of the law is less certain but nevertheless competent. Writing a biography of this quality is a significant achievement and contribution to our knowledge of the law, politics and personalities of an important transitional period in Australian History.

John Farrar.