

# Status of Injunctions Against Brian Toohey

The injunctions relating to the Australian Secret Intelligence Service, issued against Toohey, and later Toohey and Pinwill, have been replaced by an undertaking given to the Federal Court as part of the settlement of the legal action.

This agreement is in two parts. One covers material proposed for inclusion in the book called *Oyster*. Negotiations with the government are still underway concerning this material. It appears that a court case may be needed to resolve a dispute over what can be published about one major topic which the authors claim involves highly improper behaviour by ASIS. Any material which the authors agree to delete cannot be published or revealed by the authors in future. The same naturally applies to anything they lose as a result of future



Brian Toohey court action.

The other part of the agreement relates to information the government claimed was intended for publication in the magazine, *The Eye*. Although it now admits it was wrong, and there was no intention

to publish, the government has still obtained agreement that the name of an ASIS officer, and unspecified activities of that officer in a particular country, will not be published or otherwise revealed. Failure to give such an undertaking would have resulted in continued injunctions, as would have been the case with *Oyster*.

Other journalists and authors, of course, are free to publish this material if they can find it out.

The September 1 injunction still stands in that Toohey is not allowed to reveal information obtained as part of what is known as the Hayden Papers. As the government does not know what was in these papers, other than what was published, the injunction lacks a certain degree of precision. In any event, Toohey has said he destroyed his copies of the material.

There is also an ongoing 1983 High Court injunction relating to published material called "The Austero Papers" which appeared in the former weekly publication, *The National Times*. ●

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## SUPPRESSION ORDERS CURBED

The South Australian government last month enacted legislation to reduce the availability of suppression orders to the State's courts.

The legislation, among other things, requires any State court when imposing a suppression order, to provide full details of the reasons for the order. In addition, the court is obliged to place a copy of any suppression order on a central register available to the public.

Interim suppression orders are now limited to a maximum of 72 hours.

Speaking after the Bill had been passed, South Australian Attorney-General Chris Sumner said he was pleased with its provisions. However, Opposition Leader Mr Griffin, although voting with the



Chris Sumner

government, said that the Bill did not recognise that administration of justice must be open to scrutiny, that there must be a free press able to report responsibly, that public

interest in the matter had to be recognised and that a defendant must have a fair trial.

The Bill, when passed, failed to reflect these principles, said Mr Griffin, but he had allowed it to pass into law since changes were required to the existing legislation, and any subsequent problems would have to be "left at the feet of Mr Sumner."

Prior to the passing of the amendments, the leading South Australian newspaper, *The Advertiser*, the Australian Broadcasting Commission, the South Australian Journalists Association and the Press Council among others, had lobbied the government on the issue and had made a number of written submissions to it. ●

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