

## **‘Behind Enemy Lines’: Menzies, Evatt and Passports for Peking.**

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It has become customary in Cold War historiography to juxtapose the strident anti-communism of the Australian Prime Minister Robert Menzies with the staunch civil libertarianism of the Labor leader, Dr H.V. Evatt. Central to this portrayal is the role each played in those pivotal years, 1950 and 1951. Menzies, true to his 1949 election pledge, attempted to ban the Communist Party of Australia (CPA) first through legislation and then by referendum; Evatt fought with equal determination but with greater success to defeat both the *Communist Party Dissolution Act* in the High Court and the referendum proposal on the hustings. The first wished to proscribe free speech and association; the second to defend and uphold it. Despite Menzies’ self portrayal as a liberal democrat, he was, according to one historian, convinced that ‘the loss of civil liberties...was a price worth paying for eliminating ... Communism once and for all from the Australian body politic.’<sup>1</sup> Evatt, that ‘consistent civil libertarian’ in contrast, ‘gave one of his finest performances’ throughout this period in his campaign for the Communist Party’s right to exist.<sup>2</sup> So whereas Menzies tried ‘to confuse dissent with subversion, and both with communism’<sup>3</sup>, Evatt was ‘imbued with the words of the common law and the Universal Declaration of Human Rights’<sup>4</sup> a ‘lodestar’ for those who believed in the quintessential importance of ‘the principles of liberty and the rule of law’.<sup>5</sup> Indeed, J.B. Chifley’s private remark May 1951 that Evatt ‘has always been a great fighter for civil liberties’ has become enshrined.<sup>6</sup>

In 2003, the National Archives of Australia released the 1952 Cabinet notebooks, previously embargoed for fifty years. They recorded the confidential views of individual Ministers, not simply the collective decisions of Cabinet. A topic that preoccupied many Ministers that year was headed ‘Passports for Peking’. Their discussions around that issue reveal a picture of the Menzies Cabinet at variance with the historiographical consensus. That same

disjunction between contemporary record and received wisdom is evident when we also examine the responses of the Labor Opposition, under Dr Evatt. This paper will thereby argue that, insofar as attitudes to passport control<sup>7</sup> were litmus tests of the commitment to civil liberty, Evatt was far more restrictive than Menzies. Specifically, the paper will focus on an event which proved to be the greatest trial of the Menzies Government's passport policy during the 1950s - the Peace Conference for Asia and the Pacific Regions held in Peking in October 1952.<sup>8</sup> This conference has received, at most, only fleeting attention from historians.<sup>9</sup> The timing and destination of this conference were significant: Peking was, of course, behind the 'bamboo curtain' and the Korean war, in which communist Chinese soldiers were killing and being killed, was still being fought. Given this, one could reasonably assume that Menzies would take a tough stand. The paper will suggest that, despite China being 'red', Korea at war and the United States exerting pressure, the Menzies' Government treated passport matters that year - 1952 - with a degree of expediency, leniency and restraint that is inconsistent with the popular depiction of Menzies' dedicated anti-communism.<sup>10</sup>

#### *Preparations for the Peking Peace Conference, June 1952*

On 8 April 1952, a self-titled group, the 'Australian Peace Partisans', accepted an invitation from the Chinese Peace Committee to attend a preliminary peace conference in Peking in June; the purpose was prepare a full-scale conference later that year.<sup>11</sup> The controversy that soon swirled around this delegation was significantly heightened by the inclusion of Dr John Burton, former secretary of the Department of External Affairs.<sup>12</sup> Burton was appointed the leader of the delegation. Because of a revision of passport policy in November 1951, the delegates to the Preparatory Conference were granted passports to travel to Peking. This revision loosened previous restrictions: 'as from receipt of this advice applications for endorsement to make [passports] valid for any such excluded country will be granted immediately without prior reference to this Department or Security provided the applicant submits a statement in writing

setting out the objects of his visit.<sup>13</sup> The issuing of passports to the 'Australian Peace Partisans' caused considerable consternation on the parliamentary backbench. One Country Party member questioned the Minister of Immigration, Harold Holt, in strident terms:

Since conferences of this kind are convened by the enemies of democracy, can the Minister advance any sound reason for the issue to delegates from this country of passports that will allow them to take part in those nefarious proceedings? Are passports freely issued by the Soviet Union to persons who desire to escape from the terrors and persecutions of communism?<sup>14</sup>

However, Holt defended existing policy by arguing that 'every Australian citizen is issued a passport as a matter of right' and, moreover, the Government had no power to restrict the movement of its own citizens from Australia.<sup>15</sup>

The unwillingness by the Government to take preventative action against the Peking delegation continued to embroil Parliament. On 13 May, a Labor Member, Daniel Mulcahy, asked Holt a series of questions about the delegation. The bluntest question was whether members of the delegation had travelled to Peking 'in an aircraft with Australian soldiers who were going to Korea'. If this were true, Mulcahy sought to extract from Holt an assurance that delegates' passports would be cancelled 'to prevent the return of these Communists to Australia'. In reply, Holt again maintained that he was powerless to act against Australian citizens who had 'left Australia for a temporary sojourn abroad'. The High Court, he said, judged that such persons were not immigrants and therefore not subject to the Immigration Act or the immigration power in the Constitution.<sup>16</sup>

Following extensive criticism of its passport policy and after attempting, in vain, to downplay the importance of the delegation, the Government went on the offensive. On 20 May, the Liberal Whip, Jo Gullett, led a Government attack that sought to discredit the Labor Opposition through to its links to Burton. Gullett described Burton's leadership of the Department of External Affairs

as 'misguided' and his influence on the foreign policy of Australia as 'almost wholly evil'. Burton's attendance at Peking, Gullett alleged, was 'embarrassing to his country and to all true Australians'. After smearing Burton, Gullett linked him to Evatt: 'Worst of all, his action is the logical result of the partnership between him and the right honourable member for Barton [Evatt]'.<sup>17</sup> Gullett then proceeded to attack the character and record of Evatt who, according to Gullett, invariably 'came down on the side of those who, to-day, are our enemies'.<sup>18</sup> Through such use of guilt-by-association techniques, Gullett, W.C. Wentworth and other Liberal-Country Party cold warriors, the Government sought to tar Evatt, Burton and the ALP with the broad brush of complicity with communism and divert debate from its reluctance to take a more heavy-handed approach to passport policy. This machiavellian maneuvering was consistent with the confidential remark of Paul Hasluck, the Minister for Territories, to his cabinet colleagues that '[t]his is a public relations problem – a contest between Labour party & ourselves as to whether we can outdo Evatt by hammering the fact that an endorsed Labour man has gone to Peking...'<sup>19</sup>

Evatt refused to be 'outdone'. First, he denied any communication between himself and Burton. Second, he stated that Burton had no authority from the ALP to attend the Peking conference.<sup>20</sup> Finally, he counter-attacked by throwing the gauntlet down to the Government and its reluctance to take tough action against the delegation. In 1950-51, Evatt strenuously upheld communists' legal rights; now, under attack, he repudiated their (and 'fellow travellers') right to travel freely. Self-defence took precedence over defence of civil liberties. Were he Prime Minister, place in the same situation, he would 'do everything that [he] could to prevent them from going'. His reasoning was curious: it revolved around the threat to national security – an alleged threat normally invoked, at least in the 1950s, by the conservative parties.

Does the presence of those Australians at such a conference in Peking at this time when China, although technically at peace with this country, is actually engaged in fighting against the United Nations forces, which includes Australians, involve the element of a security risk or a defence risk to this country?...I contend that the Government, if it considers that the

answer to the question is “Yes”, has a duty to prevent Australians from attending such a conference.<sup>21</sup>

Evatt rejected the Government argument that it had no legal power to act. He told Holt ‘You have plenty of power, if not in the present statute....then legislative power. The Government has legislative power. No alteration to the Constitution is needed’. When Holt reiterated his inability to deny passports during peace-time, Evatt replied that the Government had the power ‘to prevent anybody from leaving this country in peace-time’. Evatt believed that if ‘the security of our troops in Korea is injured by the holding of the conference at Peking, the defence power is immediately applicable and legislation can be passed to prevent Australians from attending it.’<sup>22</sup>

So it was Evatt, not Holt, who spoke the language of the Cold War. And it was the Menzies Government, not the Labor Opposition, that proclaimed its adherence to the right of the Australians to have access to free movement; to the principle that ‘we should never restrict the movement of our own citizens in times of peace’.<sup>23</sup> The irony of this situation was not lost on Holt:

In this Parliament and in this country, the Leader of the Opposition has set himself up as a champion of freedom and liberal principles....The right honourable gentleman has talked about power to deal with these matters. When the Government parties asked the Australian people to extend the powers of the Commonwealth to combat the Communist menace, it was he who led the attack upon us, on the ground that he was trying to preserve the freedom of Australian citizens. But now to save his political skin when he finds himself embarrassed by a protege whom he so readily disowned, he has turned his back upon the principles that he preached to this country.<sup>24</sup>

Whether the motivation was revenge or, at least, residual resentment at having lost the 1951 referendum, the desire to gain political leverage in this ‘public relations problem’ (to use Hasluck’s telling phrase), or – more improbably - a genuine commitment to a liberal passport

policy, the Menzies government represented itself as the exemplar of reason against the voice of intolerance.

*Germ warfare?*

If the lead-up period in May generated considerable controversy, the opening of the Preparatory Conference in June unleashed an uproar. Again, Burton was at the epicentre. He telegraphed a statement to the Parliamentary Press Gallery which accused the United States of using germ warfare in Korea.<sup>25</sup> Burton's allegations received extensive coverage in the press. All the Melbourne dailies, amongst others, prominently headlined Burton's claims.<sup>26</sup> The germ warfare allegation, which we now know to be entirely unfounded,<sup>27</sup> gained widespread currency in Europe, America and the UK,<sup>28</sup> provided a rallying cry for numerous meetings<sup>29</sup> and provided the basis for a sustained propaganda campaign by the peace movement.<sup>30</sup> The Minister for External Affairs, Richard Casey dismissed Burton's allegations claiming he had 'sprung to the support of this blatant piece of Communist propaganda....Dr. Burton's action is clear evidence he has swallowed the Communist bait.'<sup>31</sup> Once again, guilt-by-association was attempted. Casey sought to smear Evatt whom he requested to 'comment on the sanity and judgement of his protege'.<sup>32</sup> Evatt could only respond in the manner he had previously, by questioning the Government's initial decision to allow the delegation to travel to Peking which enabled 'the outpouring of this propaganda'.<sup>33</sup> Holt then exposed Labor's conundrum:

Suppose I had refused to issue a passport to him [Burton]. I very much suspect that if my decision were challenged in the courts the first man to come forward to defend Dr. Burton's right to a passport would be the Leader of the Opposition.<sup>34</sup>

Holt also highlighted Labor's inconsistency. First, he cited Arthur Calwell who, as Minister for Immigration in the Chifley Labor Government, stated in 1949 that his Government 'gives Communists, as citizens, the same rights, including passports and travel facilities, as other citizens receive'.<sup>35</sup> Second, he used Evatt's own words when Attorney-General - 'the laws of this

country do not give discretionary power to the executive to refuse passports to Australian citizens who want to go overseas'<sup>36</sup> – to illustrate the fact that the ALP, not the Liberal Party, had changed positions. Calwell was clearly on the defensive when he attempted to explain away this inconsistency: 'it is one thing to go behind the Iron Curtain [in 1949] and another thing to go behind the Bamboo Curtain at the present time'. Calwell's self-defence was visceral:

The Australians who were going to Peking, where they were to be received with flowers and feted by the Chinese Communist Government, travelled on the same aircraft as 30 other Australians who were going to Korea, where they would be greeted with bullets fired by soldiers of Chinese Communist armies.<sup>37</sup>

Another Labor member (and Moral Rearmament member), Kim Beazley, was also emotive about the need for the Government to take action against the delegates, since they were attending a conference 'designed, amongst other things, to justify the killing of Australians'. Party politics, Beazley stated, must be set aside while 'every Australian soldier who has died in Korea is being defamed'.<sup>38</sup> Again, this is a remarkable situation: the Labor Party was entering the political space normally occupied by the conservative parties, especially during the Cold War.

The official position of the Government was simple: it asserted 'the right of Australian citizens to travel overseas shall be free and untrammelled.'<sup>39</sup> In reality, however, it was more complex. In June 1952 Cabinet commissioned the Foreign Affairs Committee to prepare a paper outlining the arguments for and against the attendance of an Australian delegation at Peking.<sup>40</sup> One of the strongest arguments in support of attendance was that to ignore the Conference was 'to play the Soviet game and to "demonstrate" that only Communists are working for peace'. In conjunction with this argument, it was alleged that Chinese communists were 'muddle-headed' and 'deplorably ignorant'; thus, the sending of a 'reliable' anti-communist delegation might 'open the minds of Chinese delegates to the hard facts concerning the Soviet Union and East-West tension and help cure their muddle-headedness'. Even if the Chinese were unable to be swayed,

the delegates could discredit the conference in the eyes of other delegations as well as reveal its true character to the Australian public on their return.

On the other hand, the paper argued that the likelihood of being able to influence the conference was remote. Previous “peace” – double inverted commas were always used - conferences, such as those held in Warsaw (1950) and Berlin (1951), demonstrated that there would be expert behind-the-scenes organisers manipulated the conference to suit the goals of the communists. This would occur irrespective of the strength and reliability of the Australian delegation. According to the paper: ‘Expecting to alter the direction of the Peace Movement by argument in Conference is equivalent to expecting to alter Soviet foreign policy by arguing with Vyshinsky’. Moreover, there were few, if any, ‘reliable’ individuals with the necessary experience and expertise who could be trusted to adhere to the Australian Government’s position. There was also concern that there ‘weighty objections’ both within and outside Australia to such a course may arise ‘so long as Chinese “volunteers” are fighting United Nations troops in Korea’.<sup>41</sup> Notwithstanding the ambivalence of this report, it cleared the path for the Government to review its position on passport matters.

#### *Menzies enters the debate*

The Menzies Cabinet discussed ‘passports for Peking’ on three further occasions: 19 August, 2 September and 9 September. It was in a quandary. At the first meeting, Hasluck was in favour of aggressive passport control (‘We ought as far as we can prevent people going’); Casey was selective (‘It is the misguided people who should be stopped rather than the Communists’); while W. McMahon, the Minister for the Navy, was opposed: ‘The Communist party is a lawful organization. We are not at war with China. Until we declare the party an unlawful party under the Crimes Act we should not take this action. It is an arbitrary act of government’.<sup>42</sup> McMahon repeated these views a fortnight later: ‘We should restrict our actions to publicity...we should not prevent them from going’. Again, Casey favoured stopping only non-communists while the



Minister for Commerce and Agriculture, John McEwen was all-embracing: 'We should not let people go to China – the enemy's country'. This range of views inside Cabinet contrast sharply with the stated public line that interference with citizens' freedom of movement was anathema. That the debate inside Cabinet had shifted towards tougher action was the affirmative answer to the question, 'Are we prepared to place every obstacle in the way of all people going to the Cfce [?]' and the final remark, made by the Prime Minister, that 'It is administratively feasible to apply it to everybody'.<sup>43</sup> Menzies had already successfully deterred a Presbyterian peace activist, Rev. J.E. Owen, from accepting an invitation to attend the Peking conference. In private, he exhorted him to: 'Have nothing to do with it. You'll do no good by associating with Communists'.<sup>44</sup>

On 10 September, Menzies addressed Parliament. In what amounted to a *volte face*, he announced his government's decision to deny passports to those Australians who sought to attend the conference. It would not be a party, he stated, 'to assisting any Australian to attend the Peking Conference. Accordingly, the Government will deny passport facilities to all prospective delegates'. His justification echoed the words of the Opposition members during the parliamentary debates in May and June:

There are certain peculiar features about such a conference in China under present circumstances which the Government felt it could not overlook in considering whether assistance should be given to delegates. The simple fact is that at this very moment Australian servicemen are participating in an armed conflict in Korea in which United Nations forces are fighting against forces the major part of which are under the control of Chinese authorities at Peking.<sup>45</sup>

#### *The influence of UK and US initiatives*

Predictably, Evatt sought vindication. He argued that this 'somersault' now brought the government in line with 'what I pointed out at that time' and that the government's current position should 'have been taken three months ago'.<sup>46</sup> However, this 'somersault' was not the

result of pressure from the Opposition. It was significantly influenced by developments in the United States and the United Kingdom. On 15 August the British Government, led by Churchill, informed Australia's Minister for External Affairs, Casey, that it was devising means to prevent its citizens, and those of other nations, from attending the conference. It approached 'non Communist' governments in the Far East, including Australian, to ascertain 'whether such governments would be prepared to refuse exit facilities to their own nationals and deny transit through their territory to other delegations'.<sup>47</sup> This influenced Casey. As he wrote to Spender, 'we are very much inclined to action somewhat along the lines proposed'.<sup>48</sup> He was also influenced by Washington: 'we must keep in mind the way this [alteration in passport policy] will be regarded in the U.S'.<sup>49</sup> Casey requested Spender, Australia's Ambassador to the US, to 'ascertain discreetly any action which United States Government is likely to take in regard to attendance at Peking Conference'.<sup>50</sup> Spender subsequently informed the Department of External Affairs that, if a US citizen sought to visit China 'for any reason' the request would be denied. Additionally, any US citizen with a 'doubtful background' who requested a passport to an area such as Hong Kong would be denied a passport. Significantly, the US authorities also stated that they 'regarded with favour' the Australian Government's proposed course of action.<sup>51</sup> Cabinet was certainly cognizant of the American position: 'USA is going to stop people, so are the Phillipines'.<sup>52</sup> It therefore seems clear that the 'somersault', to which Evatt referred, had been prompted by developments in Britain and the US. In the absence of that influence the Menzies Government, most likely, would not have altered its original policy.

Although the Government had finally decided to institute passport controls, Menzies remained convinced that citizens should be entitled to freedom of movement. He stated that

The Government believes that Australian citizens should have the utmost freedom in travelling about the world, but that this freedom must be limited where their movement actively assists those who are fighting against Australia. Further, the Government wishes to avoid all inconvenience to the great majority of travellers who neither intend nor wish to go

near these phony “peace” conferences. For this reason it does not propose to issue any general restriction on travel.<sup>53</sup>

This commitment to freedom of travel is also evidenced by correspondence with John Burton the day after the Government announced its decision. Burton had not given any indication that he would attend the main conference in October but, given his past involvement with the Preparatory Conference in June, it would have been unsurprising if not unexpected that the Government would now cancel his passport. Yet the letter stated that

It is desired to avoid withdrawing the passport of any person who is not to attend the conference, and if I may have your immediate assurance that you do not propose to travel to Peking, no action will be necessary in regard to the passport now in your possession.<sup>54</sup>

Thus the Government’s ban was limited to those individuals known to be delegates. In contrast to US policy, which prohibited *all* travel to China, the Australian Government’s new position was relatively lax. The circumscribed nature of the ban illustrated how the Australian Government sought to juggle civil liberties with Cold War imperatives.

*‘Cat-and-mouse’: attempts to evade the ban*

Within hours of Menzies proclaiming the new, more stringent passport policy, the delegates commenced efforts to attempt to fight the ban. A meeting of Victorian delegates, convened on the same night as Menzies’ announcement, declared in a prepared statement that the Government’s action ‘establishes a precedent of a most sinister kind’.<sup>55</sup> A leaflet, *PEKING! They Must Go – Fight Passport Ban, This is YOUR Concern*, was hastily written and printed<sup>56</sup> and a protest meeting was organized for the evening of 12 September. The delegates vowed to fight the ban and called upon the Australian public to ‘make every possible protest to the Federal Government...’ They outlined various avenues by which they could either overturn the ban or, if legal manoeuvres failed, subvert the ban..<sup>57</sup> Through the surveillance work of the Australian Security Intelligence Organisation (ASIO), Menzies was kept well informed of the delegation’s

intentions and movements. On 15 September, ASIO reported that the delegates would attempt to 'test the legal right of Qantas to refuse tickets'.<sup>58</sup> There was a sound basis to this challenge: ASIO acknowledged that 'a Shipping or Airline Company can disregard the absence of a passport if it wishes'.<sup>59</sup> Moreover, Holt had previously admitted, during the 1950 Warsaw peace congress, attended by Australians, that citizens could travel without a passport.<sup>60</sup> However Qantas continued to deny tickets to delegates on the grounds that the airline required passengers to hold a valid passport. There may have been some collusion in this instance: on 2 September the vice-president of Executive Council and Minister for Defence Production, Eric Harrison, suggested that 'shipping Cos [sic] etc be asked to obtain passports from people'.<sup>61</sup>

The most audacious action undertaken by members of the delegation to evade the ban involved passage out of Australia by covert means such as chartering a plane or arranging passage by ship. Speculation surrounding these efforts was rife in the lead-up to the conference.<sup>62</sup>

On 17 September ASIO reported that

Wild rumours are circulating among "Party" members to the effect that the two delegates who have already departed from Australia on British passports, will arrange certain travel facilities for those delegates who have been refused Australian passports and are still in Australia....It is considered that a flying boat will be routed to Northern Queensland waters from Overseas, to pick up the remaining delegates.<sup>63</sup>

In this heightened atmosphere, ASIO assumed the pivotal role in the Menzies Government's efforts to sabotage the attempts by delegates to get to Peking. In previous months ASIO had played a minor, consultative role in regard to passport issues. However, with the prospect of delegates seeking clandestine ways to subvert the ban, ASIO moved to the forefront, closely monitoring the activities of the delegation in order to prevent it leaving the country. While the Government had been dilatory in instituting passport bans, its security organisation was quick to keep tabs on the delegation's every move. It noted, for example, that

There is a strong suspicion that Denis Courtland Jacob and John Pierce Callaghan travelled to Cairns under the names of Sutton and Owens respectively on 16<sup>th</sup> September, 1952, and that Sister Gertrude Gardner, Dr. Clive Sandy and Jules Meltzer are proceeding by flying boat from Brisbane to Cairns today, 18<sup>th</sup> September 1952, under the names of Gaynor, Mellor and Hughes respectively....There is a possibility all except Sandy will leave the flying boat at Townsville.<sup>64</sup>

Speculation about the movements of the delegation led to a flurry of reports in the press. The delegation's northward migration was documented in the daily press, with the Melbourne *Herald* aptly describing the 'Cat-and-mouse game' being played between the government and the delegation. The press was also fully aware of the efforts of security officers in 'shadowing the delegates and reporting their movements to Canberra'.<sup>65</sup> In response to the suggestion that the Government was now taking more direct action to constrain the delegates, Casey replied that 'I think it would be more accurate to say we are looking for positive means of getting these people to comply with the law'.<sup>66</sup> When challenged over which law the delegates were breaking, Casey altered his view, stating instead that '[w]e are trying to find means of getting them to comply with the Government's wish that Australians should not attend the Peking conference'.<sup>67</sup> Speculation was also rife in Parliament. Frederick Osborne, the Member for Evans, asked Beale several questions concerning the whereabouts of the delegation. He asked whether it was correct that 'a substantial number of members of the delegation are now sojourning at a well-known holiday resort in the Barrier Reef? Are they conducting a peace conference?' Beale replied:

...the delegation is still in Australia, although there has been a certain trek northward. My present information is that some are in Townsville and some in Cairns, but as far as I know, none has left Australia.<sup>68</sup>

In the knowledge that the press and, most importantly, ASIO were tracking their every move, the delegation intensified its efforts. After attempting, in vain, to charter a flight, the delegation concentrated on gaining passage on the steamship, *Changte*. D.C. Jacob, travelling under the alias

of 'Sutton', arrived in Cairns on 17 September.<sup>69</sup> ASIO ascertained that a man named 'Sutton' had

...called at the office of the shipping company, agents for the "Changte", and requested a passage on that ship. When asked for his passport he stated that he would produce that when he got the ticket. He was informed that no business could be done unless he produced his passport and he then left the office.<sup>70</sup>

The attempt to find alternative transport from Cairns had therefore failed. The role of ASIO in ensuring that this means of transport would be denied is made clear by this statement:

Concerning the ship "Changte" it was intended that this vessel would call at Cairns on 18<sup>th</sup> September, 1952, but owing to berth being unavailable it was diverted to Townsville arriving there 17<sup>th</sup> September, 1952, and departed at midnight same date for Manila. Appropriate action was taken to prevent unauthorised persons boarding the vessel and similar action has also been taken in respect to water craft which could be used in an attempt to leave the Commonwealth at Townsville and other northern ports.<sup>71</sup>

Despite this setback, delegates continued their attempts to subvert the ban. The day after the *Changte* had departed, six individuals arrived in Townsville. In an attempt to thwart ASIO attempts to monitor the delegates, two of their number, Clive Sandy and Jules Meltzer, acted as decoys, attempting to draw attention away from their colleagues.<sup>72</sup> ASIO officers were aware of their intentions. They reported that the two

...continued throughout the afternoon and evening to make themselves conspicuous (apparently inviting attention to themselves) by booking their luggage at the Railway booking office under assumed names while their correct names were most obvious on the luggage.<sup>73</sup>

Nonetheless, Sandy and Meltzer's subterfuge did succeed in disguising the movement of the other delegates, since ASIO admitted that 'the four (4) remaining persons who disembarked the flying boat the previous day were not observed'.<sup>74</sup> The other delegates made their way to Cairns 'by

some means unknown' in an effort to slip out of the country unnoticed. In an effort to give delegates more time, organisers of the Peking peace conference postponed the opening until 2 October. Victor James believed that the arrival of more delegates 'even at a late hour' would provide an 'effective answer to those Government's which tried to "ham-string" the Conference by delaying the granting of passports'.<sup>75</sup>

This episode exemplifies the measures taken by ASIO to uphold the passport ban. The Government may have been slow to institute restrictive measures, but it had no reservations in sanctioning the direct involvement of its security organisation in preventing the delegation's departure. The 'appropriate action', cited earlier, taken by ASIO officers in ensuring that transport companies denied travel facilities would appear to extend well beyond the original charter of ASIO's *modus operandi* which centred on intelligence gathering.<sup>76</sup> This suggests that, while the Government outwardly cultivated an image as an upholder of civil rights, ASIO covertly fought, on its behalf, the alleged communist menace.

Whilst Evatt was critical of Government's use of the security forces, he also argued – remarkably – that the Conference was 'a risk to the defence and security of the nation'<sup>77</sup> that delegates who sought to circumvent the ban should be subject to legal processes: 'If the action of these persons is contrary to defence security, action should be taken against them by law and not by surveillance or by putting pressure upon private interests, or by intimidation, attack or slander'.<sup>78</sup> Beale, as acting Minister for Immigration, defended ASIO's efforts to prevent the departure of the delegation in terms very similar to the Opposition's earlier criticism of the Government's apparent laxity at the time of the Preparatory Conference:

We hope that it will demonstrate one thing at least, which is, that while the husbands, brothers and sons of Australian citizens are fighting and dying in Korea in a war against Communist aggression, we are not prepared to assist misguided citizens to go to phony peace conferences behind the enemy lines, where their presence would certainly be used by the Communists in their cold war propaganda against us and our allies.<sup>79</sup>

The Government had clearly changed its tune in the intervening months between the two conferences. Had there been no conflict in Korea it is highly likely that the Government would not have altered its policy. It also seems probable that, if the conference had not been held inside the borders of an “aggressor” nation, Menzies would not have intervened. This is confirmed by the conferences, soon after Peking, that took place in Moscow, to celebrate the anniversary of the Russian Revolution on 7 November, and in Vienna, which hosted the third World Peace Conference in December. When the question of whether passports should be granted to prospective delegates to these events was raised, Cabinet concluded that ‘these conferences were different from that being held at Peking where the conference was, for all practical purposes, being held behind enemy lines...’. It was therefore decided that ‘passports should not be refused’.<sup>80</sup>

In Parliament the Government was questioned about its suggestion that Peking was, in fact, behind enemy lines. A Labor Senator from Tasmania, William Aylett, rhetorically asked: ‘We are not fighting in China. We are fighting in Korea are we not?’<sup>81</sup> Aylett further suggested that if Peking were considered ‘enemy territory’ then Russia should also be in this category. However, the Government Leader in the Senate, Senator O’Sullivan, attempted a clarification:

At the present time, we conduct diplomatic relations with Russia. We are not at war with that country. There is a Russian ambassador in Australia, and Australia is represented in Moscow.

I repeat that delegates were refused visas to attend the Peking conference because the conference was being held behind enemy lines.<sup>82</sup>

The passport ban on those individuals who had been prospective delegates to the conference was lifted immediately after the conference ended.<sup>83</sup> On 16 October a Department of External Affairs officer informed the Department of Immigration that because it had been ‘officially confirmed’ that the Peking Peace Conference had finished, ‘restrictions which had been placed on the travel of intending delegates have now been lifted’.<sup>84</sup>



We can see, therefore, that the Menzies Government was concerned only with the travel movements of individuals insofar as this one conference was concerned. Its belated and ephemeral shift was shaped primarily by external circumstances: the Korean war and the position of allied countries. Its decision to implement a passport ban on delegates to the Peking peace conference can be regarded as a reluctant exception to the general rule of passport policy. That rule was that, excepting in the most extreme circumstances, such as war, Australian citizens were entitled to enjoy freedom of movement. Even if some did slip through the loose net, then that was a small price to pay for the entitlement of unfettered travel. As Beale put it,

...it may happen that a person may elude the Government's prohibition and succeed in going to Peking. However, I consider it to be better that an odd case of that kind should occur rather than that the Government should interfere unduly with the traditional right of travel of individuals.<sup>85</sup>

Although aware of, and – as we have seen - partially influenced by, the views of Washington, Australian passport policy in 1952 bore little resemblance to the draconian *McGarran-Walter Act 1952* or the red-hunting policies of the Immigration and Naturalization Service which targeted and tried to deport domestic 'aliens' such as Albert Einstein.<sup>86</sup> Nor did it conform to Manning Clark's assertion, so typical of much Cold War historiography, that the Menzies Government, on the issue of communism, was ardent, consistent and untroubled; it 'had no inhibitions or agonies of mind'.<sup>87</sup> Just as Peking Peace Conference challenges the customary portrayal of Menzies as a politician steeped in a 'fundamental authoritarianism which lay behind [his] façade of liberalism', so<sup>88</sup> Evatt, fresh from his 'finest hour' in 1951,<sup>89</sup> emerges from this overlooked episode in 1952 as a less than zealous civil libertarian.

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<sup>1</sup> Frank Cain, *A.S.I.O. an unofficial history*, Spectrum, Melbourne, 1994, p.100.

<sup>2</sup> Robin Gollan, *Revolutionaries and Reformists. Communism and the Australia Labour Movement 1920-1955*, ANU Press, Canberra, 1975, p. 267.

<sup>3</sup> John McLaren, *Writing in Hope and Fear. Literature as Politics in Postwar Australia*, Cambridge University Press, Melbourne, 1996, p. 115.

<sup>4</sup> Michael Kirby, 'H.V. Evatt: Libertarian Warrior', in *Seeing Red: the Communist Party Dissolution Act and referendum 1951: lessons for constitutional reform*, Evatt Foundation,(Sydney, 1992, p.15.

<sup>5</sup> Ken Buckley, Barabara Dale and Wayne Reynolds, *Doc Evatt*, Longman Cheshire, Melbourne, 1994, p.365. See also Frank Cain and Frank Farrell, 'Menzies' War on the Communist Party, 1949-1951', in Ann Curthoys and John Merritt (eds.), *Australia's First Cold War: Volume 1 Society, Communism and Culture*, Allen & Unwin, Sydney:, 1984, pp. 109, 129.

<sup>6</sup> Cited in L.F. Crisp, *Ben Chifley*, Longmans, Melbourne, 1961, p. 398, n.1.

<sup>7</sup> Passport policy embraced the issuing of passports and visas, the confiscation of passports and restrictions on travel.

<sup>8</sup> A comprehensive nine page report on the conference was prepared by the British Foreign Office's Information Research Department; see Public Record Office (Kew), FO 1110/529, 'Reports on "The Peace Conference of the Asian and Pacific Regions"', 6 November 1952.

<sup>9</sup> Two exceptions to this historical oversight are Gollan, *op cit*, Ref 2, pp. 273-4; Barbara Carter, 'The pm in the 1950s', in Ann Curthoys and John Merritt (eds.), *Australia's First Cold War: Volume 2. Better dead than Red*, Allen & Unwin, Sydney, 1986, pp.62-3.

<sup>10</sup> This is not to imply that the Government was 'soft' in other areas of anti-communist activity in the aftermath of the defeat of the 1951 referendum to ban the Communist Party. One instance was its broad-ranging crackdown in March 1952 of a CPA-organised peace carnival; see Phillip Deery, 'Community Carnival or Cold War Strategy? The 1952 Youth Carnival for Peace and Friendship' in Ray Markey (ed.), *Labour and Community: Historical Essays*, University of Wollongong Press, Wollongong, 2001, pp. 313-45.

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<sup>11</sup> See the 24 page booklet *We Talked Peace with Asia*, Provisional Sponsoring Committee for the Asian and Pacific Peace Conference, Sydney [1952]; J.P. Forrester, *Fifteen Years of Peace Fronts*, [np], Sydney, 1964, p. 23.

<sup>12</sup> Burton was Secretary of the Department of External Affairs from 1946 to 1951 and Australian High Commissioner to Ceylon, 1950-51 from which post he resigned to contest the 1951 federal election as the endorsed Labor candidate in the seat of Lowe in 1951. During his time in the Department of External Affairs he attended a number of international conferences, such as the United Nations Charter Conference in San Francisco in 1945, the Paris Peace Conference in 1946 and numerous imperial conferences. In 1954 he wrote *The Alternative: A Dynamic Approach to our Relations with Asia*, Morgans Publications, Sydney, 1954.

<sup>13</sup> National Archives of Australia [henceforth NAA]: A1838/1, 1252/10/3, cablegram 9 November 1951. For the endorsement by Cabinet, see NAA: A4940, C460, Cabinet Minute, Decision No. 23, 'Revision of Passport Procedure in Relation to Security'.

<sup>14</sup> *Commonwealth Parliamentary Debates* [henceforth CPD], vol. 217, 6 May 1952, p. 9.

<sup>15</sup> *Ibid*, 6 May 1952, p. 9-10.

<sup>16</sup> *Ibid*, 6 May 1952, pp. 279-80.

<sup>17</sup> *Ibid*, 20 May 1952, p. 508. Similarly, W.C. Wentworth argued that 'the Leader of the Opposition has power himself to move for the expulsion of members of the Labour Party who are concerned with this affair'. *Ibid*, 20 May 1952, p. 520.

<sup>18</sup> *Ibid*, 20 May 1952, p. 508.

<sup>19</sup> NAA: A11099, 1/29, Cabinet Notebook, 4 June 1952, p.4.

<sup>20</sup> CPD, vol. 217, 20 May 1952, p. 509.

<sup>21</sup> *Ibid*, p. 510, 512.

<sup>22</sup> *Ibid*, pp. 512-3.

<sup>23</sup> *Ibid*, p. 514.

<sup>24</sup> *Ibid*, pp. 514-15.

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<sup>25</sup> NAA: A1838/266, 563/5/1, pt 1, folio 1, see 'Korea - Alleged use of Germ Warfare. Statement by the Minister for External Affairs, Mr. R.G. Casey'.

<sup>26</sup> See for example *Age*, 2 June 1952, 'Germ-war Evidence, says Dr. Burton', *Argus*, 17 June 1952 'Chinese believe Germs used' and *Sun*, 17 June 1952, 'Burton Can't Prove Germ Claim on China'.

<sup>27</sup> See *Cold War International History Project Bulletin*, Issues 6-7, Winter 1995/1996, 'New Evidence on the Korean War', esp. p.123.

<sup>28</sup> The prominent French physicist, Frederic Joliot-Curie, as well as the Dean of Canterbury, Dr Hewlett Johnson, echoed these claims. The American Committee for Cultural Freedom wrote an open letter, 'Nobel Prize Winners Challenge Joliot-Curie on Germ Warfare' in mid-1952. A copy was sent by its Australian representative, H.R. Krygier, to the Solicitor-General, Kenneth Bailey; see NAA: M1505/1, 319. See also Lawrence S. Wittner, *The Struggle Against the Bomb: Volume One. One World or None*, Stanford University Press, Stanford, 1993, pp.185-6.

<sup>29</sup> See Stephen Murray-Smith papers, State Library of Victoria (SLV), ms 8272, Box 280/1-3, correspondence from the Victorian Peace Council, 10 April 1952 ('We know you will shocked at the use of this inhuman weapon and want to do something about it').

<sup>30</sup> See, for example, *Germ War in Korea?*, Victorian Peace Council Melbourne, 1952; *Germ War! Only the guilty fear the truth!*, Realist Writers' Group, Sydney, 1952. Bulletins, circulars, petitions and clippings concerning this campaign are located in Ralph and Dorothy Gibson papers, University of Melbourne Archives, 83/85, subject file, 'Campaign in Support of attending the 1952 Peking Peace Congress'; and Murray-Smith papers, SLV, ms 8272, Box 280/1-4.

<sup>31</sup> NAA: A1838/266, 563/5/1, pt 1, folio 1.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Age*, 2 June 1952, 'Germ-war Evidence says Dr. Burton'.

<sup>34</sup> *CPD*, vol. 217, 3 June 1952, p. 1293.

<sup>35</sup> *Ibid*, p. 1294.

<sup>36</sup> *Ibid*, pp. 1293-4.

<sup>37</sup> *Ibid*, p. 1295.

<sup>38</sup> *Ibid*, p. 1298.

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<sup>39</sup> *Ibid*, p.1292.

<sup>40</sup> NAA: A1838/2 563/5, pt 2, 'Peking Conference, September, 1952', p. 1.

<sup>41</sup> *Ibid*, pp. 2-4.

<sup>42</sup> NAA: A11099, 1/15, Cabinet Notebook, 19 August 1952, p 71.

<sup>43</sup> *Ibid*, 2 September 1952, pp 81-2.

<sup>44</sup> This conversation is recorded in J.E. Owen, *The Road to Peace*, Hawthorn Press, Melbourne, 1954, p. 16.

<sup>45</sup> *CPD*, vol. 218, 10 September 1952, p. 1187. This statement was also issued as a press release; see NAA: A1838/2, 563/5, Pt 1.

<sup>46</sup> *Ibid*, pp. 1187-8.

<sup>47</sup> NAA: A5461/3, 235/5, Part 1, telegram Casey to Spender, 21 August 1952.

<sup>48</sup> NAA: A5461/3, 235/5, Part 1, telegram from Australian Embassy, Washington, to the Department of External Affairs, 21 August 1952.

<sup>49</sup> NAA: A11099, 1/15, Cabinet Notebook, 19 August 1952, p 71.

<sup>50</sup> *Ibid*.

<sup>51</sup> NAA: A5461/3, 235/5, Part 1, telegram from Australian Embassy, Washington, to the Department of External Affairs, 21 August 1952,.

<sup>52</sup> NAA: A11099, 1/16, Cabinet Notebook, 9 September 1952, p. 1

<sup>53</sup> *CPD*, vol. 218, 10 September 1952, p. 1187.

<sup>54</sup> NAA: A6980 T1, S200565, A.L. Nutt to Dr. J.W. Burton, 11 September 1952.

<sup>55</sup> *Argus*, 'We'll Fight Ban on Passports', 11 September 1952.

<sup>56</sup> Stephen Murray-Smith papers, SLV, MS 8272, Box 280/1-4.

<sup>57</sup> *Age*, 'Delegates Will Fight Ban', 11 September 1952.

<sup>58</sup> NAA: A6122/44, 1456, folio 144. The events surrounding Qantas's denial of tickets and the delegation's attempts to overturn the airline's directive were detailed in the article 'No Planes For Peking - Airlines', *Herald*, 11 September 1952. The delegation also investigated the possibility of taking High Court action to force the Government to issue passports.

<sup>59</sup> NAA: A6122/44, 1456, folio 144.

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<sup>60</sup> *Herald*, 16 November 1950, 'Passports and Propaganda'.

<sup>61</sup> NAA: A11099, 1/15, Cabinet Notebook, 2 September 1952, p.82.

<sup>62</sup> A number of newspapers reported on the efforts of members of the delegation to subvert the passport ban, see for example 'Peking Ban Hard to Dodge', in the *Age*, 12 September 1952 and also 'Peace Group's Plane Plan', in the *Daily Telegraph*, 16 September 1952.

<sup>63</sup> NAA: A6122/44, 1457, folio 1.

<sup>64</sup> NAA: A6126/24, 261, folio 65.

<sup>65</sup> *Herald*, 'Party for Peking Splits Up', 19 September 1952.

<sup>66</sup> *Ibid.*

<sup>67</sup> *Ibid.*

<sup>68</sup> *CPD*, vol. 218, 19 September 1952, p. 1783.

<sup>69</sup> NAA: A6122/44, 1457, untitled document, 19 September 1952, folio 16.

<sup>70</sup> *Ibid.*, folio 16.

<sup>71</sup> *Ibid.*, folio 14.

<sup>72</sup> *Ibid.*, folios 15 and 16.

<sup>73</sup> *Ibid.*, untitled document, 24 September 1952, folio 55.

<sup>74</sup> *Ibid.*, folio 53.

<sup>75</sup> See letter from Rev. Victor James dated 25 September 1952, in Frank Hartley papers, University of Melbourne Archives, 83/163, Box 13, file 4. In the end, James and six other Australians (Canon F. Maynard, Ken Gott, Helen Palmer, Bruce Hart, Cassie Corbin and the Rev Dr E.E. Collocott) joined an Australian already in China, Nancy Lapwood, and nearly 400 delegates from 46 countries for eleven days in Peking. The unorthodox, even illegal, manner in which many departed was alluded to by Vernon Rice: 'For private and personal reasons I will be unable to go to the Conference in the way the other delegates suggest'. *Sun*, 16 September 1952.

<sup>76</sup> See NAA: A6122/38, 1267, 'Outline of the Foundation and Organisation of A.S.I.O., by Justice G.S. Reed, 30 June 1950.

<sup>77</sup> *Sun* (Sydney), 25 September 1952.

<sup>78</sup> *CPD*, vol. 218, 25 September 1952, p. 2112.

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<sup>79</sup> *Ibid*, p. 2112.

<sup>80</sup> NAA: A4940/1, C460, Cabinet Minute, Decision No. 554, 2 October 1952; NAA: M1501/1, 1282 for ASIO reports on granting of passports for these conferences.

<sup>81</sup> *CPD*, vol. 218, 7 October 1952, p. 2502.

<sup>82</sup> *Ibid*, p. 2502.

<sup>83</sup> NAA: A445/1 253/24/64, p. 2, 'Developments in Passport Matters During Present Government's Term of Office'; see also NAA A6122/44 1457, p. 214, where it was detailed that prospective delegates J.D. Campbell and his wife could only receive passports at 'the completion of the Peking peace conference'.

<sup>84</sup> T.E. Heyes to the Department of External Affairs, 16 October 1952, NAA: A1838/2, 1542/337.

<sup>85</sup> *CPD*, vol. 218, 12 September 1952, p. 1380.

<sup>86</sup> See Fred Jerome, *The Einstein File: J. Edgar Hoover's secret war against the world's most famous scientist*, St. Martin's Press, New York, 2002, pp.220-9.

<sup>87</sup> See Manning Clark, *A Short History of Australia*, Macmillan, South Melbourne, 1981, p. 222

<sup>88</sup> Gollan, *op.cit*, Ref 2, p.45.

<sup>89</sup> Stuart Macintyre, *A Concise History of Australia*, Cambridge University Press, Melbourne, 1999, p.210