SIX ACTS AGAINST CIVIL LIBERTIES

Prepared by
The Council for Civil Liberties, Melbourne
(Affiliated with the National Council for Civil Liberties, London.)

MELBOURNE,
AUGUST,
1937.

3d.
THE COUNCIL FOR CIVIL LIBERTIES
168 Exhibition Street, Melbourne, C.I. (Telephone F5057).
Affiliated with The National Council for Civil Liberties, London.

President: HERBERT BURTON, M.A. (Oxon.), University of Melbourne.
Honorary Secretary: Mr. T. LUCAS, B.A.
Assistant Honorary Secretary: R. R. RAWSON.
Honorary Treasurer: Miss B. M. DAVIES, B.A.

Vice-President:
J. M. ATKINSON.
W. MACMURDO BALL.
J. T. BARRY.
MAURICE BLACKBURN, M.R.A.
Dr. JOHN DALE.
Dr. PAUL DANE.
G. L. DETHIDGE.
Professor A. ROYCE GIBSON.
EUGENE GORMAN, K.C.
J. F. HILL.

The Reverend R. WILSON MACAULAY.
MAX MELDRUM.
E. M. NOLAN.
NETTIE PALMER.
VANCE PALMER.
W. SLATER, M.L.A.
Mrs. W. THORN.
Professor H. A. WOODRUFF.
The Reverend R. R. WYLLIE.

The AIMS OF THE COUNCIL are to assist in the maintenance of the rights of citizens—especially of freedom of speech, press and assembly—and to aid in advancing measures for the recovery and enlargement of these liberties, and for the reform of existing relevant legislation.

The Council is Non-Party and Undenominational.

Subscriptions: The minimum annual subscription for associate members of the Council is One Shilling, for patron members, One Guinea. Cheques should be made payable to the Council for Civil Liberties, and should be crossed.

Affiliation: Societies wishing to affiliate with the Council should communicate with the Honorary Secretary. The minimum affiliation fee is Five Shillings per annum.

Publications: The Council's publication, "The Case Against the Crimes Act" (published in January, 1937, and reprinted in January and April) is out of print. A few hundred copies are still in stock. They are obtainable, upon application to the Secretary, at 3d. per copy.

CONTENTS:

1. OUR VANISHING DEMOCRATIC RIGHTS. Page 5
2. ATTACKS ON THE LIBERTIES OF LABOUR. Page 7
   Transport Workers Act 1928-1929.
   Crimes Act 1914-1932.
   And the Unlawful Assemblies Ordinance 1937.
3. ABUSE OF THE DICTATION TEST. Page 13
   Immigration Act 1901-1935.
4. CENSORSHIP.
   Books Page 19
   Customs Act 1901.
   Broadcast Speech
   Broadcasting Act 1932.
   Newspapers Page 25
   War Precautions Act Repeal Act 1920-1928.
   Films
   The Theatre Page 27
   Page 19
   Page 24
   Page 25
   Page 26
   Page 27
I.—OUR VANISHING DEMOCRATIC RIGHTS

THE laws of the Commonwealth of Australia to-day include a formidable array of statutes and regulations which menace Australian democracy. Six Acts especially restrict our freedom of action, and our freedom of association and movement.

Some of these provisions of the law were enacted by unduly apprehensive Parliaments, in the case of undemocratic Ministers. The Crimes Act (Part 11A) and the Transport Workers Act (Part 11) are in this category.

Two provisions are objectionable because they have lent themselves to abuse by Governments—words of statutes have been twisted to furnish repressive means which were never contemplated by the framers of the legislation. The dictation test paragraph (Section 3 (a)) of the Immigration Act, and Section 62 (g) of the Customs Act, which the Government claims to derive its power to censor political books, fall into this second category.

The War Precautions Act Repeal Act and the Broadcasting Act are in yet a third category. They are statutes which Parliament, heedless or indifferent, has left open to abuse by the Government.

Between them these three types of repressive measure make a dangerous system which can suspend ordinary rights of the citizen whenever the Government so wills.

Australian Governments have made great strides against Australian democracy since the war of 1914-1918.

In 1920-21 the War Precautions Act Repeal Act laid the basis of the Crimes Act; an Arbitration Act Amendment Act deprived unions, under the crushing penalty of £1,000 fine, of the right to strike, and laid a basis for the Transport Workers Act; two Proclamations under the Customs Act

References are made in the present publication to statutes, statutory rules, regulations and ordinances. These are all forms of legislation. A statute is an Act of Parliament; in the case of the Commonwealth, it is the Queen through the Governor-General, and the Senate and House of Representatives. A bill may be read three times in each House of Parliament and debated; when the Governor-General has given the Assent it becomes law as an act or statute.

But laws are made outside Parliament. Too, some statutes give power to a Minister to make regulations, under the Act, which will have the force of law. Such regulations, reference to which is made in the "Commonwealth of Australia Gazette," become law if neither House has vetoed them within a fortnight after their publication. They are known as statutory rules. Again, Cabinet may make laws, the individual Ministers' certain law-making powers. The Governor-General and Cabinet sitting as the Federal Executive Council may publish ordinances or regulations in the "Gazette" and these have the force of law. Ordinances usually legislate for Territories of the Commonwealth; some acts give the Governor-General and the Federal Executive Council power to issue proclamations in certain circumstances. A proclamation is technically not legislation, but in some cases it has the effect of bringing into operation legislation which is not operative until the Governor-General, advised by Cabinet, proclaims it a state of emergency.
made lawful a system of departmental censorship of political literature.

In 1926-29 the various provisions of the Crimes Act passed into law, and the Government had at hand a statute which was in flat contradiction of the civil rights thought to be an essential feature of citizenship; another Arbitration Act Amendment Act offered unions a bribe (reduction of strike penalties from £1,000 to £100) to expel their elected officers of whom the Government disapproved; two Transport Workers Acts were passed and stringent regulations were gazetted under them—provisions so objectionable that Mr. W. M. Hughes himself said of one of them that it would "disgrace his Parliament."

In 1932-37 the Crimes Act edifice was raised a stage higher (1932) and an attempt made (1935 Amending Bill) to carry it a stage higher still; fresh regulations under the Transport Workers Act penalised the seamen of Australia, when they, like the waterside workers, were subjected to a licensing system; by an amendment of the Immigration Act (1935) and by an increasingly stringent censorship, two successive Lyons Governments set themselves to hinder the free play of ideas.

That is the record in outline. When the outline is filled in a particularly disquieting situation is depicted. For these laws were aimed at one section of the community in particular—the working class. Since in point are the fine of £1,000 imposed on the Waterside Workers' Federation of Australia by the Melbourne City Court in 1928, Mr. Bruce's threat as Prime Minister to issue a Crimes Act Proclamation against them, the Devanny prosecution in connexion with the Crimes Act (1932), and the writs issued under the Crimes Act against the Communist Party of Australia and the Australian section of the Friends of the Soviet Union, together with the refusal of the Postmaster-General to carry "Soviet" To-day in the mails. The Immigration Act was invoked against Thomas Walsh and Jacob Johnson, Seamen's Union leaders, in 1929, after a strike, and against Ewen Erwin Kinch and Gerald Griffin in 1934, when they came to Australia to take part in a conference of bodies which were opposed to war. The Transport Workers Act (still in operation) was enacted as "emergency legislation" in 1928 against the Waterside Workers Federation, and the fantastic penalties under the 1928 form of the Act were designed to permit of Government interference in the domestic affairs of trade unions.

On the other hand, books and broadcasting are certainly not of interest to the working-class exclusively. But working-class prohibitions have been the chief object of the Minister's censor's attention, as the list of prohibited books makes plain. Happily Australians were aroused to protest by the third great offensive against their liberties.

But success here, a protest there, have not shaken seriously a system of laws which must be got rid of if Australia is to be once more a free democracy. It is still within the power of the three million electors of Australia, by demanding from parliamentary candidates a pledge to work for the amendment of the Six Acts, to restore their stolen liberties.

2.—ATTACKS ON THE LIBERTIES OF LABOUR

MR. FRANK ANSTEY said, in 1928, when he sat in the House of Representatives for Bourke: "There is no limit to the power which this Government possesses if it cares to exercise it. All the powers to which the member for Bourke referred were contained in the Crimes Act 1928 and the Arbitration Amendment Act 1928 (passed in June; Mr. Anstey's statement was made in September). But it is clear that there was a limit to the Government's powers at this stage. For Parliament was on the eve of rushing through a third measure which would attack the liberties of Australian labour: the Transport Workers Act. Of this legislation the Prime Minister, Mr. Bruce, said: "This is emergency legislation, necessitated by the extraordinary circumstances of the moment."

But the "emergency legislation," with its sister Acts, remained on the statute book in 1937, and in a form uglier than its first. And it is instructive to compare the general condition of the workers' liberties in 1928 with their condition in 1937, before examining the particular circumstances in which a system of class legislation was built up.

In 1937, as in 1928, interstate transport workers could be deprived of the right to strike, on the proclamation of a state of emergency by the Governor-General (i.e., by Cabinet), and offenders were liable to imprisonment and (if born outside Australia) deportation. (The phrase, "the right to strike," may sound strangely in connexion with the headline cars, but it should be realised that on occasion workers may have no alternative course of action available to them.)

In 1936 an alleged offender under the political and labour sections of the Crimes Act was presumed guilty until he could prove himself innocent; this was still the case in 1937, and the accused now bore the additional burden of the requirement that he should answer questions which might incriminate him and make confessions (written statements) by the prosecution still sufficient to convict him unless he could rebut them.

In 1936 defendants on a charge of unlawful association could be tried summarily in the police court, or committed for trial (by a judge and jury), as the police magistrate decided. In 1937 a single judge (without a jury) could hear summonses calling upon associations to show cause why they should not be declared unlawful; officers of associations declared unlawful might be disqualified, though the association was lawful when they took office in it; and (as in 1928) all property belonging to an unlawful association is forfeited to the Crown.

The burden of the Crimes Act on workers and persons of radical views has, therefore, been increased greatly since 1928. So much, briefly, for the first means of repression.

Take the second means: An extraordinary power under an amendment of the Arbitration Act. This power, patently designed to take away unions' freedom of association by permitting Government intrusions into trade union affairs, was given by Act in 1929—a year of political ferment. The power was

---


12 The same, p. 7013, speech on his motion for a second reading.
increased in 1928, a year of many strikes by trade unions discontented with an arbitration system which seemed to them to exclude them from their proper share of boom prosperity.

In 1920, Section 3 of an Arbitration Act Amendment Act imposed a penalty of £1,000 on unions whose executives called their members "to refuse to offer for employment..." This was bad enough; but a 1923 Amendment Act enabled the Government to thrust into the very committee rooms of trade unions. The Arbitration Act was amended to provide that if a strike, a union removed the executive which had ordered the strike, and expelled its members from the union, the maximum fine payable might be reduced from £1,000 to £100. But—and here interference reached a climax—the next subsection (4) provided that if, within twelve months of action under subsection 3, the penalised union restored any of the expelled executive, even to rank-and-file membership of the union, it would incur liability to a penalty of £1,000.3

This section was repealed, at the instance of the Scullin Government, in 1930.4 But the Scullin Government, which had a majority in the House of Representatives but not in the Senate, was blocked by the Upper House in measure after measure; and the Crimes Act, unamended during the Labour Ministry's term, has grown in stature since those days. Moreover, in 1937 a great section of the trade union movement erupted under the system set up by the Transport Workers Act 1928-1929.

Here in brief is the story of the measure. The Beechy award of the Commonwealth Arbitration Court, published to become operative on September 10, 1928, required men seeking to bring labor disturbances to two "pick-ups" a day, instead of one, as previously. This meant "hanging around all day begging for the opportunity to work." The Leader of the Opposition, Mr. J. H. Scullin, said: "It meant, too, the spending of money on fares and mid-day dinner, by job seekers who might be unsuccessful applicants for work. "Four hours are now allowed for picking up," the Waterside Workers' Federation claimed, "where formerly the time was two hours or less; and at most of the ports the Beechy award has spread the pick-ups over eight hours a day."

The watersiders refused to quit eight hours a day for the shipowners' call. On Monday, September 10, when the Beechy award came into force, no Melbourne unionist presented himself for employment on the "Ramsco." In Brisbane 500 waterside workers refused to offer themselves for work, and in other ports unionists showed in a similar way their dissatisfaction with the award. On the Tuesday the Prime Minister, Mr. Bruce, announced the invocation of the Crimes Act and proclaimed a "serious industrial disturbance" under its Section 5, and the day the shipowners' spokesman, who on Monday had said the new award must be obeyed because it was the law, said that the two "pick-ups" were necessary for economical working. So the law and the masters' profit were now one, and the employers' refusal of the union's invitation to confer with them on the matter under dispute. On the Saturday the executive of the Waterside Workers' Federation of Australia decided, by 48 votes to 22, to advise its members to boycott the award; they should be content, for the time being, with the demonstration which they had already given of their view of the award.

But on Monday, a week after the beginning of the trouble, unionists at the ports of Melbourne, Adelaide, Fremantle, Brisbane, Bowen, Townsville, Newcastle and Port Kembla refused to work in terms of the Beechy award. On next day the Attorney-General, Mr. J. G. (later Sir John) Latham, issued four summonses against the Federation under the Arbitration Act 1904-1928, charging the Federation with having violated a strike. On Wednesday the shipowners decided to employ non-union labour ("volunteers"), and two days later 500 volunteers were enrolled in Melbourne, in the shadow of the Bourke Street West police station. On Thursday the Prime Minister had asked the House of Representatives for leave to bring in a Transport Workers Bill, and after the first enrolment of volunteers at the ports, the House sat all night at Canberra, to pass the second reading before 8.15 a.m. on the Saturday. On that day, 350 volunteers started work, under police protection, on four ships docked at Melbourne; the Waterside Workers' Federation of Australia was fined the maximum of £1,000 at the Melbourne City Court, and at Canberra the Transport Workers Bill passed through its first and third reading stages by 5.45 a.m., to come back, unamended, from the Senate late in the afternoon.

On the following Monday, a weekend after the beginning of the trouble, 800 volunteers were enrolled at the port of Melbourne, and the Governor-General gave the Assent which made the Transport Workers Act law. Next day the Executive Council (Cabinet) in full dress published licensing regulations under the new Act, to come into force within 24 hours.

The speed and effectiveness of these proceedings overcame the bewildered watersiders. By early October the union resistance, in most of 50 Australian ports-Melbourne still held out—had been broken by the combined assault of the shipowners, Parliament, and the Government of the Commonwealth. Unionists in Adelaide, Sydney, Fremantle and Newcastle had applied for licences. A month after the award came into operation, 3,728 men were registered at the port of Melbourne for licenses, and the work of the port was being done by 2,000 volunteers; unionists were locked out. On October 23 unionists were working only two ships at Melbourne; 29 volunteers were working 29 ships.

Victoria Dock compound was forced with police, who allowed only volunteers to pass within—volunteers carrying "brown tickets."

That is the ignominious story of 1928. We may now consider the main provisions of the Act by which the waterside

---

(1) See Commonwealth Constitution and Arbitration Act Amending Acts No. 31 of 1929 (s. 4, 11, 12), No. 18 of 1928, Secs. 4 (4). See Act No. 43 of 1930, Section 6, repealing Sections 6.8 of the previous Arbitration Act.


(3) "The Argus," Melbourne, September 11, 1928.

(4) The same, September 11, p. 7; September 13, p. 8.
workers were coerced into submission. It is to be noticed that the licensing regulations, published immediately after the passage of the 1928 Act, were incorporated into the Act by Amendment Bill, which was passed by the new Parliament early in the first session of 1929. According to it is to the local bodies under this Act, at frequent intervals since, the Bruce Government and its successors have made a great extension of the licensing system without reference to Parliament after March of 1929.


Section 2.—The Governor-General may make regulations having the force of law, under the Act, in particular for regulating the engagement, service and discharge of transport workers, and the licensing of persons as transport workers, and for regulating or prohibiting the employment of unlicensed persons as transport workers, and for the protection of transport workers."

Section 5.—Any seaman or seaman must produce his licence on demand by any licensing officer or any person appointed by the Minister of Transport and the Minister of Transport, and the Minister of Transport may give any instruction to him or to any other person in his stead. Statutory Rules No. 58 of 1930 (excluded April 8, 1930).—(1) The two licences at the Port of Melbourne, restricted to 2 hours each on work days. (2) The two licences at the Port of Melbourne, restricted to 2 hours each on work days. (3) The two licences at the Port of Melbourne, restricted to 2 hours each on work days. (4) The two licences at the Port of Melbourne, restricted to 2 hours each on work days. (5) The two licences at the Port of Melbourne, restricted to 2 hours each on work days.

Statutory Rules No. 58 of 1930 (excluded April 8, 1930).—(1) The two licences at the Port of Melbourne, restricted to 2 hours each on work days. (2) The two licences at the Port of Melbourne, restricted to 2 hours each on work days. (3) The two licences at the Port of Melbourne, restricted to 2 hours each on work days. (4) The two licences at the Port of Melbourne, restricted to 2 hours each on work days. (5) The two licences at the Port of Melbourne, restricted to 2 hours each on work days.

No. 6 of 1929 (excluded June 20, 1931).—Forms TW1 and TW3 should be completed "I am, and I am not," a member of the Waterline Workers' Federation of Australia, and "I am," (or "I am not") a returned soldier or returned seaman. (Disallowed by the Senate, May 10, 1930.)

No. 6 of 1929 (excluded June 20, 1931).—Forms TW1 and TW3 should be completed "I am, and I am not," a member of the Waterline Workers' Federation of Australia, and "I am," (or "I am not") a returned soldier or returned seaman. (Disallowed by the Senate, May 10, 1930.)

No. 6 of 1929 (excluded June 20, 1931).—Forms TW1 and TW3 should be completed "I am, and I am not," a member of the Waterline Workers' Federation of Australia, and "I am," (or "I am not") a returned soldier or returned seaman. (Disallowed by the Senate, May 10, 1930.)

No. 6 of 1929 (excluded June 20, 1931).—Forms TW1 and TW3 should be completed "I am, and I am not," a member of the Waterline Workers' Federation of Australia, and "I am," (or "I am not") a returned soldier or returned seaman. (Disallowed by the Senate, May 10, 1930.)

No. 6 of 1929 (excluded June 20, 1931).—Forms TW1 and TW3 should be completed "I am, and I am not," a member of the Waterline Workers' Federation of Australia, and "I am," (or "I am not") a returned soldier or returned seaman. (Disallowed by the Senate, May 10, 1930.)

"As a result of our so-called strike of 1928, our Lucinda Point branch was intimidated and since then no members of the Federation have been employed in that port. Practically all of the cargoes handled there are (handled) by farmers, camp-followers, etc. . . ."

"The only port in the Commonwealth, out of 45 where we have been established, in which the regulations under the Transport Workers Act operate (i.e., the full licensing regulations), is Melbourne. In this port it is compulsory not only for each man employed to possess a licence as a transport worker, but the men employed are graded into three sections, viz., First Preference, Second Preference, and those holding only an ordinary licence permitting them to work in the industry."

What, finally, is the objection to measures like this Transport Workers Act, from the democratic point of view? It is this: the Commonwealth has flouted the will of the people as expressed by their elected representatives. On the contrary. It is true that between the first Act (October, 1928) and the second Act (March, 1929), the Bruce Government imposed its will on the watersiders by force made in a department and
not in Parliament. But the Prime Minister of the day stated the simple truth when he said in the House of Representatives, moving the second reading of the 1920 Bill, that he was now about to carry out his election promise to embody the SEP regulations in an Act.

However, in this case we have seen an extraordinarily free use of the power of legislation by regulation, and if we cannot in logic lay all of the blame for this abuse upon the Minister directly that practices under the Transport Workers' Act are contrary to the very basis of the democratic idea and that under the Act the democratic idea is no longer the basis of our system of government, this democracy will continue to be helpless in any situation in which a Government cares to say 'national emergency.' The basis of the objection to the Transport Workers Act is that it legislates as if the citizens of this democracy were recognized by the Act's framers as belonging to different classes, of which one class is preferred to another. Specifically, the Government has intervened in industrial relations, not to arbitrate between parties in industry, but to take the side of one party, the owners, against another party, the workers. The Government has made a system, a permanent system, of discrimination against a class of society.

Secondly, this discrimination takes the form, under the Transport Workers Act system, of a direct interference with the citizen's right to associate freely in trade unions. And this interference with the fundamental practical freedom to organize and the democratic function which the Act itself was intended to protect is a matter of significance. The Right Hon. Hughes, who was in 1920 the Minister for Health and Repatriation in the second Lyons Ministry, we are indebted for a sufficient commentary upon the unfair nature of Section 3 of the Act, which is an intolerable in doubt of this legislative:

"To include such a provision in a Commonwealth statute will disgrace this Parliament. ... it is unnecessary, it is a subversion of freedom. If a man refuses to work in a manner prescribed by an award, he can be punished; if he refuses to obey a legitimate lawful command he can be punished. But this paragraph goes far beyond such just and necessary disciplinary regulations. For under it a man loses not only one job, but all chance of work for six months. ... It is a direct incentive to men to cling to this position of arbitration and resort to whatever means they have at their disposal to obtain even-handed justice."

It should be recorded that the Government proposed, a few months before the 1927 Federal election, to amend Section 12, sub-section (6). The Assistant Minister for Commerce, Senator Brennan, was to bring in a Bill accordingly; if the amendment becomes law, the licensing officer will lose his power to deprive an offending worker of his licence (and his livelihood) for 6 to 12 months; after the amendment is in force, for a period of 12 months, he will have power to deprive the worker of his livelihood for a period of 12 months.

3.-ABUSE OF THE DICTATION TEST

THE Commonwealth Government's refusal to permit Mrs. M. M. Freer to land in 1920, and the attempts to exclude Egon Erwin Kisch and Gerald Griffin in 1934, are notorious cases of the Lyons Government's attempts to rob individuals, British and foreign, of their freedom of movement. Earlier, in 1920, the Bruce Government's attempt to deport undesirable immigrants, two men who had lived in Australia for 32 and 15 years respectively, drew the attention of the world to the government's power to deport an immigrant by ordinance alone, whether the man was in Australia or elsewhere. This power must be recognized as one of the most dangerous of the Commonwealth Government's abuses of power. In the 1934-5, in the earlier cases, the Government of the day used to exclude its political opponents, a power granted originally by Parliament for purposes utterly different in character. Mrs. Freer's case, not one of partisan politics, was apparently one in which an embattled Ministry had to contaminate with disrespect a situation in which it had been placed by the irresistible action of a single Minister. Mr. Paterson used against Mrs. Freer Immigrant Act powers which the Government preferred to hold in reserve for its political opponents.

But all five cases have this in common: action was taken, at Ministerial discretion, to exclude white persons who were neither dangerous nor criminal. And this action was taken under an Act of 1901 by which the Minister was given a general power of excluding immigrants whose entry would be a breach of the policy of White Australia.

The dictation test—or, as it was called in 1901, the education test—has been used in a manner far from the intention of the framers of the Immigration Act of 1901; and each case mentioned is a shabby and contemptible abuse of the trust which people and Parliament must confide in the Government of the day. The Government which originally asked for, and was given, the power to exclude immigrants, understood that it and its successors in office would be administering a trust, and Australia's first Prime Minister expressed in the House his view that any Minister who abused this trust would be answerable to the people.

What the Prime Minister, Mr. (later Sir Edmund) Barton sought was the power to exclude Asians from this country. He did not ask, however, for a direct statutory prohibition of such immigration, for the reason that the Imperial Government demanded that offence should not be given to the Indian subjects of the Crown or to the Japanese. Accordingly Mr. Barton proposed to place in the Bill an education test clause borrowed from the 1897 Immigration Restriction Act (Section 2) of the Colony of Natal; such an expedient, to be employed at Ministerial discretion, would serve to keep Australia 'White.'

Surely anybody dreamed that any Minister would dare to abuse his discretionary power so as to exclude a British subject or an educated European. In fact, Barton's original draft of the clause prescribed that an immigrant might be subjected
to a simple test in English dictation, and the Prime Minister had expressed his apprehension lest a test in English be used to exclude Europeans. In the debates on the Bill the Prime Minister said, "I may say at once that there is no desire on the part of the Government to keep out educated or reputable Europeans."

"To put an illustration: If a Swede were asked to write a passage at dictation, I should not dream of instructing the officer to interpret the meaning of each word.

But the honourable and learned member was finally proved to have been right in his scepticism. The then member for North Melbourne (Mr. H. B. Higgins, afterwards Mr. Justice Higgins, of the High Court of Australia and President of the Commonwealth Court of Conciliation and Arbitration) did well to suggest that the people put not their trust in Cabinets. However, when in the 1901 debates another member moved an amendment that the immigrant select the language in which his literacy was to be tested, the Prime Minister said it was impossible to consent to an amendment that there might be cases in which an officer and the Minister were of different languages. That is not the way in which any such Act can be administered. Any Minister who attempted anything of that kind would, I hope, be thrown out at once.

The member for Indi said of the dictation test paragraph, "If it had not been for the damps of coloured races invading us, we should never have heard of this particular paragraph." (The Justice of the High Court of Australia, and later Governor-General of the Commonwealth.) The sceptics were to be justified in their scepticism. The nation, so far-seeking men in the State of New South Wales, who had been the schoolboy of H. B. Higgins in Dublin, and like him, had little faith in Ministerial legislation. "It seems to me absurd and illogical," he told Parliament, "to keep out only the Europeans, while at the same time we do not allow a European to say to the officer of Customs what his language is and demanding, and I want the test applied in that language.

"Surely that is a very reasonable thing. What I dislike about leaving it an open question is that there is an element of suspicion and distrust. Why do we not clearly say that we intend to give the immigrant the right to tell the Customs officer what his language is and what the test should be?"

11 For this quotation, and other extracts from the debates on the Bill, see Commonwealth Parliamentary Debates, Vol. 2, pp. 2251 and following,

"It is because there is evidently underlying it... the fact that we hold in reserve the power to keep out even European immigrants if it suits us by placing before them a test which we know they cannot carry out."

He was right. In after years the Minister would subject Mrs. Fraser, a British subject, to a test in the Italian language; Gerald Griffin, a British subject, to a test in Dutch; Egon Kisch, a citizen of Czechoslovakia, to a test in Gaelic.

A digest is given below of the powers which Australian Governments have manipulated, and to which they have added, for the purpose of excluding free men and women:

Immigration Act 1901-1920, Section 2, Paragraph (a) derived from the Natal Act No. 1 of 1917, Section 2.

The Immigration into the Commonwealth of the persons described in any of the following paragraphs of this section (hereinafter called "prohibited immigrants") is prohibited, namely:

(a) Any person who fails to pass the dictation test that is to say, who, when an officer or person duly authorized in writing by an officer dictionary to him, is able to write in the prescribed language, fails, to write out in that language or in the presence of the officer or authorized person, "the prescribed language" was substituted in 1910 for "European language" in order to avoid overt discrimination against Asiatics.

(Paragraphs (b) to (g) specify certain classes of criminals, disqualified persons, etc., as prohibited immigrants.)

(c) In 1920 any person who advocates the overthrow by force or violence of the established government of the Commonwealth, etc., be deemed to be a prohibited immigrant, offending against this Act.

(Paragraphs (h) to (i) specify certain classes of criminals, disqualified persons, etc., as prohibited immigrants.)

1905 Amendment: Section 4 amended by Sub-section 1, paragraph (b), which a prohibited immigrant under the Immigration Act 1901-1920, which is a prohibited immigrant under the Immigration Act 1901-1920, is deemed to be deported for six months and or deported or deported by Ministerial order.

That such extensive powers have not been kept in the realm of theory has already been made clear. The cases of Walsh and Johnson (see The Case Against the Crimes Act, published by the Council for Civil Liberties, p. 5) were cases of two union leaders who were to be deported, under the Immigration Act, upon the recommendation of a Board set up for that purpose by the Commonwealth Government in 1913. But the High Court held that they were "not immigrants" in the sense of the Immigration Act. Then came the cases of Kisch and Griffin, which may be recalled briefly.

Kisch, a Czechoslovakian writer of European reputation,

12 See ex parte Walsh and Johnson in re Yates, 34 C.L.R. 36, 15
and Griffin, an Irishman resident in New Zealand, tried to enter this country to attend an All-Australian Congress against War, arranged to be held at Port Melbourne on November 10-12, 1914. "Australia is disgraced," said Walter Burdett, Professor of English Literature in the University of Western Australia, when Kisch was forbidden, on November 5, to land at Fremantle. The Attorney-General, Mr. Menzies, said next day, according to "The Argus," Melbourne, that Kisch "had not been allowed to enter Great Britain because of his subversive views and his association and affiliation with Communist organisations. The Commonwealth feels under no obligation to receive persons of his type." Similar considerations, in respect of his politics, applied to Gerald Griffin, Mr. Menzies said.

Griffin, who was the national secretary of the New Zealand Movement Against War and Fascism, had reached Sydney in the "Morawali" a few days earlier. He had been given a dictation test in Dutch, had failed to pass it, and had been sent back forthwith in the "Morawali." 5

On November 12 Kisch's case came to court when a writ was served on the captain of the vessel in which he travelled. Cabinet, at the same time, confirmed the action of the Perth Collector of Customs in preventing Kisch from landing. (The Collector, Mr. H. Bird, stated that he had simply acted under instructions.) Two days later Kisch jumped ashore at Melbourne. He was arrested and placed in hospital with a fractured leg. On November 16 the court ordered his release and he was subjected to the dictation test in Greek. He was charged accordingly with being a prohibited immigrant, and was convicted and sentenced to six months' imprisonment and deportation. On December 10 the High Court held that Greek was not a European language within the meaning of the Immigration Act, and Kisch was freed.

Mrs. M. M. Freer was the next victim of the offensive Section 3 (a). She was subjected at Fremantle, in October, 1916, to a dictation test in Italian, a language she did not know, and failed; she was classed accordingly as a prohibited immigrant. She went to New Zealand, and later made a second attempt to enter Australia. In the High Court Mr. Justice Evatt, having heard an application for a writ of habeas corpus in her case, held that the action taken against her had been contrary to law. His judgment included these passages indicative of the danger of the abuse of power by government:

"Mr. Bavin, for the applicant, has argued the case very fully. But, although I am unable to agree with his argument, I would refer to the statement of Lord Selborne that the liberty and zeal of counsel are never displaced when exercised for the defence of the personal freedom of the subject."

"The (dictation) test was merely a convenient and polite device for the purpose of enabling the Executive to prevent the immigration of persons race... But the blanket words of the Section do not require the adoption of such a policy. If, in any particular case, there has been an abuse of the power exercised by statute to the Government, responsibility for that rests with the Minister or with the Government. The Legislature has refrained from giving this Court or any tribunal authority to review a decision of the Minister. It must not be thought that, in refusing the present application, the Court is in any way endorsing or confirming the justice of any executive decision to exclude. Further, the personal character or reputation of the applicant remain quite unaffected by the decision of the Court." 6

Protests were made from all sides against the exclusion, and Cabinet informally in May, 1917, that no further ban would be placed on Mrs. Freer should she again attempt to land in Australia. No reason was given why the ban should then be lifted, as no reason, other than an opinion of the Minister, that Mrs. Freer might "break up an Australian home," had been given for the original imposition of the ban. There seems good reason to believe that the exclusion of Mrs. Freer was little more than a striking instance of Ministerial high-handedness. The Minister may have acted in an odd belief that no publicity would attend the exclusion of a young woman of British nationality, or attacks made on her character, under privilege of Parliament.

But there was an outcry in this case, as there had been in the Kisch and Griffin cases, that here again the Commonwealth Government made of itself an international spectacle. Kisch and Griffin had both landed, and addressed meetings, while public opinion cloaked like a protective wall about them; the Ministry itself, with a general election a few months ahead, ordained at length that Mrs. Freer might land. (She landed at Sydney, unimpeded, on July 12, 1917.)

However, though the High Court and the people of Australia have in all of these major cases of victimisation rescued the victims of government, a dangerously wide discretion of power of government remains unqualified in Section 3 (a). It has been added to—unnecessarily, as far as the protection of the community is concerned—by Section 3 (q). The legitimate purposes of this clause are amply covered by the extremely wide clause (q) of the same section.

---

5 See "The Argus," Melbourne, June 2, 1917, for a statement by the Prime Minister (Mr. Pearce) after a Cabinet meeting in which he said: "Having regard to all the circumstances, including the fact that Mrs. Freer has now been resident in New Zealand for more than six months, the Cabinet has decided that should Mrs. Freer now come to Australia no steps will be taken to prohibit her landing."

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No 9 of 1937.

AN ORDINANCE

In relation to Unlawful Assemblies.

It is ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the Seat of Government Acceptance Act 1909 and the Seat of Government (Administration) Act 1910-1933, as follows:

3.—(1.) It shall not be lawful for any number of persons exceeding twenty to meet or be assembled in the open air in any part of the proclaimed place for any unlawful purpose, and any person (not being an officer of the Commonwealth acting in the discharge of the duties of his office) who is present at any such meeting or assembly shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for six months.

(2.) For the purposes of the last preceding subsection persons shall be deemed to have met, or to be assembled, for an unlawful purpose, if they, or any of them, while assembled, do anything unlawful, or make known their grievances, or discuss public affairs or matters of public interest, or consider, prepare or present any petition, memorial, complaint, remonstrance, declaration or other address to His Majesty, or to the Governor-General, or to both Houses or either House of the Parliament, or to any Minister or Officer of the Commonwealth, for the repeal or enactment of any law, or for the alteration of matters of State.

Unlawful assemblies.

4.—CENSORSHIP

Books

The Commonwealth's power of book censorship is derived, directly and indirectly, from the Customs Act of 1901. It is exercised through the Department of Trade and Customs, which may prohibit the importation of certain works. Two classes of publications have been banned—the "literary," and the "political." Here a distinction must be noted. Where books have been excluded from Australia as "indecent" (though there may be sharp differences of opinion as to what constitutes indecency), the Government has been administering the provisions of an Act of Parliament, for the Act of 1901 lists as prohibited imports "blasphemous, obscene or obscene works." In banning "seditious" works a government is administering merely its own policy, for the power to exclude these is derived solely from a later section, which confers on the Minister for Customs a general power to prohibit the entry into Australia of goods not specified in the lists of prohibited imports. Thus the first Parliament, while specifically providing for the exclusion of indecent publications, gave no indication of a desire to exclude political works. It seems certain that it did not contemplate that the reserve power it gave would be made use of by future governments to set up a partisan political censorship of political literature; and for twenty years the power was not so abused.

The Customs Act of 1901-1934 states:

Section 52 (C)—"The following are prohibited imports:-. blasphemous, obscene or obscene works or articles." Section 52 (G) adds, "all goods the importation of which may be prohibited by regulation." (1)

It is under this latter section that political works are excluded. Schedule 2 of Statutory Rule No. 152 of 1934 lists "goods the importation of which is prohibited except with the consent of the Minister" (for Customs). Item 14 is

Literature wherein is advocated:
(a) the overthrow by force or violence of the established government of the Commonwealth, or of any State, or of any other civilized country;
(b) the overthrow by force or violence of all forms of law;
(c) the abolition of organised government;
(d) the assassination of public officials;
(e) the unlawful destruction of property, and
(f) a seditious enterprise advocated.

The history of this regulation is interesting. Political literature figured among prohibited imports for the first time (war measures apart) in 1921, when the Hughes Ministry advertised seditious works as prohibited imports. Its proclamation listed paragraphs (a) to (d) given above; (e) read "the

1. The Customs Act Amendment Act, No. 7 of 1934, substitutes "regulation" for the original "proclamation." Following a decision of the High Court (in a Customs case connected with books) the amended Act requires the Minister to state his powers of "conditional legislation" under Section 65 by regulation.


19
unlawful destruction of property." In June of the same year, the Government, by another proclamation, added
its literature wherein a sedition intention is expressed or a sedition enterprise advocated.

This paragraph became known as the "dragnet clause," for it enabled the Administration to exclude works which could not be considered to fall within any of the forbidden classes. Section 24A, Part II, of the

Commonwealth Crimes Act, defines sedition intentions as the intentions (a) to bring the sovereign into hatred or contempt; (b) to excite disaffection against the sovereign or the Government or Constitution of the United Kingdom or against either House of the Parliament of the United Kingdom; (c) to excite disaffection against the Government or Constitution of any of the King's Dominions; (d) to excite disaffection against the Government or Constitution of the Commonwealth or against either House of the Parliament of the Commonwealth; (e) to excite disaffection against the King's Dominions.

The list is comprehensive. In every radical and working-class movement, and in every literature, such subjects as slavery and capitalism are under discussion. Much of the information contained in this literature would be distasteful to other minds and ideas reaching Australian readers would now come under the "dragnet" clause. For the terms of this clause would make possible the stifling of very mild political criticism.

The Scullin Government did not seek such wide powers, and in 1929 it revoked paragraph (a). But the Lyons Government, by its proclamation of July, 1932, restored the "dragnet" clause. So much for the sources of censorship power. We must examine the extent to which it has been used, the methods employed, and particularly, its use in political and cultural works from abroad.

Censorship under the Lyons Government was widespread, and provoked protests from poets, politicians, and critics. Among the most notable protests were those to the "Australian" and "The Age." Interviews, reports, and interviews filed in columns, letters, and the history of the censorship can be told largely in one book. A remarkable feature of the campaign against censorship has been the way in which the responsibility

(4) See Commonwealth Gazette, 28, 6, 71.
(5) Inserted by No. 56 of 1929.
(6) See its proclamation, Commonwealth Gazette, 10, 12, 29.
(7) See Commonwealth Gazette, 4, 9, 32.

Minister, by a series of mis-statements and evasions, has supplied his opponents with ammunition.

It was at the end of 1934 that public discontent— widespread among those who are normally the Government's opponents—came to a head. Works by Allhus Huxley and D.H. Lawrence were banned by the Minister, and in January, political works were also banned.

The Melbourne "Herald" of February 5, 1935, reported the result of research by the Secretary of the Book Censorship League. She found that Defoe's "Moll Flanders," Allhus Huxley's "Brave New World," and (in cheap editions) The Golden Ass (Apuleius) and Boccaccio's Decamerone were among famous works banned as indecent. Up to December, 1934, 66 political works had been banned. In 12 months, between December, 1934, and January, 1935, 91 political works had been added to the list. The Minister once explained this by saying that there were more books being published now.

At any rate, some books were read by members of a Board, more by Customs officials; late in 1934 Senator Brennan admitted having examined one— the newly banned "Communism for Beginners" by Ralph Fox. The Scullin Government did not seek such wide powers, and in 1929 it revoked paragraph (a). But the Lyons Government, by its proclamation of July, 1932, restored the "dragnet" clause. So much for the sources of censorship power. We must examine the extent to which it has been used, the methods employed, and particularly, its use in political and cultural works from abroad.

Censorship under the Lyons Government was widespread, and provoked protests from poets, politicians, and critics. Among the most notable protests were those to the "Australian" and "The Age." Interviews, reports, and interviews filed in columns, letters, and the history of the censorship can be told largely in one book. A remarkable feature of the campaign against censorship has been the way in which the responsible

(4) See Commonwealth Gazette, 28, 6, 71.
(5) Inserted by No. 56 of 1929.
(6) See its proclamation, Commonwealth Gazette, 10, 12, 29.
(7) See Commonwealth Gazette, 4, 9, 32.

Minister, by a series of mis-statements and evasions, has supplied his opponents with ammunition.

It was at the end of 1934 that public discontent— widespread among those who are normally the Government's opponents—came to a head. Works by Allhus Huxley and D.H. Lawrence were banned by the Minister, and in January, political works were also banned.

The Melbourne "Herald" of February 5, 1935, reported the result of research by the Secretary of the Book Censorship League. She found that Defoe's "Moll Flanders," Allhus Huxley's "Brave New World," and (in cheap editions) The Golden Ass (Apuleius) and Boccaccio's Decamerone were among famous works banned as indecent. Up to December, 1934, 66 political works had been banned. In 12 months, between December, 1934, and January, 1935, 91 political works had been added to the list. The Minister once explained this by saying that there were more books being published now.

At any rate, some books were read by members of a Board, more by Customs officials; late in 1934 Senator Brennan admitted having examined one— the newly banned "Communism for Beginners" by Ralph Fox. The Scullin Government did not seek such wide powers, and in 1929 it revoked paragraph (a). But the Lyons Government, by its proclamation of July, 1932, restored the "dragnet" clause. So much for the sources of censorship power. We must examine the extent to which it has been used, the methods employed, and particularly, its use in political and cultural works from abroad.

Censorship under the Lyons Government was widespread, and provoked protests from poets, politicians, and critics. Among the most notable protests were those to the "Australian" and "The Age." Interviews, reports, and interviews filed in columns, letters, and the history of the censorship can be told largely in one book. A remarkable feature of the campaign against censorship has been the way in which the responsible

(4) See Commonwealth Gazette, 28, 6, 71.
(5) Inserted by No. 56 of 1929.
(6) See its proclamation, Commonwealth Gazette, 10, 12, 29.
(7) See Commonwealth Gazette, 4, 9, 32.
provided by an assurance of the Minister for Customs that he would suggest to the Ministry that a limited number of political books should be made available to "genuine students" and "others who would not be affected injuriously by such works."


In which the best evidence of the character of the censorship comes from an examination of the list of banned political works. Under the heading of "General Attempt to Stifle Thought," the "Church Standard" (an organ of the Church of England) of September 20, 1935, exposed the principle at work. "We are carefully deprived of important documents relating to the theory and progress of Communism."

There is no ban upon the admission of works favourable to Fascism, but some of the most inclusive criticisms of Fascism are forbidden entry into the country. The attempted exclusion of two radicals and the prompt attention given to a protest made by the German Consul-General are other expressions of the political sympathies shown in the book censorship policy.

The policy has been carried out in the most inconvenient and secretive way. Customs officials have been blamed for the practice of serving surprised importers with "notices of seizure," informing them that books (which, in most cases, circulated freely in England) were "forfeited to His Majesty." But the Minister has condemned the suggestion that a list of banned books should be available to enquirers. Booksellers, it is said, might obtain information by making, one by one, specific enquiries about specific books.

Importers of banned books have also been told that they can appeal to the Courts. Practical objections to this course include the "drag net" clause, the expense and the delay. The theoretical objection is, of course, that books should not be tried, instead of before, conviction.

During the first half of 1936 the Prime Minister repeatedly stated to interviewers, to Parliament, and in response to the resolutions that were pouring in that he would re-consider his Government's book censorship, and perhaps he did so, for the rate of "political" banning dropped sharply. But the numbers of important political and sociological works already on the list remained there. Among the University professors and lecturers who had prescribed banned books for their students, trade unions that wished to study working-class movements, members of the Minister's own party, and leading English newspapers, such as the Manchester Guardian. No leader of thought in the community supported the Minister's censorship. The few persons who announced their agreement with its policy repeated con-

stantly that most of those who sympathized with the Minister were inarticulate.

September, 1935, Mr. White held, in Melbourne, a conference which was attended by representative opponents of censorship. That the Minister for Customs was not interested in reform was obvious to those present. He was accompanied at the conference by the Acting Attorney-General (Senator Brennan), and it was at about this time that the Attorney-General took all responsibility for the banning of political works on the Attorney-General's Department.

Attempts to get the Prime Minister to deal with the matter himself had failed. At the end of 1935 representatives were made to the Attorney-General (Mr. R. G. Hirst), who had recently returned from abroad. Inconsistently, Stalin's "Leninism," and "The Revolution of 1905" and two other works of Lenin were removed from the list and the daily edition of the "Moscow News" was admitted. But the Government still refused to make an official statement of what its future policy would be. Pressed by the Leader of the Opposition and others, Mr. White said on March 3, 1936, that "the Federal Cabinet had decided that the Customs Act governing book censorship would not be amended." But political books, it had been shown, might be admitted without any amendment of the Act.

On May 8, 1936, the Prime Minister promised an "early statement" of the Government's intentions. On May 23—after 18 months of evasion—the statement was given: "The Commonwealth Government does not feel that it would be wise to repeal the provisions under which the censorship of political books is operated. It seems to the Government inadvisable to repeal that regulation. The Commonwealth Government has, and will have, the approval of the Government in interpreting the regulation in a spirit consonant with the British principle of freedom of the Press."

This statement, though ambiguous, clearly represented a victory, for the time being, of public opinion over Mr. White's opinion, for it implied the imposition on him of a course of action which he had frequently declared unnecessary and harmful. As it was later to do in the Fraser case, the Government had done what it could to save its Minister's face and had offered to a host of critics a temporary concession in practice while conceding nothing in principle. The arbitrary power remained and still remains to-day.

The critics were not silenced, and early in 1937, with the general election drawing near, the granting of further concessions was announced. The Federal Minister was advised to "strong representations" to submit to the Book Censorship Board certain literary works which had not previously been asked to be considered. ("Argus," March 27th, 1937.) "Brave New World" (Huxley) and "Farwell to Arms" (Hemingway) were released.

In June Mr. White announced an elaboration of his system of book censorship. The Book Censorship Board would be retained, and, in addition, an Appeal Censor would be appointed. The members of the Board would be Dr. Allen, Professor Harris, and Sir Kenneth Binns, of the Commonwealth National Library, and Sir Robert Garran, its former Chairman, would become Appeal Censor. "The work of the new board

(8) "Fascism and the Social Revolution" (R. Palme Dutt).
(10) See the section, Censorship—The Theatre.
(12) See the section, Censorship—The Theatre.
would be confined to imported literature considered blasphemous, indecent or obscene. Seditions literature would be dealt with as before by the Attorney-General's Department... ("Argus," 16/6/37.) Except for formal endorsement of the Board's decisions Ministerial control of literary works would be eliminated in future.—("Sun," Melbourne, 17/6/37.)

This last-minute concession should bring about a great improvement in the censorship of non-political books, unless the reform may be deprived of some of its value—no announcement is to be made concerning books dealt with by the Board, and access to a list is still to be denied.

Political works, too, have been expunged from a list which is still secret. Those removed in recent months include "Fascism and the Social Revolution" (Palme Dutt), "The Condition of the Working Class in Britain" (Hutti), "The Colonial Policy of British Imperialism" (Fox), and several others. With the election only a month or two away, and without Ministerial comment, most of the important works have been released.

It cannot be supposed that the recent liberalism owes anything to a change of heart in the Ministry. It is due to a persistent public agitation which has achieved much. It still remains to consolidate the gains won. Nothing has been done to remove the danger of an illiberal policy being pursued at any future time. Industrial disputes or rumours of war would serve as pretexts to bring the "dragnet" into operation again. These who believe that the need for free political discussion must be greater as social and economic problems become more complex will not be satisfied until the liberty to study all that has been written on these problems is theirs of right.

**Broadcasting**

IT is probably not appreciated by the general public that the Federal Government is in a position to exercise a very strict censorship of broadcasting, and that this power has been used to prevent free criticism of the Government's policy. Because the Commission has complete control of broadcasting, and that there can be no political interference with the management. Nothing is further from the facts; in reality, the Government of the day is in a position to make the Commission broadcast anything the Government wants, and to prevent the Commission broadcasting anything the Government does not want.

The Australian Broadcasting Commission Act (No. 14 of 1932) lays down (Clause 20):

1. (i) That the Commission shall transmit free of charge from all national broadcasting stations, or from such of them as are specified

This is reasonable enough; every Government should have this power. But by another clause (51, (i)) the Minister for Posts and Telegraphs may by notice in writing prohibit the Commission from broadcasting any matter of any class or character specified in the notice, or may require the Commission to refrain from broadcasting any matter.

In addition to this, Clause 33 of the Broadcasting Act of 1932 stipulates that

the Governor-General may, whenever any emergency has arisen, authorize the Minister to exercise during the emergency complete control over the matter to be broadcast from the national stations.

The "E Class" stations are also under strict control of the Postmaster-General. With regard to them a statutory regulation (No. 69 of 1930) lays down that

(1) all matter, including advertisement, shall be subject to such censorship as the Postmaster-General may determine;
(2) if the broadcasting station licencee shall not broadcast any matter which

is of a controversial nature or likely to cause offence to any section of the community, or which requires the attention of the Postmaster-General or of any authorized officers, to the matter.

The Federal Government, therefore, possesses very full power to control broadcasting, and to stifle any criticism of its own policy if it should think fit, while making full use of the air to put its own case. There was a good example of this during the trade dispute with Japan in 1936. The Government, on several occasions put its case over the air, but after one talk had been given criticising the Government's policy, no move for censorship of the Government's policy was permitted. When the same Government excluded Mrs. Fraser from Australia late in 1936, no criticism of the Government's action was permitted over the air. Possibly a state of emergency was held to exist in both these cases, for the Prime Minister on several occasions during the trade dispute with Japan in 1936 appealed to the country not to criticise the Government, since negotiations were in a delicate stage—a rather naive kind of confidence trick, in which the Broadcasting Commission was apparently required to take part.

It is clear, then, from these facts that censorship exists in broadcasting as in other fields; and, moreover, it can be, and has been, used, to gain an unfair political advantage for the party in power, a very unsatisfactory position in any country which considers itself democratic.

**Newspapers**

CENSORSHIP of newspapers is exercised in three ways under Commonwealth statutes and statutory rules. Section 20E of the Crimes Act, Section 28, subsections (1) and (2) of the Post and Telegraph Act, and two sets of regulations under the War Precautions Act Repeal Act prescribe the several methods available to Government.

**Crimes Act 1914-1932.**

Part IIA.

Section 30E—(11) No book, periodical, pamphlet, handbill, poster issued by or on behalf or in the interests of any unlawful association shall be

(a) if it is printed in Australia, be transmitted through the post; or

(b) in a case of a newspaper, be registered as a newspaper under the provisions of the Post and Telegraph Act 1911-1932.

(Section inserted in 1926.)

Sections 30P and 20FA, the for-
Films

FILM censorship is chiefly a Commonwealth matter, and control over the films we see, as over the books we read, is exercised by the Customs Department. Familiar features are the setting up of an authority responsible only to the Minister, the secrecy of its operations and sweeping provision for the exclusion of any film distasteful to the Administration.

Statutory Rule No. 24 of 1922, made under the Customs Act, is the basis of the censorship. It provides Section 5 (1) for a Censorship Board, consisting of a Chief Censor assisted by two others and an Appeal Censor. Section 14 states that a film which, in the opinion of the Board, is:

(a) blasphemous, obscene or obscene;
(b) likely to be injurious to morality;
(c) likely to be injurious to the people of any friendly nation;
(d) likely to be injurious to the people of the British Empire;
(e) depicts any matter the exhibition of which is undesirable in the public shall be a prohibited import.

By Section 9 the Appeal Censor may allow or disallow an appeal with or without conditions, and not more than four bona fide representatives of the importer may be present at any screening.

Early in October, 1936, it was announced that the Commonwealth Censor (Mr. Creswell O'Reilly) had decided on the exclusion of Eisenstein's famous picture of the Russian revolution, "Ten Days That Shook the World," apparently on the basis that the exhibition would not be in the public interest. An appeal by the importer, the Fremantle Art Union, and strong protests by trades union organizations and members of the film was followed, on November 4th, by the release of the film without "cuts" by the Commonwealth Appeal Censor (Brigadier-General McKey).

This result was satisfactory, but the incident had revealed several disquieting features of the system. A deputation to Mr. Creswell O'Reilly. She had asked for a list of all the films that had been banned. The request was refused and she was told that such a list was "not even submitted to the Minister for approval."

Since the screenings are private and the lists secret and the Censors' powers wide, it seems that a political censorship of films may be exercised without the knowledge of the public.

The Theatre

CENSORSHIP of the theatre is a State affair and is exercised, rarely, under various Theatres and Public Halls Acts. Last year the Commonwealth interfered. The Workers' Theatre Group in Victoria was arranging to stage a performance of Clifford Odets's play, "Till the Day I Die." Applying to the managers of a hall, it was informed that the play was banned by order of the Chief Secretary, and if it were performed the hall would lose its licence. Reference to the Chief Secretary confirmed this information.

A letter produced at the request of Mr. W. Slater, M.I.A., contained a letter written by the Prime Minister (Mr. Lyons) to the Premier of Victoria, informing him that "the Consul-General for Germany formally protested to the Commonwealth Government against the performance of this play, on the ground that it is, in its entirety, an insult and a caricature of the German Nation and its Government, and requested that proper action be taken to prevent further performance of the play."

The play, which deals with Nazi persecution of Communists and Jews, was, after many difficulties had been surmounted, produced in the Brunswick Town Hall (an unlicensed hall) in February, 1937. The serious aspect of the matter lies in the willingness of the Prime Minister to pay heed to the amazing request of the Consul-General that German censorship be extended to Australia.

The Commonwealth Government, then, has moved in five fields of censorship. It has powers of censorship over books, films, newspapers, and broadcasting; and, in the instance described above, it in effect prompted a State Government to use its powers of censorship of the theatre. The Commonwealth's own powers have been used—and abused—extensively in the censorship of books, and to a lesser extent—in the censorship of films, newspapers and broadcast speech.

But if none of these powers had ever been used, the fact that the Government of our democracy had them at all would still excite the apprehension of every democratically minded Australian. As it is, the histories given in the present publications show all too clearly that in censorship and in other ways, Australian Governments have attacked the very principle of democracy which they purport to uphold.

It follows that a solemn duty is laid on every citizen to press his elected representative in the Commonwealth Parliament to move for the abolition of these repressive measures under which Australian Governments have attacked Australian liberties.

The Advance Press, Printers, 219 King Street, Melbourne, C1.