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Censorship and the Political Cartoonist

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Abstract

Cartoonist with the *New Zealand Herald*, Malcolm Evans, was dismissed from the paper after he refused to follow his editor's instruction to cease cartooning on the Israeli-Palestinian conflict. Members of the Jewish community were upset by a number of his cartoons, drawn during the first half of 2003. As an award winning editorial cartoonist Evans, observed in his defense, that his cartoons may offend but that their content was not necessarily wrong.¹ Much like his brethren cartoonists, he guards fiercely his licence to mock politicians, governments and states. This paper examines the space within which cartoonists examine political subjects, analyses the Evans case, assesses the legal environment and the parameter within which mass circulation newspaper editors operate. We defend a wide licence for cartoonists and note that they, for the most part, unnecessarily fear defamation for in all likelihood the courts will interpret their work as comment rather than literal assertion of an assumed fact. This paper forms part of our continuing research into the role played by cartoons and satire in political debate and opinion-making: are they mere entertainment, useful indices of public opinion, or positively influential in shaping political events?

I - What do cartoons do?

Political cartoons serve various functions in the forum of public opinion, and it is as easy to exaggerate their importance as their insignificance. They can aim for anything from light relief to prophetic clarification of a major public issue; they are read by hundreds of thousands of people who are sufficiently engaged in politics to scan the opinion pages of newspapers one day, then they are superseded by other cartoons and issues the next day; they can make one reader roar with the laughter of sympathetic recognition, and merely bemuse another. Cartoons are a hit and miss affair. They share this inconsistency of cause and effect with the two genres of communication they belong to: media commentary and political satire. Cartoons are liminal things, poised somewhere between being 'the most influential thing in the paper' and 'just a joke', and this gives them a special licence for provocative statement.²

They exploit their licence in a range of ways that can, for the purpose of analysing their role as political commentary, be placed on a spectrum that ranges from 'not serious at all' at one end to 'very serious indeed' at the other. Practising cartoonists tend to recognise a broad division of territory in their work between satire (where the cartoon seeks to make a significant point through humour or even attack) and gags (where the joke is there to entertain readers). Few claim to be devoted merely to one sort of cartoon or the other, and all worry about the sort of balance they strike. Too much satire, especially if it is too consistent in the opinions it sponsors, and you run the risk of losing all but the converted from your audience; too many gags and you are a mere entertainer, wasting your opportunity to do some good in public life.³ Another thing that haunts cartoonists is the fear that their work evaporates without having any real effects. It is true that very few politicians have resigned, apologised, or changed policy as a result of a particularly bruising cartoon; indeed, politicians often request the originals cartoons that caricature them and their policies. Still, no form of commentary has much success in transforming public opinion, and cartoonists need to recognise (as they routinely do) that they are part of the public debate - as Bill Leak, cartoonist with the *Australian* points out.

I work for a newspaper where I whittle and grind away in the interesting position of being part of the political process but very much on the periphery of it. Nevertheless, from the periphery I'm able to throw in little incendiary bombs, stir things up every now and then and, on a good day, kick the bastards really hard. It's a deeply satisfying way to make a living.⁴

There is plentiful evidence that they can get under the skin of even the most hardened politicians, from David Low's mutual loathing with Billy Hughes and Adolph Hitler to Bill Leak's dislike of John Howard

So, while cartoonists sometimes despair of their lack of influence and others fear that they have too much influence,⁵ it may be useful to pause and summarise the sorts of influence cartoons can have. We have done this more systematically elsewhere,⁶ but point out here that cartoons are a part of opinion-formation in liberal democracies that

enjoy (and in our opinion, should enjoy) a special licence to make exaggerated and comic criticisms of public figures and policies. Cartoonists are employed by newspapers principally to entertain readers and to provoke thought; often they are the part of the paper least disciplined to an adherence to any editorial line. Consequently, cartoons comment from a generalist perspective and, when they work well, they may simplify complex issues to a single frame (eg see below Spooner's 'Globalisation' and Petty's comment on patriotism). This can lead to over-simplification and occasionally sponsor public cynicism, but the risk of this is often worth it for the shafts of lateral intelligence.

Because the opinion pages of newspapers are read by a self-selecting minority of the voting public — people with at least an active spectator's interest in politics — cartoons do not have a direct effect on public opinion. Below we critique Michael Hogan's argument that political cartoons promote a disturbing cynicism toward leaders, parties and parliaments. Voters alienated from the game of politics do not read them and those engaged enough to read newspapers tend to have elaborated political opinions from which they are not easily detached. However, within this substantial and influential minority of people where most policy debate occurs cartoonists play a significant range of roles. They can speak up for the ordinary, bewildered citizen, as is the case in with Kudelka's 1998 election campaign cartoon or for a persecuted minority, as with Nicholson's comment on white prejudice toward Aborigines.



Jon Kudelka,
Hobart Mercury, 8
September 1998
(www.kudelka.com.au)
Used with Permission.



Peter Nicholson, *The Australian*, 3 August 1996. Used with permission.

They can fix the images of public figures in our heads through caricature; Bill Leak's caricature of Howard is arguably the most memorable among the current crop of Howard caricatures.

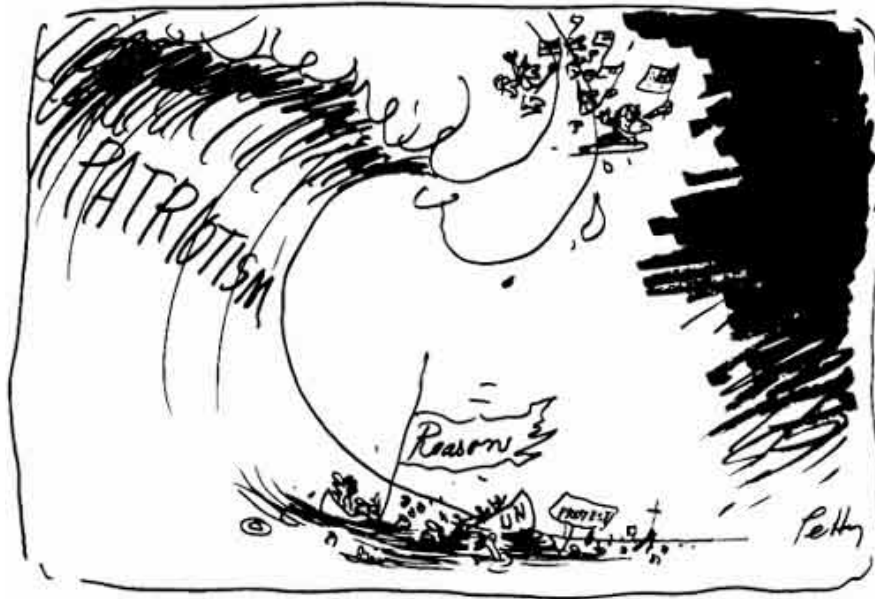


Bill Leak, *Weekend Australian*, 29-30 June 2002. Used with permission.

They can suggest alternatives to the received wisdom and sound the alarm when more disciplined thought patterns are lulled into a false sense of normalcy. John Spooner's reflection on globalisation is almost unforgettable in its powerful use of metaphor



John Spooner, *Spooner in the Works*, Text, 1999, p. 49. Permission to use pending. where the mother may be seen as our government and the child the creature of neo-liberalism – much loved yet foreboding. They can question waves of hysteria. They can expose dishonest political (or corporate, or whatever) conduct to shame in our increasingly shameless society.



Bruce Petty, *The Age*, 2 March 2003 (permission to use pending)



Alan Moir, *Sydney Morning Herald*, August 2002. Used with permission.

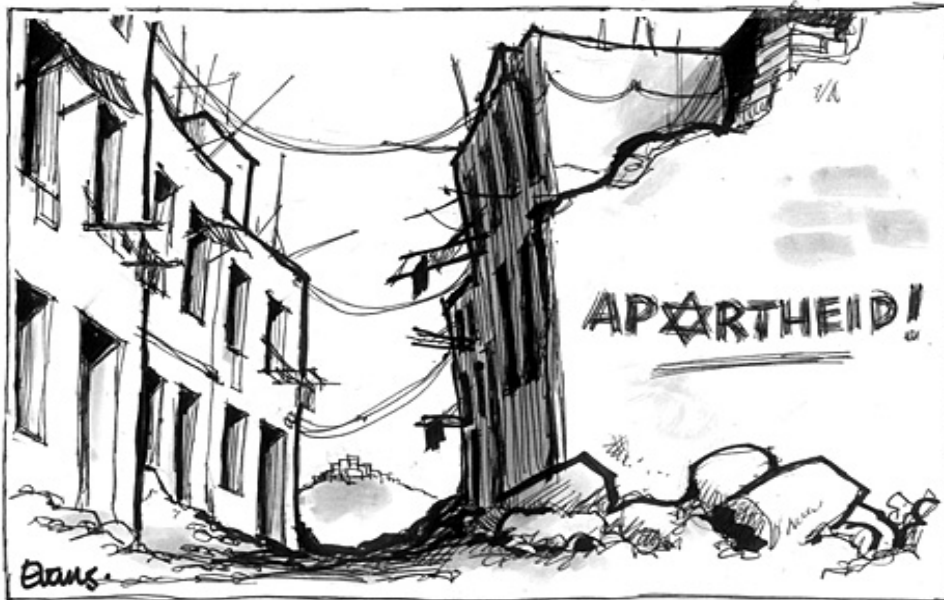
In other words, they are a part of the media with special characteristics and potential, and that exposes them to a range of formal and informal pressures.

It is the purpose of this paper to outline these pressures as they apply to the work of political cartoonists, and to discuss the case of Malcolm Evans' sacking from the *New Zealand Herald*. Some of these pressures involve defamation law and can be described as censorship, while others are more amorphous influences on what cartoonists choose to discuss in their work, and how they choose to discuss it. Basic to any satirical work is that it should question received opinions and affront decorum, but this does not occur in a vacuum of pure satirical aggression. Cartoonists act in corporately-owned newspapers — some of the most conservative organs of opinion formation — within patterns of decorum that have built up over more than a century of editorial cartooning. That they so often test those limits is one of the many things that make them so interesting. In this time of increasingly coercive war against the amorphous concept of terror, attention to the function of cartoons in the ecology of political debate may shed some light on the nature of free speech. We are treating cartoonists as interesting in themselves, and as canaries sent down the mine shaft of public debate to discover how fresh the air is there, how safe for freedom of speech.

II - The Malcolm Evans Case

Malcolm Evans worked as editorial cartoonist with the *New Zealand Herald* for seven years before he was dismissed for refusing to cease presenting to his editor, Gavin Ellis, cartoons concerning the Israeli-Palestinian conflict. Demonstrations outside the paper's office ensured that and the case was reported widely. President of the Cartoonists and Illustrators Association of New Zealand and an award winning cartoonist Evans says he always respected the editor's right to reject his cartoons but objected to being dictated to regarding their content. He argued in a television interview that 'The cartoonist's art is viewed by the reader every day as part of a greater whole. For any portion of that to be genetically engineered out is, in my view, a fraud on the reader.'⁷ A number of Evans' cartoons published during the first half of 2003 upset the NZ Jewish community and, it appears, under pressure Ellis decided to silence the critics by directing Evans no longer

comment on the conflict. Two cartoons below are among the strongest for their condemnation of Israeli state policy.⁸



Malcom Evans, *New Zealand Herald*, July 2003. Used with permission.



Malcom Evans, *New Zealand Herald*, July 2003. Used with permission.

The cartoon depicting the Star of David caused such controversy that Ellis published an apology. Having initially rejected the cartoon for publication, Ellis

regretted that the paper's 'production processes' failed and it 'found its way into the newspaper'. He stressed that the paper's policy aims 'to separate the policies and actions of an elected government from one of the world's great religions.'⁹ For Evans, this seriously misses the point -

The cartoonist's art is all about trying as best he might to suggest a viewpoint that might strike a chord. It's not that one sets out to be controversial, it's simply to say - hey what about? What do you think of this? Is this reasonable? And in my view I felt that if we could look at say what was happening in Zimbabwe and what Mr. Mugabe is doing, it's fair and reasonable that we should similarly be able to look at the situation in Palestine...¹⁰

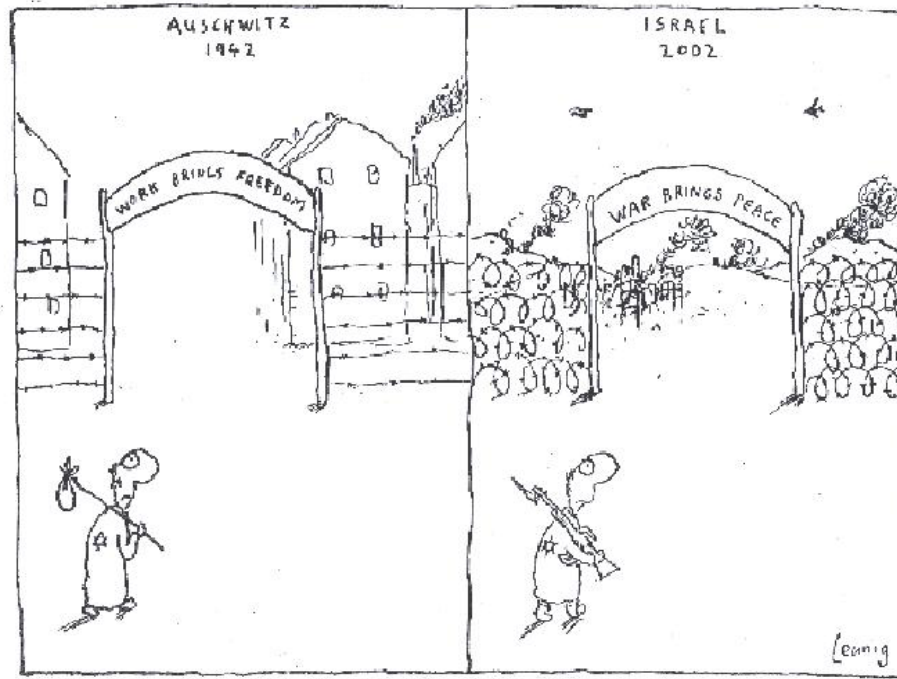
Evans recognised that his cartoons and particularly his 'Ap*rtheid' cartoon was likely to cause 'quite a stir' but he underestimated his editor's capacity to misconstrue the cartoon as a comment on Judaism and, hence could be viewed as anti-Semitic, rather than a comment on Zionist politics. Upset by the accusation of anti-Semitism, Evans stated publicly his admiration for the contribution of Jewish culture to western society but reserved the right to be critical of Zionism - 'I'd personally like to put on record that I think that our society, our culture owes so much to the Jewish culture. To Jewish artists, historians, in almost every respect from the Old Testament right through to the present day, but in my view Zionism is something else.'¹¹

Striking a chord, but which chord, is the issue at stake in many debates over what is admissible or otherwise in the mainstream mass media. Obviously, for many Jews, use of symbols such as the Star of David and criticism of the Israeli government implies an anti-Semitic viewpoint. Laura Kam Issachoroff, speaking on behalf of the Anti-Defamation League, observed that 'There's definitely a line between political discourse that's appropriate and anti-Semitism... [and] We understand that cartoons by their very nature go very close to that line to make a graphic point.'¹² Cross cultural sensitivities are a condundrum for editors and cartoonists alike and, broadly speaking, what one national group find funny others do not. Showing cartoons - as we have found - depicting national leaders being lampooned by cartoonists may solicit vastly different responses from Western audiences compared with an Asian audience where greater reverence for 'the leader' is generally part of the political and social mores. Thus, what

is funny varies greatly across cultures and this point is alluded to in an interview with Evans published in the Jewish newspaper, *Haaretz*. Interestingly the paper quotes two Jewish cartoonists' view that 'Jews simply don't understand the language and the humour of cartoons...[seeing] every attack on Israel as a direct attack on Judaism.'¹³ Whether or not this is a fair observation is not for us to adjudicate but it does raise a perennial problem for cartoonists, namely, that their craft involves, 'laughing with knives' and this inevitably causes pain and, sometimes, anger. The point we make is that within the context of the liberal-democratic polity the 'court jesters' should not be censored so as to protect such cultural sensitivities where it can be shown that their cartoons are unequivocally open to interpretation. If a cartoon is open to only one interpretation and this involves racist comment, crude bad taste or high likelihood of libel (more on these matters below) then an editor is well within his or her bounds to refuse publication.

In part the problem for Evans lies with his use of the Star of David, a national symbol of Israel and of Jewish people worldwide but it is also readily associated with Zionism. In directing Evans to no longer comment on a particular issue Ellis has bowed to Jewish sensitivity and fundamentally missed the point that Evans' satire is directed at a government which, while varying overtime with respect to its intent and degree of commitment may, nevertheless, be viewed as following Zionist predilections. Evans was not alone in facing censorship on matters concerning the Israeli government as the same dilemma confronted one of Australia's best known and admired cartoonists, Michael Leunig. One of his cartoons (below) makes ostensibly the same point as Evans, namely that Israeli government actions are questionable. In Leunig's case his editor, Michael Gawenda, managed to ensure the cartoon was not published saying it was simply 'inappropriate'.¹⁴ The cartoon depicts a Jew approaching a concentration camp at two different points in history; it surfaced subsequently on the ABC television's *Mediawatch* program and, thereby, entered the public arena. Without the Star of David the figure approaching the concentration camp gates is less identifiable as a Jew, especially for a

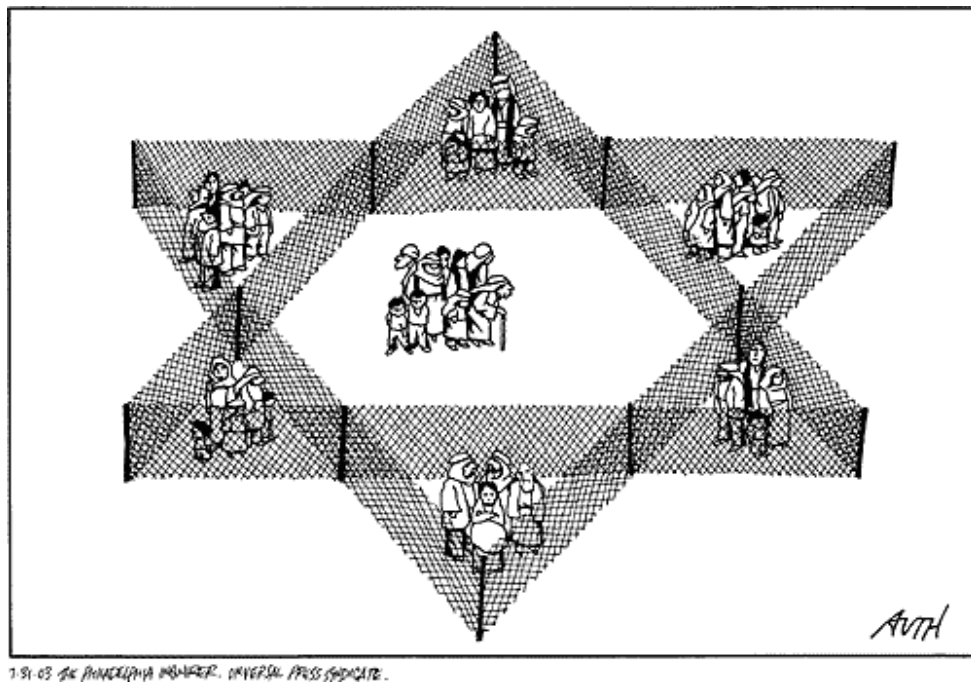
younger audience. The point at issue for cartoonists is the need to quickly identify their subject's location and often that entails the use of symbols, exaggerated characteristics or



Michael Leunig, *ABC Media Watch*, 6 May 2002. Used with Permission.

a name tag but, as can be seen in these instances, the use of religious symbols may be used as an excuse for censoring the message. Leunig believes that his cartoon is 'sympathetic to all Jews who ever suffered' but stresses that 'sympathy is not always expressed with sugar' and that it was his editor's religion that explains the censorship.¹⁵

At about the same time as the Evans' resignation the *Philadelphia Inquirer's* editor, Amanda Bennett, defended her decision to publish Pulitzer Prize winning editorial cartoonist, Tony Auth's, provocative use of the Star of David to symbolise the imprisonment of the Palestinians.



Tony Auth, *Philadelphia Inquirer*, 31 July 2003. Used with permission.

The cartoon plays upon a literal interpretation of the Israeli government's effort to segregate Jews and Palestinians by building a huge concrete wall. Amidst considerable controversy – which quickly became international with the cartoon's widespread publication on the internet – Bennett defended her decision:

'I believe that it's possible, particularly for a cartoonist, to take a critical position on a matter involving Israel without being labeled as anti-Semitic.'¹⁶ Writing with a colleague in the *Philadelphia Inquirer* a balanced account of the controversy she noted that for some people the cartoon implied the misuse of a sacred symbol and 'had the effect of criticising the Jewish faith and people as a whole, not just the government'.¹⁷ For his part, Auth stressed that he'd been critical of both Israel and the Palestinians; 'It was never my intention to impugn the Jewish faith or make some sort of allusion to the Holocaust. It is unfortunate that anyone interpreted the cartoon in those ways.'¹⁸ Having published many cartoons critical of Palestinian suicide bombers he appealed to the intelligence of his readership to understand that his message was not racist, 'It's only possible to regard me and my work as anti-Semitic by selectively looking at certain cartoons.'¹⁹

III - Australian editorial cartoonists and the limits of expression

I feel I have real freedom. I'm sure that a lot of freedoms that I have are freedoms gained in times gone by. I think once a non-censorship tradition has been set, they're not going to want me to come out and say I'm being censored. But I think in years to come there's going to be less freedom, rather than more. (Ron Tandberg)²⁰

When Ron Tandberg told this to Ann Turner in March 1998, his anxiety about shrinking freedom of cartooning expression may have seemed merely paranoid. Now that we have all suddenly been thrown into a war against terror his fear for untrammelled freedom of expression looks more prophetic. In the previous section, we have shown that there are some effective constraints on cartooning comment when it approaches the most ethically charged topic of twentieth-century history, the holocaust. Evans, Leunig, and Auth all felt it necessary to argue for a distinction between anti-Zionist comment (acceptable in public debate) and anti-semitic bias (unacceptable). In these debates, no one was prepared to argue that an anti-semitic cartoon could be justified; and, of course, we agree with this ethical constraint. So, the Evans case has been outlined to show that cartoons can bear on serious topics and that there are real constraints on what they can say. However, the *reductio ad holocaustum* is a line of argument that limits anyone's capacity to make graded distinctions between the sorts of forces that constrain cartoonists, or any other sort of commentator. In the rest of this paper we intend to provide a more systematic map of the pressures that are applied to cartoonists in Australian newspapers. There is no great body of scholarly opinion on which to base it, so this map will necessarily be tentative, and heavily based on the recorded opinions of practising cartoonists. It is part of our developing project of placing the role of cartoons as political commentary in the Australian context.

Editorial cartoonists working for Australian newspapers agree that they enjoy remarkable freedom to express their views. Given that most of them (at least in recent decades) are left of centre, while their papers' editorial lines generally lie to the right of the spectrum, it is fair to say that they do have a recognised licence to mock that is not conditional on their parroting the views of their editors or proprietors. So, how has this freedom developed and what are the effective constraints on it?

1. A brief history of cartoonists' independence

As cartoons have to be funny, they are naturally harder than news reporting or opinion writing to hold to an editorial line. Market forces actually militate in favour of maximum freedom for cartoonists, because editors or proprietors inclined to choose a cartoon that says what they want it to say over a stronger or funnier alternative are imperilling the future success of their paper. Moreover, cartoons have the court jester's licence to broach unorthodox perspectives because they are not 'serious' and can slip more easily under the guard of doctrinal policing than 'straight' reporting or comment. Still, cartoonists' freedom is only relative, and only relatively recently won. Later in this section we will survey the formal and informal constraints on cartoonists in Australian mass-market newspapers (the rules are quite different for specialist journals where, generally speaking, a much stricter requirement to toe a party line is evident), but let us first scan a little history about how we got to this point.

In the second half of the nineteenth century, when cartooning in periodicals like the London and Melbourne *Punches* and the Sydney *Bulletin* began, it was unusual for cartoonists to originate their own ideas. They were conceived of as comic illustrators who were fed ideas by the editorial meeting. Often, indeed, they did not even get to write their own captions. Some like Livingston Hopkins ('Hop') at the *Bulletin* fancied themselves as commentators who originated and completed their own jokes, but others like Phil May 'had to have the whole scene and idea laid out for him.'²¹ The career of David Low in New Zealand, Australia, and England did much to establish the cartoonist as an independent political commentator on the editorial page of newspapers, but not every antipodean paper had an editorial cartoonist (eg the Melbourne *Age* before the advent of Les Tanner in the 1960s) or treated those they had with the sort of respect that Low could command.

In 1945, Frank Packer wanted the *Daily Telegraph* in Sydney to take a more explicitly conservative line, and expected his cartoonists to obey orders:

In November Will Mahoney refused to sign cartoons attacking unions, telling Penton [the editor] that the *Telegraph* should take responsibility for them. After the former *Labor Daily* cartoonist [ie Mahoney] was sacked his replacement, George Finey, resigned over the same issue. The AJA

[Australian Journalists' Association] unhappily concluded that they had no redress under the current award.²²

This moment of brute proprietorial power is interesting, because it shows an expectation from consecutive cartoonists of a left wing bent that they should be free at least to withdraw their imprimatur from commentary they disagreed with. That Packer did not agree with them shows what was then becoming an old-fashioned belief that cartoons should be subordinate to the paper's editorial line; or maybe it was just a genetic predisposition to get his own way. So far as we know, this is the last occasion in Australian media history when cartoonists were directed on pain of sacking to treat a particular topic in a particular way. Cartoons have been refused from time to time, and many a more or less helpful 'suggestion' of topic matter or slant has been made, but cartoonists in the post-war period have managed to exercise a freedom to choose and refuse their own topics. That Malcolm Evans felt it an intolerable constraint on his rights to be banned from cartooning on one topic area shows how far things have travelled.

Consequently, in recent decades, the pressures on cartoonists have been less explicit than editorial direction, but real enough nonetheless. These will be discussed on a spectrum from formal pressures to culturally dispersed influences: the law of defamation; legal advice and the fear of defamation actions; pressures internal to the news organisation; external lobbying; the shifting limits of 'good taste'; and the desire to be responsible.

2. Law of defamation and the fear of legal sanction

Cartoonists and other satirists enjoy no more legal protection under the laws of libel and defamation than do any other sorts of writers. As the business of satire is to attack the character and impugn the motives of public figures, you would have thought that this would make satirists notable benefactors to defamation lawyers. The text-book summary of defamation law describes it as published material which ‘tends to injure the personal, professional, trade or business reputation of an individual or a company, to expose them to ridicule or to cause people to avoid them.’²³ It is hard to imagine that cartoonists cause many people to be avoided, but injuring reputations and holding people up to ridicule are their core activities. And yet, according to two legal scholars discussing the interlocutory injunction Pauline Hanson sought and received to stop the ABC playing the satirical song ‘Back Door Man’ by Simon Hunt, AKA Pauline Pantsdown:

There have been very few defamation cases on satire. This is not surprising. Most people when they are lampooned prefer not to give the satirist a further platform and further publicity by bringing proceedings. ... In addition, most observers would instantly recognise satirical commentary as inherently in the nature of comment, and therefore easy to defend under defamation law.²⁴

Handsley and Davis identify both the cultural defense satirists enjoy from prosecution – few like simultaneously to make fools of themselves and give their detractors publicity – and the legal protection of fair comment. Comment is fair if it expresses an opinion that can be honestly (but not necessarily reasonably) held, it is in the public interest, and it is based on accurate or privileged facts that are stated or indicated in the material.²⁵ Though there is some doubt about the capacity of a cartoon to ‘state or indicate’ its facts thoroughly within the confines of an illustration on the page, cartoons look fairly safe on these grounds if they express anything more complex and defensible than clear personal malice. Handsley and Davis give a cautionary tale as they go on to show how ill-equipped black-letter, literal-minded law is to cope with the ironies implicit in satirical communication. The Queensland Supreme Court, in their humble

contention, made a fool of itself by treating the words of the satirical trans-sexual Pauline Pantsdown as if they were literal assertions about the politician Pauline Hanson, likely to be taken literally by a reasonable listener. It is hard to understand how their honours so misconstrued the context of the Pantsdown song 'Back Door Man' to treat its lyrics as assertions of fact made in a voice mistakable for Hanson's own. However, such subtleties are unlikely to be a problem for cartoons, where the context of caricature is explicit, and it is possible that all cartoons might be considered by the courts never as assertions of fact about their targets but 'as comment and nothing else'.²⁶

This seems to be the state of the law, if the paucity of case law for cartoons is anything to go by. As long ago as 1908 a Canadian court decided that it was fair comment to depict a politician picking the wings off flies.²⁷ Politicians in the English-speaking world have since tended to stay out of court when seeking to muzzle the effect of satire on their reputations, and it is notable that the one attempted prosecution of a cartoonist for libel in Australian law was made not by a politician, but by an architect, Harry Seidler. In *The National Times* of 15 August 1982, Patrick Cook had drawn ten ugly boxes some human figures and a night cart over the caption 'Harry Seidler Retirement Park'.²⁸ Seidler responded to this routinely scatological cartooning with a defamation writ which was unsuccessful both before a jury and on appeal. Perhaps he just wanted to harass the cartoonist and the publisher. However, the conclusion we draw from this episode is that Seidler as an architect was less hardened to the rough and tumble of public debate than serving politicians tend to be, and he made a fool of himself by being over-sensitive to ridicule. Certainly that looks to be the opinion of Justices Hope, Glass and Mahoney in their NSW Court of Appeal judgments. Unlike de Jersey and his fellows who supported Hanson against the ABC, the judges in *Seidler* appear not only capable of understanding satire, but also cautiously inclined to indulge an appetite for it in their own judicial prose. We applaud them.

There is so little case law that one has to conclude that cartoonists enjoy something very close to immunity from prosecution. That immunity may be as much a culturally accepted licence as a strictly legal protection — for example, no one seems inclined to run a defamation case focused on the element of the law where cartoons seem most

vulnerable, exposing people to ridicule. Most aggrieved people obviously recognise that suing a cartoonist will not do anything to restore lost reputation (the point which most defamation claims depend on), and will very probably damage their reputation further, both by refocusing attention on the original allegation and by proclaiming them to the world as people who cannot take a joke. And yet, the law does cast a shadow over the practice of cartoonists and their editors. The *fear* of litigation is much more pervasive than the reality of effective immunity from prosecution. As Dean Alston, cartoonist with the *West Australian*, observes:

If I'm dancing on the borderline of slander, cartoons which could be a worry are vetted by the company lawyer. If it's deemed too dangerous legally, we'll pull the cartoon. Most of it is self-imposed censorship. You know what is going to be acceptable, and what is going to be over the top and absolutely affronting to people. If a cartoon is thought by the editor to be unsuitable, he will say, 'Look I think that is going a bit too far'. And that's fine with me. But if it comes to the point where I think the cartoon really should be run, I stand up and say I want it run. And they're pretty good and fair about it.²⁹

It is quite impossible to quantify the effect of legal caution on cartooning comment, but there is enough anecdotal evidence to suggest that it is real. Many cartoonists talk of having work checked and sometimes rejected by the company lawyers. It would be a fascinating research project to study some rejected cartoons, but these are, of their nature, difficult to track down. Until someone is foolish enough to run a test case through the courts, our opinion that cartoonists and their editors should not be anxious on this point is no more than a hunch. Given that the High Court has recently discovered an implied right to free speech in the Constitution, we think it might be a pretty good hunch.

Interestingly, 'legalling' of cartoons can cut both ways, as a positive opinion can protect them from having a cartoon the editor fears or dislikes 'pulled'. Alan Moir, of the *Sydney Morning Herald*, explains that his contract follows the 1927 precedent of the renowned David Low, whereby as long as a cartoon is legal it is printed, 'Sometimes the cartoon which appears beside the editorial is in contradiction to the editorial; sometimes by coincidence, it is the same. But there is never any problem. They have never

attempted to stop or even remark on a cartoon in 14 years'.³⁰ This seems to be the position experienced by many cartoonists. Peter Nicholson and Bill Leak, cartoonists with the *Australian*, state that their cartoons are never censored on political grounds, solely on grounds of risk of libel and questions of taste.³¹ However, the fear (as distinct from the reality) of legal reprisal leads towards the next part of the spectrum, where the pressures become less formal.

3. Internal editorial and corporate pressures

Once the legal hurdle is crossed, Australian cartoonists do tend to have a fairly free hand. We know of no recent occasion where an editor or proprietor of a major daily has been known to direct a cartoonist to a particular topic, and only the Evans case where an entire topic area has been banned.³² Most cartoonists (just about all of them when they calm down) accept the right of editors not to run individual cartoons because they find them offensive, pointless, or inaccurate; editors are paid to edit, after all. But cartoonists expect and largely receive the right to cartoon against their newspaper's editorial line where they see fit. A current illustration might be called the case of Peter Nicholson versus Rupert Murdoch. The Murdoch media around the world (from Foxtel to the *Adelaide Advertiser*) have been proverbially enthusiastic about the US invasion of Iraq, and the editorial position of the *Australian* has not been ambiguous. And yet, a Peter Nicholson's front page pocket cartoon appears in *The Australian* alongside the banner headline, 'We'll fight without the UN: Howard'. The cartoon mocks Prime Minister Howard at a time when he is trying to justify committing Australian troops to the war against Saddam Hussein's regime. He suggests that the self-proclaimed war leader is a

Peter Nicholson,
The Australian, 14 March, 2003.
Used with permission

hypocrite by reminding readers of his cynical use of asylum seekers during the 2001



election campaign. Commitment of the nation's armed forces to war rates among the gravest of policy matters before government. Therefore, to find the Prime Minister portrayed as a hypocrite and on the front page of one of the country's leading broadsheets underlines the freedom cartoonist currently enjoy. Many other examples of cartoonists' vehement opposition to the commitment of Australian troops can be found during early 2003 and subsequently, and their general tenor is to contradict quite starkly the editorial and views expressed on the op-ed pages.

Some qualifications should be noted to this rosy picture of independence. How long a cartoonist can remain opposed to the editorial line of a paper before something gives way is an interesting question that would require detailed historical research to establish. It is also arguable that a paper might retain a dissenting cartoonist (or columnist) as a badge of pluralism that the rest of the paper belies. Finally, newspapers can over time employ cartoonists whose values suit an editorial approach. All these things occur, but does anyone really expect each newspaper to be without broad attitudes that affect news and comment values? An illustration of the sort of editorial influence validly attempted and resisted is the story that *Financial Review* cartoonist Ward O'Neill tells of his time at the *Australian* in the early 1970s with Bruce Petty:

I do remember one story about Bruce. It was the middle of the Vietnamese peace negotiations. There was this Henry Kissinger authorised, you know, this bombing of Cambodia that basically; I think it killed about 100 000 people. [...]

And Bruce did this cartoon of Henry Kissinger coming back to the negotiating table and pulling his seat in, with his hands covered in blood. And *The Australian* didn't want him to do that. I think they might have forced him to change that, and, really, that was the entire point of the cartoon; that his hands were sort of covered in blood.³³

It is hard to be certain three decades after the fact, but it seems probable that the cartoon below is the one O'Neill was referring to. There are alternative explanations of this cartoon, each of which has a bearing on our argument. The immediate context is the Christmas bombing of late 1972 (mostly of Vietnam) which was part of Nixon and Kissinger's endgame in Vietnam. It was intended to be a massive show of military power that provided a warning to the North Vietnamese and hurried them back to the negotiating table in Paris; the sequel was the US withdrawal of troops early in 1973.



Bruce Petty, *The Australian* January 3, 1973. Permission to use pending.

If Petty originally drew Kissinger's hands covered in blood rather than the ugly club labeled B 52, the cartoon might have had a little more force, but it would be hard to argue that it has been much diminished, or that its meaning has been altered in any significant way. An alternative explanation is that this is not the cartoon O'Neill remembers, and that there was another cartoon dealing with Cambodia that had Kissinger's hands covered in blood which was completely pulled by an editor. If that were so, it would be extremely tempting to see this cartoon as a payback for the earlier

editorial restraint, and this one made it into the paper. Either way, it appears that the lot of the cartoonist in 1973 was one of considerable if not untrammelled freedom. O'Neill goes on to explain how Petty, admittedly the pre-eminent cartoonist of the time managed relations with his editor:

[Bruce Petty] worked up at one end of the art department. We were in this wedge-shaped room that went down to a point. Bruce was right at the end of the room. And Owen Thomson [editor of *Australian*, 1971 – 73] would come in. It was really instructive, because he'd come in and he'd talk to Bruce and he'd try and impress upon him various points – none of which really matter; they were just the company or the Murdoch line or whatever it was. And Bruce, would just go 'Yeh, yeh, s'pose so, yeh, yeh' and he never argued, so there was no way Owen Thomson could come in and pick a fight with him. I've never seen him lose his temper, raise his voice. It's not to say he's agreeable, because he clearly doesn't agree with a lot, but he maintains his own position on things.

But he's not an aggressive person at all, and newspapers are often quite an aggressive environment. And he's a genuinely liked person by a very wide range of people politically. They'd come in and they'd try and change his mind, and he'd certainly agree to hear them out. And then he'd go away and do exactly what he wanted to do. If somebody made a reasonable point, he would take that on board, but you could be quite confident that he would always make up his own mind. Any decision he made wouldn't be contaminated by fear of the boss, or fear of getting the sack. He's a principled person.³⁴

This anecdotal illustration of the way influence was, to our mind perfectly legitimately, offered but not insisted upon, seems to be fairly typical of the way cartoonists have been treated in recent decades. While few can claim to be so calm as Petty by nature, each would like to think of themselves as equivalently independent-minded. Editorial nagging and fear of the sack must have influenced many individual decisions by cartoonists over the years, but their claim to retain a very large measure of independence is borne out, at least by our research into recent federal elections. Editors and proprietors seem to recognise that a cartoonist cannot easily be tame and funny at the same time, and funny cartoonists help them sell newspapers. Where the editorial line and the bottom line are in conflict, even the most ideological editors and proprietors know where their loyalties lie. Over time, of course, they can employ cartoonists who

suit their world-view – for example, Rupert Murdoch’s shift to the right can be seen clearly in the replacement of Bruce Petty by the right wing larrikin Larry Pickering at *The Australian* in early 1976 – but that only becomes a problem if there is an unhealthily limited range of media owners in a market(!).

4. External pressures

There are three kinds of external pressure that can be applied to cartoonists: pressure from lobby groups, from politicians and parties, and from corporate interests. Should cartoonists take to illustrating business news more – and, given the shift of power from traditional politics to the corporate sector in recent decades, it is something they should consider – more evidence of corporate pressure may come to light. At present, however, we lack even anecdotal evidence of threats by unhappy magnates to remove advertising from a paper over a cartoon that injured their brand or self-esteem, so we cannot even speculate whether this sort of pressure is significant. As the book value of the brand becomes an ever more valuable asset, action to protect one from cartoonists must either have happened or be imminent, and we await this development with interest, but can write no more on the topic yet

The best evidence that politicians fear cartoonists comes from their actions. In totalitarian regimes they dictate to them, in less than liberal democracies they silence them or force them from the country, and in democracies with well-developed traditions of press freedom they flatter them. According to Geoff Pryor of the *Canberra Times*, a cartoonist can sit by the phone the morning after caricaturing a young politician for the first time, and practically count down until the call requesting the original comes in.³⁵ There is a degree of machismo about this, and a sense of having ‘made it’, but one should not underestimate the element of insurance against future trouble in it. Australian politicians do try to develop a reputation as people who can take a joke with the practising cartoonists. Some even try to develop personal relationships with individuals, but the cartoonists tend to resist this.

Jockeying politicians for sympathy with cartoonists is no serious affront to the freedom of the press. It is no more than politicians doing their job, trying to massage their public image; when you consider that Aubrey Collette fled Mrs Bandaranaike's Ceylon in fear of his life in 1960 before continuing his cartooning career for over 20 years at various papers in Australia, it is hard not to be impressed by the robustness of Australian political debate. Where politicians do occasionally seek undue influence is in complaining to editors about their cartoonists. If the editors protect their cartoonists, which they normally do, then a prime minister or premier whingeing about the unfairness of being drawn as a clown or a crook is probably no more than a colourful part of the rich tapestry of public life. Cartoonists are not easily cowed by abuse (direct or relayed) from the subjects of their ridicule; they more likely to be pleased that politicians are paying attention than worried about hurting their feelings. However, this sort of thing is a pressure on their work, and it may wear them down over time.

Moreover, just occasionally there is some evidence that informal political pressure tempers and editor's mood. The late Les Tanner, long-term cartoonist with *The Age*, believed that Victorian Premier, Jeff Kennett, put pressure on the paper after his lampooning of Kennett with a persistent foot-in-mouth caricature:

My freedom from censorship lasted until the advent of Jeff Kennett. I was inclined to send him up, and did a cartoon of him with his foot in his mouth which later became a sort of current symbol. When he started to mount a counterattack on the Age there was an interesting disinclination to run cartoons critical of him. Fortunately by that time I'd reached 70, and it was one of the many deciding factors that led to my retirement.³⁶

However, while it is not uncommon for cartoonists to report that their editors have experienced the admonishment of political leaders, as long as cartoons remain safe from defamation it is clear that such pleas by leaders are largely ineffectual.³⁷

5. 'Bad taste'

Satire works by shocking an audience into a recognition that things are not as good as some would have us believe. Dealing provocatively with taboo topics is, consequently, one of the abiding pre-occupations of any cartoonist who ever seeks to be more than a tame comic entertainer. On the other hand, the medium in which cartoons are published, the newspaper, exerts a countervailing conservative pressure on subject matter and presentation. The question of 'bad taste' must be viewed within the context of the editors viewing their responsibility to present a 'family paper', that is, the audience is the wider community not a specific section within. As Bruce Petty observes 'Both the *Age* and the *Australian* are family newspapers and have to appeal to a spectrum of Australians. Somehow I know the parameters and the editors know I do.'³⁸ Cartoonists may find their editors overly cautious on matters of taste but this does not equate to suffering censorship. To clarify this point, consider the example of a cartoon Peter Nicholson found his editor unwilling to publish due to 'bad taste'.³⁹ Of considerable satirical merit the cartoon addressed the topical question of the government's refusal to say 'sorry' to Aboriginal Australians and, in general, to seek reconciliation between black and white Australia. It depicted Prime Minister Howard sitting in the red dust adjacent Uluru, cross legged. He is blowing hard into a didgeridoo. His extended cheeks are accompanied by a large puff emitting from his anus – the cartoon's caption read, 'Reconciliation'.

Prudish editors may be a problem as long serving cartoonist at the *Age*, Ron Tandberg, explains

One night I had a cartoon of a ballet dancer who defected to the West. I had him leaping off the stage with this slight bulge in his tights which every self-respecting male ballet dancer has. It wasn't overdrawn. The next day it was in the country edition, but when I saw the next edition the bulge had been removed. So I went up to the main desk and said, 'Oh, you're the bloke who castrates my ballet dancer between editions'. I had a word with the editor, and he agreed that I was right, and that my stuff wouldn't be interfered with in future.⁴⁰

Earlier we used the metaphor of the canary down the mine to describe the role of cartoonists as indicators of the level of free speech in a society. Nowhere is this clearer than on the topic of 'good taste' in the representation of sex and violence. Compare the

brilliant but austere social criticism by George Molnar in the 1950s and 60s to Michael Leunig's far more unbuttoned work of the 1990s and you have more than a contrast of individual temperaments. You have quite an accurate indication of the movement in public standards in what can be shown. Many cartoonists have stories of having cartoons knocked back on grounds of taste, and that this should be an area of constant negotiation of shifting standards seems to us to be a healthy sign. Far more explicit images appear in more specialised media (films, magazines, web sites, etc.) but cartoonists have the joker's licence to be boundary riders of the representable in the public sphere. It is in their nature to push the boundaries, and fair enough for those boundaries to push back from time to time.

IV - Conclusion: cartooning and responsibility

The boundaries of public morality are one thing, *ideological* good taste quite another. We will finish by commenting on whether and how cartoonists should feel constrained by a sense of responsibility that mirrors or differs from the responsibility expected of journalists. Recently Michael Hogan argued that political cartoons encourage public cynicism toward democratic institutions, leaders, parties and parliament and that if not checked, in some manner, this presents a problem for democracy in Australia. While stopping short of advocating any formal censorship for cartoons it is clear that he believes cartoonists should enjoy no special licence, arguing that it is possible to draw analogy between cartooning and political journalism:

The question I wish to ask here is whether the same criteria of balance and avoidance of bias should apply to cartoonists as are regularly demanded of journalists who use words and graphic images in their stories or commentaries. Should cartoonists be accorded extra licence? It is not immediately obvious to me why they should be. Is their function fundamentally different from that of journalists — that cartoonists should be able to lampoon mercilessly, while journalists should beware — or is the cartoonist simply a journalist who uses visual humour?⁴¹

We disagree with the drift of these apparently rhetorical questions, and have disagreed at length elsewhere.⁴² Cartoonists implicitly make quite a different claim in relation to

the truth value of their work from that made by journalists. As we have explained earlier, in relation to the law of libel, cartoonists are clearly involved in comment rather than reporting, and the comment they make is obviously and recognisably extravagant.

It is important also, in our opinion, that cartooning not be caught by a definition of *fair* comment more onerous than the strict legal definition of 'fair':

The term 'fair' is misleading for it suggests that the comment is assessed to determine whether reasonable people might agree with it. In fact, honesty is critical, not reasonableness. The test is: could a person honestly hold the opinion expressed? Provided the opinion satisfies this test, the fact that it amounts to a severe, exaggerated, prejudiced or 'wrong-headed' criticism is irrelevant.⁴³

It is obvious that cartoonists would fail as entertainers if they felt constrained to be cautiously reasonable in their work. Just as importantly, however, we think the right of public satirists to risk irresponsibility needs to be affirmed. The less they feel under legal, ethical, or corporate pressure to be responsible, the better they will do their job in that most complex of socio-political phenomena, a free press. Cartoonists are licensed skeptics who provide one important medium where the spin that is epidemic in public life can be countered, one forum where the shameless can be shamed and open secrets spoken. Their licence is not a simple freedom, but comes from a complicated mix of social, political, historical, and legal factors. It may be possible to have freedom of expression and a free press without much freedom of political cartoonists, but we cannot think of any instances where this has been so. Their presence is always a healthy sign, even if their work does sponsor some public cynicism. They are subject to the various formal and informal pressures we have outlined above, so it is clear that their licence is not absolute, and the fact that it is not absolute is no scandal. That their licence should be as extensive as possible is one, not insignificant, indication that a liberal democratic polity seeks to practice its ideals.

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- ² See Seymour-Ure, C., (1997) "Drawn and Quartered: How Wide a World for the Political Cartoon?" *The Hocken Lecture 1996*. The Hocken Library & the New Zealand Cartoon Archive Trust (The Printing Department, University of Otago, Dunedin), 1-43; Press, C., (1981), *The Political Cartoon*. Rutherford: Fairleigh Dickinson and Gombrich, E. H., (1978), *Meditations on a Hobby Horse*. Oxford: Phaidon Press.
- ³ This characterisation of cartoonists' attitudes is based on a range of interview material we have encountered in our work researching [just about everything we've ever published]. See Ann Turner's collection of interviews for a good range. In *Their Image: Contemporary Australian Cartoonists*. National Library of Australia, 2000.
- ⁴ Bill Leak interview with Haydon Manning, May 1 2004.
- ⁵ For example, Hogan, M, (2001), 'Cartoonists' and Political Cynicism, *Drawing Board*. vol. 2 no. 1: July, 27-50.
- ⁶ Our manuscript, 'In Defence of the Political Cartoonists' Licence to Mock' is currently being reviewed by *Drawing Board* and is available upon request.
- ⁷ Transcript of Mediawatch interview, 17 August 2003 - www.evanscartoons.com/mwatch.htm (accessed 14 May 2004)
- ⁸ A wider selection of the 'controversial' Evans cartoons are available at www.evanscartoons.com
- ⁹ Claire Harvey, 'Kiwi cartoonist sacked', *The Australian*, 21 August 2003
- ¹⁰ Transcript of Mediawatch interview, 17 August 2003.
- ¹¹ Transcript of Mediawatch interview, 17 August 2003.
- ¹² Cited by Jason Keyer, 'New Zealand cartoonist, fired amid controversy over drawings critical of Israel, says he's not anti-Semitic', *Associated Press Newswires*, 5 September 2003.
- ¹³ Shlomo Cohen and Yedioth Ahronoth cited in, Sara Leibovich-Dar, 'Drawing the Line' interview with Malcolm Evans, *Haaretz*, 29 August, 2003
- ¹⁴ ABC television, 'Lost Leunig', *Mediawatch*, 6 May 2002
http://www.abc.net.au/mediawatch/transcripts/060502_s5.htm (accessed 12 March 2004)
- ¹⁵ ABC television, 'Lost Leunig', *Mediawatch*
- ¹⁶ Cited by Andrea Schleider, Political Cartoon Raises Ire in Philadelphia', *The Forward* (Jewish-American journal) www.forward.com/issues/2003/03.08.15/news14.html.
- ¹⁷ Amanda Bennett and Chris Satullo, 'A cartoon, an uproar, then a useful dialogue', *Philadelphia Inquirer*, 31 August 2003.
- ¹⁸ Auth quoted by Bennett and Satullo, 'A cartoon, an uproar...'
- ¹⁹ Auth quoted by F. Levy and A. Perloe, 'Star Makes Waves in Jewish Circles "Philadelphia Inquirer" cartoon spurs fury.', *Jewish Exponent*. Vol. 214, Number 19, 7 August 2003.
- ²⁰ Tandberg cited in Turner, A. 2000. In *Their Image: Contemporary Australian Cartoonists*. National Library of Australia, p.98. The original interview took place on March 18, 1998 and the tape and transcript are held by the National Library of Australia. ORAL TRC 3695.
- ²¹ Vane Lindesay, *The Inked-In Image: A Survey of Australian Comic Art*. Melbourne: Heinemann, 1970. p. 10; see also John Geipel, *The Cartoon: A Short History of Graphic Comedy and Satire*. Newton Abbot: David and Charles, 1972. See chapter 3 for an account of British cartooning in the nineteenth century that shows the development of the cartoonist's role from one of illustrator to comic originator.
- ²² Bridget Griffen-Foley, *The House of Packer: The Making of a Media Empire*. St Leonards: Allen and Unwin, 1999, p. 139.
- ²³ Sally Walker, *The Law of Journalism in Australia* (Sydney: Law Book Company, 1989), 135.
- ²⁴ Elizabeth Handsley and Gary Davis, 'Defamation and Satire: *Hanson v Australian Broadcasting Corporation*', *Torts Law Journal* 9, 2001.
- ²⁵ See Walker 172-6.
- ²⁶ Handsley and Davis, p. 8.
- ²⁷ *Vander Zalm v. Times Publishers* (1908) 109 D.L.R. 531
- ²⁸ *Harry Seidler and Associates Pty Ltd v John Fairfax and Sons Ltd* (1986) Aust Tort Reps 80-002 at 67,476.
- ²⁹ Alston, cited in Turner, *In Their Image*, p. 78
- ³⁰ Moir cited in Turner, *In Their Image*, p.116.
- ³¹ See Turner, *In Their Image*, pp 224-225 and ABC Radio, 'Sunday at Midday' presented by Terry Lane. Interview with Ron Tandberg and Peter Nicholson, 9 February 2003. Transcript at www.abc.net.au/rn/talks/natint/stories/s778400.htm (accessed 3 April 2004)

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- ³² Much more interference occurs in specialist journals and the publishing of lobby groups, but that is not the subject matter of this paper.
- ³³ Ward O'Neill, Interview with Robert Phiddian, April 15, 2004.
- ³⁴ Ward O'Neill, Interview, April 15, 2004.
- ³⁵ Pryor informed the audience of this in the political cartooning stream at the 2000 *Australasian Political Studies Association Conference*, Australian National University.
- ³⁶ Tanner cited in Turner, *In Their Image...* p. 57.
- ³⁷ Bill Leak, Interview with Haydon Manning, May 1, 2004
- ³⁸ Petty cited in Turner, *In Their Image*, p.32.
- ³⁹ Nicholson informed the audience of this in the political cartooning stream at the 2000 *Australasian Political Studies Association Conference*, Australian National University.
- ⁴⁰ Tandberg cited in Turner, *In Their Image*, p.98.
- ⁴¹ Hogan, M, 2001 'Cartoonists' and Political Cynicism...' p.31
- ⁴² Response to Hogan see endnote 4.
- ⁴³ Walker, *Law of Journalism*, 174-5.

Bibliography

- ABC television, 'Lost Leunig', *Mediawatch*, 6 May 2002
http://www.abc.net.au/mediawatch/transcripts/060502_s5.htm (accessed 12 March 2004)
- B ennett, A and Chris Satullo, 'A cartoon, an uproar, then a useful dialogue', *Philadelphia Inquirer*, 31 August 2003.
- Geipel, J (1972) *The Cartoon: A Short History of Graphic Comedy and Satire*. Newton Abbot: David and Charles.
- Gombrich, E. H. (1978), *Meditations on a Hobby Horse*. Oxford: Phaidon Press.
- Griffen-Foley, B. (1999) *The House of Packer: The Making of a Media Empire*. St Leonards: Allen and Unwin.
- Handsley, E and Gary Davis. (2001) 'Defamation and Satire: *Hanson v Australian Broadcasting Corporation*', *Torts Law Journal*
- Harvey, C 'Kiwi cartoonist sacked', *The Australian*, 21 August 2003.
- Hogan, M, (2001), 'Cartoonists' and Political Cynicism, *Drawing Board*. vol. 2 no. 1: July, 27-50.
- Keyer, J. 'New Zealand cartoonist, fired amid controversy over drawings critical of Israel, says he's not anti-Semitic', *Associated Press Newswires*, 5 September 2003.
- Leibovich-Dar, S. 'Drawing the Line' interview with Malcolm Evans, *Haaretz*, 29 August, 2003
- Levy, F and A. Perloe, 'Star Makes Waves in Jewish Circles "Philadelphia Inquirer" cartoon spurs fury.', *Jewish Exponent*. Vol. 214, Number 19, 7 August 2003.
- Lindesay, V. *The Inked-In Image: A Survey of Australian Comic Art*. Melbourne: Heinemann, 1970.
- Press, C. (1981), *The Political Cartoon*. Rutherford: Fairleigh Dickinson
- Schleider, A. Political Cartoon Raises Ire in Philadelphia', *The Forward* (Jewish-American journal) www.forward.com/issues/2003/03.08.15/news14.html.

- Seymour-Ure, C. (1997) "Drawn and Quartered: How Wide a World for the Political Cartoon?" *The Hocken Lecture 1996*. The Hocken Library & the New Zealand Cartoon Archive Trust (The Printing Department, University of Otago, Dunedin),1-43;
- Turner, A (2000) *In Their Image: Contemporary Australian Cartoonists*. National Library of Australia.
- Walker, S (1989) *The Law of Journalism in Australia* (Sydney: Law Book Company.