

John Sackar and Thomas Prince (Eds.),

***Heydon: Selected speeches and papers***  
**(Federation Press 2018) 800pp.**

**SPEECH AT LAUNCH**

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One of the pleasures in this life is to be on the mailing list of Dyson Heydon. You will from time to time, occasionally in cluster, receive his speeches and papers. It is wise not to judge a paper by its title. The most unlikely of topics proves to be riveting.

When Dyson told me that a team was compiling a book of his writings, I said I hoped to be invited. I did not expect his later request that I should join with the Chief Justice as co-launcher. Why would Dyson want an unreconstructed Whitlamite to speak on an occasion such as this?

He asked for “a short but characteristically rousing speech from the point of view of a non-lawyer”. Invitation accepted but I am bound to disappoint: I choose not to dwell on the roles of Kerr Barwick Ellicott (lads from Fort Street all) as the villains of 1975.

Permit me to begin with this book as object.

We have a sumptuous volume of 800 pages, its binding taking it through weight thresholds on aircraft. The volume is divided into six parts of 43 chapters with a scholarly apparatus offering 17 pages of cases, four pages of statutes – the imbalance is revealing – 14 pages of speeches and writings not here gathered, an index of 12 pages.

Footnotes are tightly packed. On some pages the notes exceed the text. Many a note contains the *lèse majesté*, a certain Heydon dryness.

Each chapter is devoted in good measure to a love of words – composing and arranging, sometimes meandering into tangents characteristic of an address, but always driving the thesis with purpose. The register does not matter: speaking, writing, conversation, advocacy, dissertation, book, chapter, judgment, letter. Whimsy or solemn. Dyson loves words.

For that reason, he loves books (every element of them) and he loves the private library, the essential statement of a thinking person. What he admires is not secret, they permeate the consideration of every profile, living and dead – writing and scholarship, proficiency in other languages, war service, assuming leadership.

His own libraries are not in one place – his books are to be found in his chambers, his home in Turramurra and in the classrooms of the former Myra Vale Public School he acquired for his retreat near Fitzroy Falls, the last being a collection which enables him to assert he possesses the second largest private library in the Southern Highlands.

His writings draw effortlessly on the aphorisms of others. His adeptness in offering the perfect quote reflects a deep reading. You can undertake a course in the Great Books by following his notes.

Dyson loves to rank. Person against person. The past against now. Courtesies should attain the Menzies-Chifley standard.

Victor Windeyer he ranks as the finest writer to have served on the High Court, a big claim given Evatt is in the mix. No starting point or finish was better than that provided by Windeyer. His sentences were terse, clear and short. By contrast, Owen Dixon was averse to headings and paragraph breaks. One judgment in 1934 enjoyed a five-page paragraph, a behemoth that Dyson defends for a subtle flow that could not be broken.

The Windeyer mastery of English and Australian legal history was an obvious point of connection for Dyson. Windeyer operated in a world without word processors – one Dyson has tried hard to emulate. Windeyer seems not to have written a poor sentence. “One thing can certainly be said of the phrase *res ipsa loquitur*. That is that it has not been allowed to speak for itself.” One could fill this speech with the quotes Dyson has compiled of writers at their most felicitous.

One imagines Dyson is an excellent proof reader. Working outwards from his own scrawl which is the basis for dictation, the typescript returned by someone operating above and beyond, the rewrites and the strike outs and the additions.

So Dyson surrounds himself with people who care about accuracy in the published work: spelling, punctuation, paragraph breaks and the modern capacity to insert italics and bold as the writer proceeds. He claimed to have a secretary who could detect if a fullstop was italicised, a capacity I must doubt until demonstrated.

Whether a chapter on law or reminiscences of an identity, fascination with history permeates; especially the nineteenth century which features an extensive survey of thinking during those years in the Australian colonies UK, Germany and France. The United States holds minimal interest for Dyson, not its literature, its Constitution nor its political system. Dyson rejoices in Westminster and the rule of law. Each time he expresses himself, he is giving thanks that our Founding Fathers embraced Westminster (as must we all) and were not tempted by a bill of rights.

The heart of the book is Dyson on evidence. His chapter on the Indian Evidence Act of 1872 occupies 28 pages, the beginning of an extensive tribute to Sir James Fitzjames Stephen, subject of the two chapters following. Stephen was a fascinating figure – brother of Leslie (compiler of the first UK *National Dictionary of Biography*), uncle to Virginia Woolf and Vanessa Bell, first cousin to AV Dicey.

Such a marvellous name: James Fitzjames Stephen. I enjoyed reciting it. In games of backyard cricket when you were playing someone else I chose not Norm O’Neill or Neil Harvey. I was James Fitzjames when I wasn’t Gamini Goonesena.

Dyson glories in an aristocracy of intellect, an era in which thick magazines flourished with robust intellectual expression. There it is – with the Stephens, with all whom he profiles and admires, there is command of expression.

Irrked more than a little as to why Stephen lacks the reputation he deserves. The Evidence Act survived independence and royal commissions in 1977 and 2003. Stephen's Digest of Evidence alone entitles him to historical standing. Dyson enjoys tracking. Stephen on Evidence was first cited in the High Court by O'Connor in 1907 and another 14 times unto 2007 when four Justices cited him.

John Sackar and Thomas Prince faced a formidable challenge in selecting for this volume. We may each query an omission: I am mildly disappointed that an essay Dyson wrote for a newsletter I edit has not made these pages; I would have exulted in seeing the name of a journal of the Australian Labor Party – the party's only genuine periodical – in these pages. He has now written for that journal many times.

Cricket does not feature as I thought it might. A love of the sublime brought us into friendship. One notes that HRH Prince Ranjitsinhji's explanation of WG Grace serves as Dyson's explanation of Harry Gibbs. But of course.

Addresses in honour and addresses in memory have enabled Dyson to pay adequate tribute to public figures like Murray Gleeson, Roddy Meagher and Ninian Stephen.

Thomas Eyre Forrest Hughes appears by way of what purports to be a review of the excellent Ian Hancock biography of Mr Hughes. I say purports because Dyson has written of the subject whom he admires with scant attention to the book itself. Scarce to believe, Dyson, so very conscious of form and manner, is writing in the genre of the avant-garde *New York Review of Books*, a world distant from the traditions of *The Times Literary Supplement*. He would not get away with this in any journal I edit. I expect the text to be the subject of the review, not the subject the text of the review.

I was delighted to see that the "Public life of John and Nancy Stone" should have been included. I recall receiving this paper with some scepticism; these were early days in my readership when I was yet to apprehend that Dyson cannot write a boring piece. This paper was my bridge. Read it even if you read nought else. Here is a love story, an Australian story, a celebration of education, told so well including the use of suspense, a portrait of a Commonwealth Public Service that was and is no more. A classic. Mr and Mrs Stone are entitled to be proud that their love of each other and Dyson's admiration for them each has inspired a paean.

Dyson knows of the once greatness of the Public Service. He lived his childhood and early life as the child of a great public servant, Sir Peter Heydon. His father was a man no less interested in history and writing. The son of a diplomat he passed much of his childhood abroad - born in Ottawa, disqualified under s.44, before he was ten, Dyson lived in Ottawa, Moscow, London and Rio de Janeiro. He does not really settle in Sydney until he starts secondary school at Shore. The need to board denied him his father's Fort Street. One enjoys contemplating young Heydon enduring the strictness of Prefect Kirby, M.

So much is going on inside the head of Dyson, it is difficult to countenance that his output will diminish. Every time he sits down, pen in hand or to dictate, he has so much to draw on. He must reconcile his thoughts with the attention span of the reader and listener. He

achieves the reconciliation each outing. One can read and reread his views on the Indian Evidence Act and not find one word superfluous.

For Messrs Sackar and Prince the editing of other volumes beckon. One of which should be divorced entirely from legal writings. The obvious challenge is for Dyson to put Sir Peter Heydon on paper, drawing from his father's extensive writings supplemented by his own memory. One wishes Dyson and his editors onward.