

## Chapter 14

# Sir Owen Dixon

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### Introduction

Why single out Sir Owen Dixon for special treatment in a course on legal history that is to be taught in the second decade of the 21st century? Why not let whatever judgments of his that are still useful speak for themselves and leave our knowledge of Dixon at that?

Australian lawyers of the 1950s and 1960s thought Dixon was the greatest judge who had ever sat in Australia. His contributions to, and influence on, the development of Australian constitutional and common law were recognised then as being very large. But assessments of that kind often fade with the passing of those who made them. History is often harder on notable figures than was thought fair at the time they flourished.

With each generation, judge-made law is rewritten. Once prominent legal figures retreat into historical shadow. Each new generation of lawyers must, therefore, make its own assessment of who has contributed to the legal system of Australia and of what each has contributed. Any such assessment, even now, would be incomplete and wrong if it did not look at Dixon's work. *What* Dixon did and *how* he set about the judicial task remain centrally important to an understanding of contemporary Australian law. *What* he did is important because of the legal precedents that his work established. *How* he did it is important because he gave central and controlling importance to the identification of the governing principles, their application and, where necessary, their development. That is why Dixon's work had, and still has, a profound influence on fundamental aspects of the law in Australia. That is why his contemporaries accorded Dixon the place they did.

Some sense of the contemporary opinion of Dixon can be gained from what was said in 1964 on his retirement from the office of Chief Justice of Australia. Dixon had been a Justice of the High Court of Australia for 35 years, the last 12 years as Chief Justice. A ceremonial sitting of the High Court was held in Melbourne to mark his retirement from office. The courtroom (Number 1 Court at 450 Little Bourke Street) was packed. I know because I was there. I had walked

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