



Trends Abroad: Australia

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AUSTRALIA'S FIRST SETTLERS arrived on January 26, 1788. Unlike the first American settlers they were not seeking religious or temporal freedom, but slavery. These first unwilling settlers were convicts deported from Great Britain and their keepers. In the mother colony of New South Wales the early governors ruled, and the first newspaper, the *Sydney Gazette*, which began publication in 1803, was regularly censored by an official censor. In fact perhaps Australia's greatest governor, Lachlan Macquarie, went so far as to insist that even the poetry published in the *Gazette* should be for patriotism, marriage, the church, and morality. "Macquarie, with all his ten thousand qualifications, was too much in love with his own opinion, to have allowed a FREE PRESS."¹

To try to state whether intellectual freedom exists in Australia today, and if so to what extent, is a task which increases in difficulty as the evidence is gathered. Today Australia is often criticized as being a conformist society, a hedonistic society biased against the intellectual. There is abroad in the community an attitude that can be summed up in these words: "I hate intellectuals, they always cause trouble by trying to alter things." The average Australian tends not to recognize irony and is very annoyed by satire. He lives in an affluent society, constantly cheered by discoveries of mineral wealth, and in a climate that allows for long summer days of surfing and lying in the sun. Occasionally his euphoria is broken by reports of poverty in Australian cities, or of political unrest in New Guinea, and the nation's participation in the Vietnam War probably worries him most of all.

Australia is a federation, and intellectual freedom is affected by both federal and state legislation. Each state has legislation which governs the registration of printing presses or newspapers.² These

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laws vary from state to state, but in general are designed to identify the printer of newspapers and books for civil and criminal proceedings, for defamation, for obscene publication, and so on.

All the Australian states have legislation to provide for free public libraries, but not all of the population yet have access to these libraries. In each state the state library is the largest library for reference that is open to the public at large. In some states (notably Western Australia and Tasmania) there is a network of free public libraries and they are largely controlled by a central authority for the state. In the more populous states (e.g., New South Wales and Victoria), the provision for free public libraries is much more a matter for the local government authority. In every state the state government supports the free libraries by providing a subsidy to the local authorities either in the form of money or services or both.

There are cooperative schemes among the free libraries, and many university and special libraries act as "outlier" libraries for the local public libraries. The university and state libraries are linked to the National Union Catalog and to each other by teleprinter, and there is a great deal of interlibrary lending throughout the country. While the university libraries tend to concentrate on serving their own demanding public, they hold a very large proportion of the nation's resources and some of them, like the University of Sydney, are open to everyone who wishes to read in the building.

Every now and then a local library committee decides to take a hand in the book selection policies of the librarian, and of course this usually means that the committee tries to withdraw a book from the shelves. Resistance to such actions has increased with the growing self-consciousness of the library profession. State library boards and the Library Association of Australia have opposed such actions not only in the *Australian Library Journal*, but, more effectively perhaps, in the columns of the daily press. Local pressure led one library to ban James Jones's novel *The Thin Red Line* and another announced that it would remove from its shelves any book that had ever been banned by the customs department. Since this would have resulted in the proscribing of many of the most important publications of this century, it is fortunate that the resulting outcry from the Library Board of New South Wales and the Library Association of Australia persuaded the council to drop the idea.

Each state has the power to prohibit the sale or distribution of printed material. In general this power is embodied in Police Acts.

In South Australia, for example, a person who "offers for sale, or attempts to dispose of, any obscene book, print, picture, drawing or representation" may be deemed to be "a rogue and vagabond . . . and shall be liable to imprisonment for any period not exceeding six months."³

While there have been few prosecutions in that state, the South Australian courts are responsible for perhaps the most famous of all the Australian attempts to suppress publication. This prosecution is known as the *Ern Malley* case. The police took action against Max Harris, the publisher of *Angry Penguins*, a literary magazine, for publishing an obscene magazine. The autumn 1944 issue of *Angry Penguins* contained poems by Ern Malley and the police claimed these were obscene. In fact Ern Malley had been invented by two young poets, Harold Stewart and James McAuley. They had deliberately written the poems in a parody of the style of Dylan Thomas, George Barker, and Henry Treece, in order to ridicule Max Harris who had endorsed the works of these poets. The Ern Malley poems written by the two poets had awkward rhymes, absurd syntax, and no logical and developed themes. Max Harris (and the English critic Herbert Read) thought that Ern Malley was a genius. Unfortunately Detective Vogelsang of the South Australian police force read the poems, suspected obscenity, and Harris was charged in the Adelaide police court. For an account of this very entertaining trial which featured Detective Vogelsang as the bone-headed policeman protecting the public from such obscenities as "I have remembered the chiasmus of your naked breasts and loins," the reader is referred to *Ern Malley's Poems* with an introduction by Max Harris.⁴ Max Harris was found guilty of publishing an "indecent advertisement" and fined five pounds.

Among other prosecutions of books was the police action against Angus & Robertson for publishing the novel *We were the Rats* by Lawson Glassop. The magistrate (and later the judge who heard the appeal) found the book to be obscene. Robert Close, author of *Love Me Sailor*, was fined 100 pounds, and sentenced to three months gaol (reduced on appeal to a fifty pound fine) because his novel was a gross assault on the morals of the community. *The Trial of Lady Chatterley* was banned by the customs department, and was subsequently published in Australia to defeat the ban. One state government nearly prosecuted two booksellers for selling it, but decided to be content with making the booksellers record the name and address of all purchasers not of "mature years," and with banning special

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publicity. It is probable that *Portnoy's Complaint*, currently banned by customs, will also be published in Australia. In Victoria a man was fined twenty-five pounds in 1965 for distributing an obscene article. He had lent Henry Miller's *Tropic of Capricorn* to a friend.

In November 1967, the commonwealth government and the governments of the six states signed an agreement "in relation to The Administration of Laws relating to Blasphemous, Indecent or Obscene Literature." This agreement was made "so that there will not be inconsistency in the administration of laws relating to blasphemous, indecent or obscene literature."⁵

Under this agreement a national literature board of review was set up. This board has nine members and

Its membership should be broadly based as to qualifications and background and should be spread so that there is a resident of each state on the board. . . . The board shall report on books submitted to it for examination, and this report shall state whether the book is or is not suitable for distribution in Australia. . . . (A book is not suitable for distribution in Australia if it is

- a) blasphemous, indecent or obscene
- b) unduly emphasizes matters of sex, horror, violence, or crime, or
- c) is likely to encourage depravity.)⁶

If the board releases a book (and it does release most of them) the governments intend to let it have "free importation into, and publication and distribution within Australia." The final responsibility for the book is, however, retained by the relevant state or commonwealth minister. Before authorizing administrative or judicial proceedings against a book, a minister must submit it to the board. Others who may submit books to the board (through the appropriate minister) are the author, publisher, or distributor of a book.

Most books read in Australia enter the country as imports, and it is, therefore, not surprising that the Secretariat to the National Literature Board of Review is in the department of customs and excise. In fact most of the censorship in Australia has been exercised by the department. This department prohibits quantities of literature that have neither literary nor artistic merit. Books which have claim to one or both of these two qualities are first referred to the board of review.

While the customs department has prohibited a great number of literary works from entering Australia for general sale or distribution, there is an escape clause in the customs regulations which allows

academics and research workers to have access to most of these books. In 1963-64 for example, thirty-six works dealing with medical, psychiatric, and sociological works and five works of fiction, were released to individuals upon special application. Most university libraries hold copies of banned books which have been released to them upon the application of the vice-chancellor of the university and on condition that a book can only be read by a researcher who has the permission of the head of his department to risk contamination. This system is a difficult one for believers in freedom to accept, and yet perhaps "a copy" is better than "no copy." It is a further step along the path that allows the expensive hard cover copy in, but bans the cheap paperback. Perhaps the most pernicious result of the system is the fact that it tends to discourage those who could be expected to lead the protest against censorship on the "I'm-all-right-Jack" principle.

The existence of political censorship is not easy to demonstrate, but it is certain that there are ways in which the governments of the states and the commonwealth manage to restrict some political expression. Political censorship began in earnest during the 1914-18 war and hundreds of books and pamphlets were prohibited. The police even seized a copy of the Queensland Parliamentary Debates in which the premier of the state had made a speech attacking conscription. The habit of political censorship remained and by 1929, over 200 seditious pamphlets had been prohibited.⁷ The list included the works of Trotsky, Stalin, and Lenin, the *Labour Monthly*, and *The Communist Manifesto*.

Political censorship was so bad in the 1930s that the Victorian Book Censorship Abolition League was formed. The league held debates against censorship and in 1937 succeeded in getting the political censorship liberalized. With the outbreak of World War II (1939-45), the department of information and censorship banned a number of Communist newspapers and then proceeded to censor the daily newspapers. The newspapers published blank spaces to represent censored articles and the commonwealth police seized the papers. The commonwealth prosecuted the morning newspapers, and the newspapers took steps to challenge the validity of the censorship in the High Court of Australia. The challenge was never issued because the government agreed to new censorship regulations, and thus the newspapers won.⁸ Political censorship was discredited and was not brought back after the war. Australia does have a D-Notice system similar to that operating in Great Britain.⁹ Under this system a committee (whose members

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represent the press, radio, television, the armed services, and the defense department) may decide that the security of the country could be threatened by the publication of a certain item of information, and will therefore request that the mass media refrain from publication of that information. The system has no teeth and the committee does not issue orders, merely requests.¹⁰

Publications from some countries may not enter Australia because there is an embargo on trade with that country. Publications from North Vietnam and Southern Rhodesia currently fall into this category. There are fairly rigid rules governing political telecasts and broadcasts. These have been laid down in an attempt to give each major political party an equal share of the mass media, and they may certainly be regarded as restrictions of freedom.¹¹

Restrictions on public access to official records may be a greater impediment to the achievement of intellectual freedom than the haphazard seizing of books by the department of customs. In this field as in all others, Australian law is close to English law, and therefore more restrictive than U.S. law. The history of the British Official Secrets Act is discussed and analysed by David Williams in *Not in the Public Interest*.¹² Similar restrictions and attitudes are to be found in Australia. The problems inherent in Australian attitudes and legislation are discussed by Enid Campbell in the *Australian Law Journal*.¹³ She points out that the legislation for the preservation of public records in most Australian states prevents access to public archives until the material is fifty years old, and that such restrictions effectively prevent much social and political research.

The Library Association of Australia has had an official policy on censorship since 1964 when the council of the Association approved the Statement of Principles on Freedom to Read.¹⁴ The approval of the statement was the end of a campaign to persuade the librarians of Australia to take a stand against censorship which began with the presidential address to the Association delivered by W. G. K. Duncan in 1961. The address was called "A Librarian's First Loyalty," and Duncan, who was the professor of history and political science at the University of Adelaide at the time, spoke in no uncertain terms: ". . . a librarian is not only entitled, but is in duty bound, to disagree both from the government of the day and from a majority in the community whenever this disagreement 'flows from his vocation.' His vocation is to promote and foster the free flow of information and ideas throughout his community."¹⁵ The speaker drew the attention of the

audience to the ALA Committee on Intellectual Freedom and its Statement of the Principles on Freedom to Read.

The librarian's attitude toward censorship was subsequently discussed in the Association's branches and council, and it seemed to those librarians who agreed with the 1961 president that their professional association would never take a firm stand. Finally in the middle of 1964, the editor of the *Australian Library Journal* decided to devote an issue to censorship, and the June, 1964, *Journal* was published.¹⁶ It contained an editorial urging that the Association state a policy against censorship, an article on "Censorship" by J. J. Bray (now chief justice of South Australia) and another entitled "The Concupiscence of the Oppressor" by Frederick May of the Italian department at the University of Sydney. The publication of this issue did not go unremarked among the members of the Association. Some were shocked by the many quotations from the banned books that appeared in May's article, and some were clearly opposed to an Association policy against censorship, but if the correspondence pages of the *Journal* and subsequent events can be taken as a sign, it is clear that most librarians were opposed to censorship.

In September, 1964, the Statement of Principles on Freedom to Read duly endorsed by the Library Association of Australia as official policy, was published.¹⁷ Since then the Association has had a committee on censorship which has advised the council to protest against the banning of specific books, and which has issued statements in the face of local pressures to censor.

During 1969 censorship was frequently in the news in Australia. With the arrival of the permissive stage in Australia there were several instances of censorship of the live theatre. Actors have even been prosecuted and found guilty of using indecent language in a public place because their scripts contained the words. There also seems to be a growing tendency to censor even the films that are imported for showing to film festival audiences. Australian film censorship has always been restrictive (*Ulysses* cannot be screened in Australia). Films are cut to suit an audience of children, perhaps because Australia has no laws that force cinemas to keep children out of the theatre when "adults only" films are showing.

There are signs of increasing restrictions on intellectual freedom in Australia, signs that range from the trivial to the serious. Of the former the sudden outbreak of police action to seize drawings of Aubrey Beardsley and post cards of Michelangelo's David are good

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examples. Of the latter and more disturbing is the refusal of the state government of South Australia to endorse a recommendation from the chief justice that a barrister be appointed a Queens Counsel on the grounds that the barrister in question is a member of the Communist Party of Australia.

On June 11, 1970 the Australian Minister for Customs, Donald Chipp, made a significant statement on the government's attitude toward censorship. This statement reveals clearly that the man who is responsible for the administration of the censorship laws and regulations has a far more permissive attitude than any previous holder of the office and indeed than the community at large. In fact he put the demand and the decision to censor firmly on the shoulders of the community by stating that censorship of all kinds should be open to public scrutiny and that

the amount of censorship should be as little as possible, within the limits set by community standards; and in the ultimate all members of the community, especially parents have the prime responsibility in censorship; the community cannot sit back and expect the government to protect it.¹⁸

The statement and the debate that followed are essential reading for those interested in intellectual freedom in Australia.

The constant complaints from politicians and from the public about the programs on current affairs presented by the national television stations confirm the fact that Australians are not ready to allow freedom of discussion. Certainly there is a need for vigilance on the part of the Australian Council for Civil Liberties and professionally committed groups like the Library Association of Australia, lest intellectual freedom be diminished in the land.

References

1. *Sydney Gazette*, Oct. 21, 1826. Macquarie was Governor from 1810-1821.
2. Sawyer, Geoffrey. *A Guide to Australian Law for Journalists, Authors, Printers and Publishers*. 2 ed. Melbourne University Press, [1968], p. 64.
3. South Australian Statutes. *Police Act 1936*. Section 86.
4. *Ern Malley's Poems*. Melbourne, Lansdowne Press, 1961.
5. Australia. Parliament. *Agreement between the Government of the Commonwealth and of the States of Australia in Relation to the Administration of Laws Relating to Blasphemous Indecent or Obscene Literature*. Canberra, 1969.
6. *Ibid.*, Clause 8.
7. Coleman, Peter. *Obscenity, Blasphemy, Sedition; Censorship in Australia*. Brisbane, Jacaranda Press, [1963].

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8. Penton, Brian. *Censored!* [Sydney, Shakespeare Head Press, 1947].
9. Great Britain. Committee of Privy Councillors Appointed to Inquire into "D" Notice Matters. *Report*. London, H.M.S.O., 1967.
10. Whitmore, Harry. "Censorship of the Mass Media: The 'D' Notice System," *Australian Law Journal*, 41:449-53, Feb. 29, 1968.
11. Australia. Royal Commission on Television. *Report*. Canberra, Govt. Print. Off., 1954.
12. Williams, David. *Not in the Public Interest; The Problem of Security in Democracy*. London, Hutchinson, 1965.
13. Campbell, Enid. "Public Access to Government Documents," *Australian Law Journal*, 42:73-89, July 1969.
14. "Statement of Principles on Freedom to Read," *Australian Library Journal*, 13:136, Sept. 1964.
15. Duncan, W. G. K. "A Librarian's First Loyalty," *Australian Library Journal*, 10:171, Oct. 1961.
16. "A Policy for the Library Association of Australia?" *Australian Library Journal*, 13:55-57, June 1964; Bray, J. J. "Censorship," *Australian Library Journal*, 13:71-72, June 1964; and May, Frederick, "The Concupiscence of the Oppressor," *Australian Library Journal*, 13:73-84, June 1964.
17. "Statement of Principles on Freedom to Read," *op. cit.*
18. Australia. Parliament, House of Representatives. *Parliamentary Debates (Hansard)*, 27th Parliament, 2d session (First period) June 11, 1970, 3372-3382.

ADDITIONAL REFERENCES

- Wilkes, John, ed. *Liberty in Australia*. (Australian Institute of Political Science—21st Summer School, Canberra 29th-31st Jan. 1955). Sydney, Angus and Robertson, [1955].
- Campbell, Enid and Whitmore, Harry. *Freedom in Australia*. Sydney, Sydney University Press, 1966.
- Dutton, Geoffrey and Harris, Max, eds. *Australia's Censorship Crisis*. Melbourne, Sun Books, 1970.
- Home, Donald. *The Lucky Country*. 2d rev. ed. Sydney, Angus and Robertson, 1968.