Anzac heritage or Anzac history: TRUTH or FICTION?

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Should heritage legislation be used to problematise Australia’s role in various wars and not celebrate it?

There are never more lies told than before an election, during a war or after a hunt

Bismarck

Heritage and definitions

In recent years, the protection of heritage has been discussed in many parts of the world. In Australia, new laws have been passed, such as The Protection of Movable Cultural Heritage Act 1986 (Cth), The Heritage Act 1993 (SA), Heritage Amendment Act 1988 (NSW), Heritage Act 1993 (Vic). Heritage has acquired a befitting image in popular culture (see for instance the cover of this issue of Alt.LJ). However, in a diverse Australia the struggle for ownership of the past has led to disputes about which heritage should be protected and to debates as to the level of protection that should be provided. As more ‘things’ have been included in the definition of cultural heritage, so too has protection of these ‘things’ been sought through the legal system. Thus legal definitions of cultural heritage can be cast in a narrow restrictive way to limit heritage to tangibles such as buildings, sites or objects. Conversely, legal definitions can be broad enough to encapsulate intangibles such as religion, folklore, oral history and living culture.

When we consider all these points, it becomes obvious that the process of legislating for the protection of cultural heritage requires decisions as to what is to be protected, how it is to be protected and why it is to be protected. Legislators and regulators do not just protect items, they protect items understood in particular ways. The significant past is chosen — treating a war medal as something which should be protected to preserve what is quintessentially Australian is very different from treating it as a minor piece of Victorian bronze work. Further, in choosing the significant past, legislators and regulators are not just responding to demands made by some members of the public or by historians. They are also acting to shape the public’s view of how the past is important for the present. The significant past is a construction that is politically laden.

Heritage and national identity

In moving towards a general explanation of the recent ‘heritage crusade’, David Lowenthal argues that trends which have occurred in the last few years and which differ to some degree from country to country:

engender isolation and dislocation of self from family, family from neighbourhood, neighbourhood from nation, and even oneself from ones former selves. Such changes reflect manifold aspects of life — increasing longevity, family dissolution, the loss of familiar surroundings, quickened obsolescence, genocide and wholesale migration, and a growing fear of technology. They erode future expectations, heighten past awareness, and instil among millions the view that they need and are owed a heritage.
Making some items particularly important items of heritage is a way in which groups create unity and create a particular kind of national character. Lowenthal's book provides much evidence that heritage 'is not history at all' because 'while it borrows from and enlivens historical study — heritage is not an enquiry into the past but a celebration of it, not an effort to know what actually happened but a profession of faith in a past tailored to present day purposes'.

More than 30 years ago, Adorno put the same kind of point by arguing that perceptions of heritage are riddled with potentially dangerous illusions. We might explain Adorno's point in the following way: first, we unconsciously project our needs onto items from past societies which had a very different significance for the people living in them. Second, our perceptions involve the false belief that if we were to return to the kind of community from which revered cultural objects have come, our lives would be greatly improved. To illustrate through one of Adorno's favourite examples: life for most people in ancient and medieval times was far more oppressive, stuifling and dangerous than the lives almost everyone lives in modern industrial societies. The Nazis were able to exploit the nostalgia and racism produced by social anomie and economic collapse by presenting themselves as the protectors of an 'authentically' German cultural heritage which claimed to revive ancient and medieval German society.

The relevance of Lowenthal's and Adorno's view to Australia can be better understood by considering Davison's account of the way in which the idea of a 'national' heritage emerged and the form it took in Australia:

In the nineteenth and early twentieth centuries, as new nation states fought for legitimacy, people began to speak of a new 'national heritage' as the body of folklore and political ideas, on which new regimes founded their sense of pride and legitimacy. Australians who modelled themselves upon the new nations of Europe and America, thus created their own national myths based upon the 'pioneer heritage' or the heritage of Anzac.

Speaking of the Anzac heritage in 1989 Donald Horne argued that Anzac day and the objects, icons, legends etc which represent this 'historic period' in Australia is rich in myth-making. He says:

something as big in myth as Anzac day can have meaning everywhere: for instance, it defines the nation as male (with women being useful in a few ancillary services) and also getting on in years. For this reason you can't guess what the future development of the myth might be. It may come to mean anything that seems like a good idea at the time. It would be easy to fit Anzac day into a Communist Australia: a Communist regime would quickly appropriate mate ship as proto-socialist and Anzac day would become a celebration of the Australian-way-to-socialism and of the bravery of the ordinary Australian soldier, now manifest in the Australian People's Army. In a fascist Australia the celebration of military virtue would be obvious enough but it could be combined with the fascist appropriation of mate ship as proto-fascist.

The Anzac myth has recently undergone a major revival. The revival has been particularly marked among young people, and there has been debate about the precise form it should take. John Howard has recently praised the youth of Australia for their pride in the Anzacs and it has been noted that many young Australians had visited Gallipoli for the first time in the last couple of years. Speaking of the Anzacs on the 85th anniversary of the Anzac landing, John Howard said:

We come to claim from them a heritage of personal courage and initiative, of daring and determination in the face of overwhelming odds. A heritage which requires of each of us a conscious decision to do what is right regardless of the resistance we meet or the fears we hold ... the Anzac tradition was part of doing the right thing and building a nation, which would stand proud and respected amongst the free peoples of the world.

John Howard's claim that the Anzac tradition involved consciously doing the right thing will seem very dubious to anyone who knows the conditions under which young Australians entered the Boer War and World War One, to say nothing of Vietnam. Young men in the early years of the century often signed up for King and Empire, largely indifferent to whether the cause in which they were fighting was just. Further, the idea that in World War One Australian soldiers were building a nation or acting on their own initiative is also peculiar. Australian soldiers were fighting for the King and the British Empire and (usually) under British command. They were not fighting for a separate Australian nation. As John Williams says:

Despite the rhetoric of national birth, Australia became very much a component part of the British Isles from 1914 to 1918. Australian soldiers fought as part of the British army and were largely at the mercy of the competence and imagination (or lack thereof) of British generals.

Williams goes on to point out that in World War One even the Australian media 'became a filtered extension of the British. The words of Australian correspondents had to be approved by British censors before they could be read in Australia ...'

Lowenthal's point about heritage being myth rather than history is well illustrated by John Howard's speech. Myth making about Anzac day is a great tradition in the Australian media and among Australian politicians. Something which facilitates the power of such myth making is the dramatic decline of the study of history, particularly Australian history, in schools. The fact that the serious study of history is declining at the same time that there is a greatly increased interest in heritage provides further evidence for Lowenthal's claim that heritage is not history.

As part of a general revival of interest in the Anzac tradition there has been an increased interest in Australian military memorabilia, particularly in Victoria Crosses awarded to Australians. Australia Post has recently issued a series of stamps commemorating the award of Victoria Crosses to Australians.

In discussing some specific causes of the 'heritage crusade' which act in concert with more general ones, Lowenthal says that:

Heritage in Britain is said to reflect nostalgia for imperial self esteem and other bygone bennisons, in America to require economic and social angst and lost community, in France to redress wartime disgrace, in Australia to replace the curse of recency to forge indigenous pride.

Anzac memorabilia seems to have once again become important in forging indigenous pride to replace the curse of recency and deal with other perceived problems in Australian society.
Whose heritage, what significance?

Victoria Cross medals received by Australians are viewed by the government as particularly significant objects of movable cultural heritage. Formerly class B objects under the Protection of Movable Cultural Heritage Act 1986 (Cth) (PMCH Act), they have recently become Class A objects. Class A objects have the highest heritage status under the Act. They cannot be exported unless they are the subject of a certificate of exemption. This places Victoria Crosses on a par with Aboriginal and Torres Strait Islander objects of the utmost significance, which are the only other Class A objects listed under the act.

The stated purpose of the PMCH Act is to protect Australia’s heritage of movable cultural objects and also to support the protection by foreign countries of their heritage and movable objects. The Act represents the first foray into the legal construction of our national movable cultural heritage. The Act provides for a National Heritage Control List which is established under Regulations. The list divides cultural heritage into two classes, Class A and Class B. Class B objects can be exported but only in accordance with a permit or certificate (s.8). The category of Class B objects covers a broad range of movable cultural heritage which includes objects of a scientific, technological, historical and artistic nature.

It is interesting that the Act does not aim specifically to preserve leaflets produced by conscientious objectors or Vietnam Memorial memorabilia. Victoria Crosses seem to be regarded as more crucial to Australia’s identity than items of memorabilia of anti-war movements.

The case of Truswell v Minister for Communications and The Arts, which occurred before Victoria Crosses became Class A objects, provides valuable insight into the perceived significance of the Victoria Cross. The background to the case is that Truswell had applied for a permit to export medals including one Victoria Cross awarded to E.T. Towner. On a previous occasion Truswell had been given permission to export a Victoria Cross awarded to Issy Smith, who belonged to a British regiment and received his VC for action which did not involve Australian troops (Reasons, para. 138).

Once an object is a class B object for the purpose of the Act, the essential consideration becomes one of whether the object is of such importance to Australia, or part of Australia, that its loss would significantly diminish the cultural heritage of Australia (PMCH Act, s.10). However, there was and is no definition of what constitutes ‘significant diminution’. The Administrative Appeals Tribunal, when hearing the appeal for the export of the Truswell medals, considered a number of previous cases to give further consideration to what constitutes ‘a significant diminution’. The Tribunal stated that ‘significantly’ should be taken to mean ‘importantly’ or ‘notably’ (Reasons, paras. 121–123). The objects in question under consideration were a group of medals including a Victoria Cross. The Minister’s comments on refusing the application were:

The VC medals group awarded to E.T. Towner is a material reminder of the specific events surrounding its award: the historically significant action by Australians at Mont St Quentin in September 1918. As such, it is of substantial cultural significance to the nation. The recipient, E.T. Towner remains the most highly decorated serviceman from Queensland and the medal can consequently be considered to be of significance to that region of Australia.16

Expert examiners were not unanimous in their views of the significance of the VC awarded to E.T. Towner. The first expert examiner, a Project Officer in the Department of Veteran’s Affairs, recommended that an export permit be granted. He said:

Unlike a painting or sculpture there is nothing intrinsically Australian in a Victoria Cross. It is merely a symbol of an happening, the reward given to a brave man who distinguished himself in the horrors of war. The memento itself is not important, what is important is the [sic] what it symbolises. [Reasons, para. 47]

The second expert examiner, a Major Billet, had taken the opposite view. He recommended that the VC not be given an export permit because:

The award of the VC was made personally to an Australian by the Sovereign for valour in an action by an Australian military formation in the service of the Empire. Within Australia, these awards are the tangible, visible, reminders of the nation’s record of bravery in the war. [Reasons, para. 57]

A Senior Curator of Military History and Technology at the Australian War Memorial in Canberra, also an expert examiner, recommended that no permit be granted on the grounds that:

Australians’ respect for the Victoria Cross was demonstrated in 1983 when Edgar Towner’s Victoria Cross was offered at auction. Such sales in Britain raise little public interest, but in Australia, there is usually an outcry against the commercialisation of the award and the possibility of an Australian Victoria Cross being sent overseas. [Reasons, para. 63]

The Tribunal affirmed the original decision of denial of export and in doing so touched upon the importance of the intangible value of cultural heritage. In relation to the Victoria Cross in particular it was pointed out that:

The VC symbolises courage, bravery, devotion to duty and self-sacrifice. As the VC is awarded for individual feats, each VC is a unique object and as such rarity is not an issue. It represents a symbolic reminder to the community of a particular historic moment. [Reasons, paras 125 and 136]

The Truswell case was the first instance of the Tribunal attempting to define the cultural heritage of Australia in the context of the PMCH Act. The Tribunal considered the meaning ascribed to the words in other heritage legislation such as the Australian Heritage Commission Act and The World Heritage Properties Conservation Act, and commented:

That the description of movable cultural heritage focuses upon some aspects only of cultural heritage does not mean that a commensurately narrow meaning should be given to the words ‘cultural heritage’ in sub-section 10(6). Sub-section 10 (6) requires consideration of the effect of the loss of a particular object upon the cultural heritage of Australia. [Reasons, para. 129]

The Tribunal has given ‘cultural heritage’ a broad definition under the Act. If Lowenthal is correct in his comment that Australia’s need for heritage partly arises from the desire to ‘replace the curse of recency to forge indigenous pride’ it might not seem so unusual that a VC medal stands in significance alongside particular important items of indigenous culture. After all, items of indigenous culture are, for many Australians, reminders of a past and present they would prefer to forget. It is much more comfortable to wallow in national pride than in national guilt. This explains why many Australians have inconsistent attitudes. On the one hand, they feel justified in their pride in the great deeds done by the Anzacs. On the other hand they claim that the
destruction of Aboriginal society is not something modern Australians should feel guilty about as they are not responsible for the actions of their ancestors. Apparently, they think it is reasonable for someone to feel pride for something positive done by one’s ancestors, but not guilt for something negative.

Whither national identity?

War medals, war memorials and military memorabilia are items charged with enormous emotional significance. Participants in wars and their relatives often desperately want to imbue their great sacrifices and those of their comrades with positive significance. It is very hard to accept that a friend, a parent or a lover may have made the supreme sacrifice for nothing, or even worse, for a bad cause. It is easier to say that a sacrifice was made for some vague and emotionally powerful ideal, like building a nation or creating a national character, even if those sacrificed originally thought they were fighting for something quite different.

Politicians, the media and the military have varying agendas and have at times proved adept at using the power of symbols of national identity to produce unthinking obedience to those agendas. As the forthcoming debate about modernising Australia’s military capacity is played out, the various players will attempt to use potent images of sacrifice to influence the public and make their views acceptable without serious argument. Almost every path we could take will be enormously costly and will involve using money which could go to budgets in health, social services, education and so on. Some paths we might take could lead to a significant loss of young lives. Do we need to massively increase our spending on high technology weaponry? Do we need to be prepared to intervene in North Asia as an ally of the United States? Should we be America’s ‘deputy’ in the region? In the light of events in Timor, Fiji, the Solomon Islands etc, do we need to increase our capacity to carry out low level operations in the Pacific?

Young people in Australia today, particularly young males, suffer from social anomie and a feeling that they have no satisfying and well-defined role. They and many others, such as country Australians, are increasingly economically marginalised by a worldwide economic system which enormously enriches a few people at the expense of a vast number of others. That system creates an international order which culturally marginalises the same groups of people. By providing them with a sense that they belong to a worthwhile tradition of noble sacrifice in which they take pride, the Anzac tradition provides a much needed sense of meaning, even if it does nothing to deal with some of the underlying causes of their problems.

At the height of the Great Depression in 1931, John Anderson, Professor of Philosophy at the University of Sydney, criticised war memorials claiming that they "are political idols and the keeping up of religious ceremonies connected with them are merely fetishes for the purposes of blocking discussion". He defined an idol as 'any object treated in such a way as to block or hamper discussion and criticism and he criticised 'a superstitious regard for or loyalty to 'the State' or 'the Country' which is a noteworthy feature of modern political life'. As if to prove his point, he was attacked in newspapers, in the New South Wales parliament and by various university authorities. He was accused of insulting the war dead of World War One. The senate of the University of Sydney while claiming to assert the principle of free speech, said that in his comments 'he used expressions that transgress all proper limits, and for so doing severely censures him, and requires him to refrain from such utterances in the future'.

In 1932, the Daily Telegraph (Sydney) attacked the journal Freethought, in which Anderson had produced his original argument, for assailing British patriotism and religious belief. According to the Daily Telegraph the premier of New South Wales, Mr Stevens, said of Anderson’s statements that 'if the statements are disloyal as they seem to be, and destructive of principles upon which the nation has been founded and of those things which are held dear by our people, then they must be stopped, and any power the government has will be directed towards that end'. The Sun reported that Mr Chaffey, the Chief Secretary, said there were statements in Freethought 'which were wrong in any British community'. Anderson replied:

[T]he attitude expressed in these statements is obscurantist in that it implies that there are 'principles' or 'British' views which are above criticism ... The reference by Mr Stevens to 'the principles upon which the nation has been founded' suggests that at one time these 'principles' were a subject of discussion and that a definite conclusion was arrived at. Even if that were so, there would be no reason for not discussing them again now. But it is not so; no general agreement on the political structure of society has ever been come to, and the reference to a supposed underlying agreement is merely a way of avoiding discussion over political fundamentals ...

Conclusion

All too often heritage has been thought to be an unproblematically good thing and its preservation has been thought to be of great value. The expansion of law as protector of heritage seems to be unquestioned because heritage is presented as mere history. Yet, as Lowenthal has said, heritage is not history. John Williams and others have shown that if we wanted to understand the history of Australia's involvement in some wars, study of the role of the media, of military censorship and of the behaviour of politicians would be far more valuable than the study of heroic actions in medals. We might ask why items relating to these matters are not considered important enough by 'experts' to be listed as Class A items under the PMCH Act?

Military medals are particularly problematic items to place at the centre of Australian cultural heritage. While they commemorate selfless sacrifice which is in certain ways admirable, the military life they celebrate is often characterised by unquestioning obedience and absurd machismo. Participation in wars is more typically the result of social pressure, fear of stigmatisation and fear of marginalisation than it is the result of careful consideration of the issues involved. Further, as any student of history knows, the virtue of courage is all too often something which goes together with a willingness to kill and maim for vague or dubious causes. Brave Australian soldiers have sometimes fought for very good reasons and sometimes for very bad ones. To preserve military medals as symbols of an admirable Australian character blurs important distinctions between various wars for which Australians have received medals.

Insofar as cultural heritage legislation is used to preserve items relating to Australia's military history, it should be used to preserve items that problematise aspects of that

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interest of the individual in telling their story in an effective and comprehensive way? It is comforting to assume that any right-minded Tribunal member, realising that a case involves a question of law with which the lay applicant cannot grapple, will authorise legal representation. Applicants do not simply need assistance with legal issues. Many need assistance to identify the issues, and then tell their story. Commonly, it is lawyers or legally trained volunteers who do that story telling.

In the Bill there is no guidance for when representation will be permitted. Clause 105 provides that a tribunal member may authorise legal or other representation provided the practice and procedure directions do not prohibit them from so doing. At this stage these directions have not been created. It bears mentioning that such directions may be made by the Tribunal itself or by the Minister responsible for the particular division of the Tribunal (cl.161). Effectively, the Minister for Social Security can issue practice directions concerning the right of parties to be legally represented in appeals against decisions by Department.

Most courts in Australia are presently struggling with issues of cost, delay, and adversarial culture. Increasingly, they are also struggling with the problems that the unrepresented litigant presents to both the pre-trial process and the hearing. There are good practical and philosophical reasons for allowing representation wherever it can be obtained. The reality of legal aid funding is that in areas of most need there will be no more representation now than previously. But those who can obtain representation should not be denied it. Simply limiting appeal rights and availability of representation is akin to "throwing the baby out with the bath water". It may result in a more streamlined and efficient system, but not in fairer decisions. The administrative review process in Australia has never existed solely to resolve important or public interest disputes. It exists to resolve disputes between citizens and the administration in the enormous number of areas where our lives are regulated by administrative decision makers. The impact of this legislation will inevitably be to derogate from the accessible and public review of day-to-day decisions that can have far reaching implications for the people affected by them.

As the Attorney General states in the second reading speech, a large number of decisions made by government departments and agencies on a daily basis affect the rights and interests of individuals. Independent, fair, effective, and accessible merits review is critically important in this context: It is unfortunate that the detail of the ART Bill seems to miss this point at almost every level.

References

5. For example, Social Security Act 1991 (Cth) s1253, Veterans Entitlements Act 1989 (Cth) s.119.
7. See ref.5 above.
8. Administrative Appeals Tribunal Act 1975-1977 (Cth)s.33(1)(b) and (c).
10. All such examples are drawn from the Social Security Act which requires such qualitative assessments to be made in determining income support entitlements.
11. Legal representation is the norm rather than the exception in areas such as workers compensation, tax, and other specialist jurisdictions involving monetary claims.
14. The writer's experience is that these statements are uniformly provided by legal represented parties, and by informed departmental representatives. In the case of unrepresented applicants, they are usually not required, and when they are, are of little real value in narrowing the issues.

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history and not merely to glorify the actions of Australian soldiers. When the only items relating to the actions of Australian soldiers which are classified as Class A objects are VC's, there is a significant danger that cultural heritage legislation is being used to present a seriously distorted image of Australia's role in various wars. The Cultural Heritage Act should be amended so that a wide range of military items are categorised as Class A objects to show that there are serious historical controversies about Australia's role in various wars.

References

1. As quoted in Williams, J., Anzac, the Media and the Great War, UNSW Press, 1999, p.12.
4. Lowenthal, above, p.x.
10. Williams, above, p.264.
11. For some examples, see Williams, above, pp.27-8; 271-2.
12. For some evidence of the dramatic decline, see Griffin, James, Weekend Australian, Review, 1 April 2000, p.11.
14. Lowenthal, above, pp.5-6.
15. Trewell v Minister for Communications and The Arts, No Q 95 AAT, November 1995.
17. For some perceptive remarks about the uses to which the symbols of Anzac have been put in Australian history see Williams, above.