

A 'FREE TRADE' IN THE ANTIPODES: AMERICAN REPRINTS IN THE AUSTRALASIAN COLONIES

THE UNITED STATES PUBLISHING INDUSTRY of the nineteenth century was notorious for its nearly total disregard of copyright conventions held so dear by British publishers. British copyright works were systematically pirated and issued in a variety of formats, and, although the United States was the primary market, large quantities of reprints were exported, very often to traditional British markets in Canada and the West Indies. James J. Barnes has investigated the history of this practice in a detailed monograph, but he concentrated upon the Atlantic trade and has ignored the United States mercantile expansion into the Pacific region.¹

It is now more than twenty years since Wallace Kirsop first raised the question of the extent of the circulation of American reprints in the Australasian colonies in the nineteenth century.² At the time Kirsop referred to only three pieces of evidence. First, a title from Lardner's *Cabinet Cyclopaedia* (Philadelphia, 1835) had been in the Newtown School of Arts at some time. Secondly, an American bookseller, Benjamin Mortimer, did operate in Melbourne in the 1850s and, had a trade in reprints existed, he would have been a good conduit. In fact Mortimer made a strong and explicit statement about his business in a *Prospectus and Catalogue* issued in 1855, and this document will be considered below. Finally, there was an almost total lack of 'biblio-archaeological' evidence: Kirsop simply did not find many American piracies on his visits to Melbourne bookshops and libraries. On the basis of this evidence Kirsop concluded that the United States was probably not a real force as a book importer in the nineteenth century. In this paper I will consider further evidence for the importation and circulation of American piracies in the colonies with a view to assessing Kirsop's early and tentative conclusion.

As early as April 1854, in an article which speculated upon the good effects of a wide circulation of literary works, be they copyright or illicit, the Melbourne *Argus* approved of the 'free trade' of unauthorised American reprints. 'We confess that we had a feeling of satisfaction in seeing that through this channel a copious stream of knowledge was likely to flow towards these shores.' The paper was immediately rebuked by George Robertson who claimed that the copyright laws formed the cradle of literary talent. 'I consider that the literary laborer . . . is as much entitled to receive the profits of his book as the man who spends time, money and labor in the erection of a house is entitled to receive the rents of that house. Both have by their industry and skill called property into existence, and both are equally entitled to enjoy the fruits of their labors.' The *Argus* responded that Robertson himself was not above reproach as there was 'not a bookstore in the city which does not offer these reprints for sale.'³ The *Argus* may have been exaggerating but clearly there was a belief that American piracies were widely available. If they were then it may have been Benjamin Mortimer who was importing them.

Mortimer, an American bookseller, operated in Melbourne from 1853 to about 1860. He was an agent for several American publishers, distributing Webster's Dictionary, the publications of the Episcopalian Church, and the works of Thomas Jefferson, William Prescott, Henry Clay, John Calhoun and Matthew Maury. His *Prospectus and Catalogue* of 1855 advertised books on a variety of topics including politics, religion, commerce, medicine, music, ladies' literature, educational texts for

schools, colleges and universities, masonic books, 'Sam Slick' novels, and books on horses, dogs, chess, etc. In the same catalogue Mortimer felt compelled to offer the following explanation, presumably as a response to contemporary allegations that he was involved in an illicit trade.

Of the books marked 'to arrive', some may not be sent to me, on account of the orders from the British Government, prohibiting the importation of American reprints. I have no intention of violating the law. My correspondents (men of the first respectability) will never send me such works.

Mortimer continued by outlining the legal situation in various British colonies and concluded with a passage of high-flown rhetoric which contrasted American 'go-aheadativeness' with the British power 'to fetter the immortal mind.' Clearly Mortimer sympathised with the *Argus's* arguments in favour of deregulating Imperial copyright provisions, but he claimed to be innocent of the charge of importing unauthorised reprints. If his competitors were using the contentious nature of the reprints to cast doubts on Mortimer's business activities, they would have drawn upon anti-American feeling which existed in the colonies at the time.⁴

It was more than a decade before another incident showed that the 'possum' of American piracies could still be easily stirred. In October 1868, apparently acting on information supplied by a disgruntled employee, Customs officers seized a number of American publications from the shop of Melbourne bookseller H.T. Dwight. The books turned out not to be piracies but the incident is clear evidence that the illegal importation of American reprints was still a contentious question within the Melbourne booktrade.⁵

The importance of the Australian market to the British booktrade was illustrated by the comments made in 1879 by an English publisher (probably Edmund Marston of the firm Sampson Low, Marston, Searle, and Rivington) in an analysis of the report of the Commission of Inquiry into Copyright.⁶ Although his comments were wide-ranging, the author paid particular attention to the Australasian market, often referring to it in glowing terms such as 'the very important book-buying colonies of Australasia' and 'those [colonies] of Australasia, which are by far the largest consumers of English books.' It is clear that the Australasian market was extremely valuable to the British booktrade and had to be protected from the competition of American reprints at all costs. To this end, so Marston claimed, British publishers supplied books on exceptionally liberal terms and gave extra length of credit so that the books could be retailed in Australia and New Zealand at British retail prices.

In Marston's view, colonial readers were not disadvantaged by their distance from Britain and there was no need to alter the conditions of Imperial copyright. In fact, if the laws were changed, the Australasian market might be disrupted and harmed by an influx of cheap American reprints. The author thought that the Australasian market was relatively free of piracies, but he did cite the complaint of the Melbourne Booksellers Association that:

Great exertions are being made throughout the Australian colonies, *by the agents of American publishing houses*, to drive a trade in books: nor do they confine these exertions to American literature, but reprints of British copyright works

are from time to time introduced and openly offered for sale . . . A glaring instance is a pirated abridgement of Dr Wm Smith's 'Dictionary of the Bible', of which hundreds of copies have been sold. [original emphasis]

It was further noted that Customs officers confiscated the occasional consignment, but their watchfulness was easily circumvented, 'and *secondly, some of the officials in our various colonies may be disposed to treat attempts to evade the law in reference to reprints with indifference*' [original emphasis]. Thus, the Melbourne Booksellers Association had been able to demonstrate one instance of an imported American piracy, but, given the present day lack of 'biblio-archaeological' evidence, they appear to have been scaremongering in order to prevent a flood of unauthorised reprints.

In 1880, across the Tasman in New Zealand, George Robertson's agent, Charles Newbery, encountered the open sale of American piracies. Newbery reported to Robertson that one Richard Shannon of Christchurch was selling a 64-page quarto edition of Mrs Henry Wood's popular *East Lynne* for 1s 6d, a price which was very much cheaper than that of the copyright English edition which sold for 7s 6d.⁷ Moreover, this was one of several pirated titles which formed the 'Sea Side Library'. The extent of their sale was considerable; Newbery observed that Shannon had in stock about three hundred copies of *East Lynne*, and that they were 'scattered broadcast in the hands of travellers by railway from Christchurch to Dunedin.'⁸

Our final instance of an American reprint in the colonies dates from February 1887 when a consignment of pirated Bibles was confiscated by Victorian Customs officers at Horsham, a town about 400 kilometres west of Melbourne on the main road between Adelaide and Melbourne.⁹ On this occasion a Mr W.D. Russell of Horsham was considered to be the owner so that it would appear that Horsham was the final destination. However, it is also possible that, as Melbourne was a carefully policed port, Adelaide was used as an entrepôt to which piracies could be shipped and from where they might be 'overlanded' to Melbourne via Horsham. Such a tactic well illustrates the albeit hypothetical claim of the Melbourne Booksellers Association that the Customs authorities were easily circumvented. In this instance the books were returned to Adelaide and the problem was referred to the South Australian government. It cannot be ascertained what further action, if any, was taken by that government.

In conclusion, can we add anything to Kirsop's thesis that the United States was probably not a real force as an exporter of pirated works to the Australian colonies in the nineteenth century? Although we have been able to refer to more instances of American piracies, either alleged or documented, the total number is still not many. In fact, there are only three specific cases of American reprints arriving illegally in the colonies: the Melbourne Booksellers Association's complaint about William Smith's *Dictionary of the Bible*, Robertson's agent's complaint about Mrs Henry Wood's *East Lynne* being sold in New Zealand, and, lastly, the smuggling of Bibles through Adelaide by W.D. Russell of Horsham. The small number of American piracies known to have been imported to the colonies suggests that not many piracies were coming in.

One further observation might be appropriate here. In three of the cases discussed in this paper, an accusation that a bookseller was selling American piracies was used

to cast doubts, for whatever reason, on their business activities and ethics. The *Argus* claimed, in support of its arguments in favour of deregulating the literary marketplace, that George Robertson was illegally importing American reprints. It appears that Dwight was similarly accused because of a personal conflict. And, although there is no record of a complaint against him, Benjamin Mortimer's competitors may have been able to cast a shadow over his business activities by raising the question of American reprints. The reprints themselves may have been very few but they were still a sore point, and this is probably due to the origins of most colonial booksellers. Being invariably trained in Britain, they brought with them, as part of their professional baggage, a deep resentment and fear of the American reprint industry.

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NOTES

1. James J. Barnes, *Authors, Publishers and Politicians: the Quest for an Anglo-American Copyright Agreement, 1815-1854* (London: Routledge & Kegan Paul, 1974). For a definition of 'piracy' see 'pirated edition' in *Glaister's Glossary of the Book*, 2nd ed. (London: Allen and Unwin, 1979).
2. Wallace Kirsop, *Towards a History of the Australian Book Trade* (Sydney: Wentworth Books, 1965), p.16.
3. *Argus*, 18, 20, 22 and 26 April 1854. See also John Holroyd, *George Robertson of Melbourne 1825-1898* (Melbourne: Robertson & Mullins, 1968), pp.25-26; and E. Daniel Potts and Annette Potts, *Young America and Australian Gold* (St Lucia, Qld: University of Queensland Press, 1974), pp.67-68.
4. Potts and Potts, *ibid.*, p.67. *Prospectus and Catalogue of American Literature, Globes, Maps, &c., for sale by Benj^d Mortimer* (Melbourne, 1855). Prof Kirsop made reference to this catalogue in the work referred to in note 2 above, but Mortimer's statement concerning American piracies was not discussed. For evidence of anti-American feeling see Potts and Potts, *ibid.*, pp.100-101 and 106.
5. *Australasian*, 3 October 1868. Ian McLaren referred to this episode in the entry on Dwight in the *Australian Dictionary of Biography*, vol.4 (Melbourne: Melbourne University Press, 1972), pp.121-122.
6. Edmund Marston, *Copyright, National and International, from the Point of View of a Publisher* (London, Sampson Low, Marston, Searle, and Rivington, 1879), pp.19-23.
7. It was not till 1888 that Bentley and Son produced a 3s 6d edition of Mrs Henry Wood's novels.
8. Holroyd, *op.cit.*, pp.27-29.
9. *Age*, 4 and 9 February 1887. This case came to my attention after the *Age* reprinted the original report in its column 'One hundred years ago' on 3 February 1987. We might wonder then whether there are other instances of smuggling. It may only take a good look through the newspapers to reveal others. It should be added that a search in the indexes to the correspondence of the Victorian Chief Secretary has revealed nothing. It is thought that Victorian Customs files are no longer extant.

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