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GOVERNMENT GAZETTE

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DEPARTMENT OF THE INTERIOR
GENERAL NOTICE

NOTICE 840 OF 1972

The summary below of the Report of the Interdepartmental Committee of Inquiry into the Application of the Publications and Entertainments Act, 1963, is hereby published for general information.

The recommendations of the Committee are under consideration by the Government.

Comments on the recommendations of the Committee may be submitted in writing to the Secretary for the Interior, Private Bag X114, Pretoria, not later than 26 January 1973.

SUMMARY

OF THE REPORT OF THE INTERDEPARTMENTAL COMMITTEE OF INQUIRY INTO THE APPLICATION OF THE PUBLICATIONS AND ENTERTAINMENTS ACT, 1963

TERMS OF REFERENCE ITEM (a)

THE BOARD AND COMMITTEES

Terms of reference

The terms of reference of the Committee are to inquire into the composition of the Publications Control Board and the aspects of which members of the Board ought to have special knowledge.

Existing provisions

In terms of section 2 of the Publications and Entertainments Act, 1963 (hereinafter referred to as the Act), the Minister of the Interior (hereinafter referred to as the Minister) shall appoint a Publications Control Board (hereinafter referred to as the Board), consisting of not less than nine persons, not less than six of whom shall be persons having special knowledge of art, language and literature or the administration of justice.

In terms of section 4 of the Act, the Minister shall designate a panel of persons from which committees of the Board, with one of the members of the Board as chairman, may be constituted.

DEPARTEMENT VAN BINNELANDSE SAKE
ALGEMENE KENNISGEWING

KENNISGEWING 840 VAN 1972

Die opsomming hieronder van die verslag van die Tussendeptementele Komitee van Ondersoek insake die toepassing van die Wet op Publikasies en Vermaaklikhede, 1963, word vir algemene inligting bekendgemaak.

Die aanbevelings van die Komitee word tans deur die Regering oorweeg.

Kommentaar op die aanbevelings van die Komitee kan voor of op 26 Januarie 1973 skriftelik aan die Sekretaris van Binnelandse Sake, Privaatsak X114, Pretoria, gerig word.

OPSOMMING

VAN DIE VERSLAG VAN DIE TUSSENDEPARTEMENTELE KOMITEE VAN ONDERSOEK INSAKE DIE TOEPASSING VAN DIE WET OP PUBLIKASIES EN VERMAAKLIKHEDE, 1963

OPDRAG (a)

DIE RAAD EN KOMITEES

Opdrag

Aan die Komitee is opgedra om ondersoek in te stel na die samestelling van die Raad van Beheer oor Publikasies en die aspekte waarin lede van die Raad onderleg behoort te wees.

Bestaande bepalings

Die Minister van Binnelandse Sake (hieronder die Minister genoem) stel ingevolge artikel 2 van die Wet op Publikasies en Vermaaklikhede, 1963 (hieronder die Wet genoem), 'n Raad van Beheer oor Publikasies (hieronder die Raad genoem) aan wat bestaan uit minstens nege persone, waarvan minstens ses persone in die kuns, taal en lettere of die regspleging onderleg moet wees.

Ingevolge artikel 4 van die Wet benoem die Minister persone op 'n paneel waaruit komitees van die Raad, met een van die lede van die Raad as voorsitter, saamgestel kan word.

Existing Board and Panel

At present the Board consists of five full-time members in Cape Town and seven part-time members in the other larger cities and in Windhoek. Nine of the members are Afrikaans-speaking and three members are English-speaking. Seven of the members have a special knowledge of literature, while the other five members have a special knowledge of education, African studies, communism and the security of the State, political philosophy, the administration of justice, and public administration.

The Panel consists of 26 members, 17 of whom are in Cape Town, the others being in the larger cities and Windhoek. Eighteen members of the Panel are Afrikaans-speaking, eight members being English-speaking. These members include clergymen, professors and lecturers, businessmen and housewives.

Present functions

The main functions of the full-time members of the Board, as chairmen of committees, on which members of the Panel also serve, are to view cinematograph films, and as a Board, to consider the reports on these films and on publications and objects and public entertainments submitted to the Board.

The main functions of the part-time members of the Board are to read and report to the Board on more complicated publications. Part-time members also sometimes serve on committees to examine cinematograph films and public entertainments.

Some of the members of the Panel serve on the above-mentioned committees which view cinematograph films and examine public entertainments and also read and draw up reports on publications.

Problems, complaints and questions

Complaints have been received that the members of the Board are too old, are not changed frequently enough, are not sufficiently representative of all sections and strata of society, and also that they are not sufficiently knowledgeable.

In particular representations were made for members of the Board to be younger and for members to be well versed in Christian ethics, sociology, psychology, youth work, etc. Requests were also made for booksellers and film producers and distributors to be represented on the Board.

Findings

On 15 August 1972 the average ages of the full-time and part-time members of the Board were 65 years and eighth months and 57 years and nine months, respectively.

Members of the Board serve an average of two periods of office of three years each before they are replaced.

Whereas, with advancing age there is a distinct decline as regards the factor of speed and physical capacity, mental capacities remain constant, especially in the higher intellectual strata of a population. If individuals in this category remain active, their judgment and the standards they maintain should continue to be of a high quality.

It would be difficult and impracticable to try to constitute a board commanding all the expertise and special knowledge of all the aspects advocated in representations to the Committee.

Nation-conscious, highly principled and responsible persons with broad general knowledge, considerable experience of life, and balanced judgement should be suitable for appointment to the Board.

Bestaande Raad en Paneel

Die Raad bestaan tans uit vyf heeltydse lede te Kaapstad en sewe deeltidse lede in die ander groter stede en te Windhoek. Nege van die lede is Afrikaanssprekend en drie lede is Engelssprekend. Sewe van die lede is onderleg in die letterkunde, terwyl die ander vyf lede in die opvoedkunde, Afrika-studies, kommunisme en staatsveiligheid, staatsfilosofie, regspleging en publieke administrasie onderleg is.

Die Paneel bestaan uit 26 lede waarvan 17 te Kaapstad, en die ander in die groter stede en te Windhoek is. Agtien lede van die Paneel is Afrikaanssprekend en agt lede is Engelssprekend. Onder hierdie lede is daar predikante, professore en lektrises, sakemanne en huisvroue.

Bestaande werksaamhede

Die hoofwerksaamhede van die heeltydse lede van die Raad is om as voorsitters van komitees, waarin ook lede van die Paneel dien, rolprente te besigtig, en as Raad die verslae oor hierdie rolprente, en oor publikasies en voorwerpe, en openbare vermaaklikhede wat aan die Raad voorgelê is, te oorweeg.

Die hoofwerksaamhede van die deeltidse lede van die Raad is om die meer ingewikkelde publikasies te lees en verslae daaroor aan die Raad voor te lê. Die deeltidse lede dien ook soms in komitees om rolprente en openbare vermaaklikhede te ondersoek.

Van die lede van die Paneel dien in voornoemde komitees wat rolprente besigtig, en openbare vermaaklikhede ondersoek, en lees ook publikasies en stel verslae daaroor op.

Probleme, klagtes en vrae

Klagtes is ontvang dat die lede van die Raad te oud is, nie dikwels genoeg verwissel nie, nie genoeg verteenwoordigend van al die dele en vlakke van die gemeenskap is nie, en nie breed genoeg onderleg is nie.

Vertoë is veral ontvang dat lede van die Raad jonger moet wees en dat die lede in die Christelike etiek, sosiologie, sielkunde, jeugwerk, ens., onderleg moet wees. Daar is ook gevra dat boekhandelaars, en rolprentprodusente en -verspreiders ook in die Raad verteenwoordig moet wees.

Bevindinge

Op 15 Augustus 1972 was die gemiddelde ouderdomme van die heeltydse en deeltidse lede van die Raad onderskeidelik 65 jaar en agt maande en 57 jaar en nege maande.

Lede van die Raad dien gemiddeld twee termynne van drie jaar elk voordat hulle verwissel.

Terwyl daar 'n duidelike afname met toename in ouderdom is vir sover dit die spoedfaktor en fisiese vermoë betref, bly die psigiese vermoë konstant veral binne die hoër intellektuele lae van 'n bevolking. Indien individue in dié kader aktief bly, behoort hul oordeelsvermoë en die standaarde wat hul handhaaf, steeds van hoogstaande kwaliteit te wees.

Dit sou moeilik en onprakties wees om 'n raad te probeer saamstel wat oor al die kundigheid beskik, en in al die aspekte onderleg is waarvoor in die verhoë tot die Komitee voorspraak gemaak is.

Volksbewuste, beginselvaste en verantwoordelike persone met 'n breë algemene kennis, aansienlike lewenservaring en 'n gebalanseerde oordeel behoort vir aanstelling in die Raad geskik te wees.

If the Minister's powers in this regard are to be qualified, it should only be stipulated that, in appointing any person to the Board, the Minister should take his educational qualifications, special knowledge, experience of life, character, and way of life into account.

The Committee supports the idea that, functionally, the Board belongs more properly under the Department of National Education.

Recommendations

The Committee's recommendations are based on the following premises:

- (a) That society itself should act as the custodian of its good morals and customs;
- (b) that for this reason the body or bodies which are to exercise control over the production and dissemination of undesirable publications or objects, cinematograph films and public entertainments in the Republic should be as representative as possible of the responsible age groups and bodies of opinion in the community; and
- (c) that the said controlling body or bodies should consist of competent, nation-conscious, highly principled persons who are in touch with contemporary trends of thought and public opinion.

This would make for a better understanding of such contemporary trends of thought and public opinion, and consequently greater support for the decisions of such controlling body or bodies.

The theme of the Committee's report is therefore:

CONTROL BY SOCIETY

Recommendations

The Committee recommends—

A. in respect of the Board—

(a) that the Minister constitutes a Publications Control Board—

(i) consisting of—

four or five full-time members in Cape Town, viz—
one chairman;
one vice-chairman;
two or three full-time members;
one full-time member in Pretoria;
one part-time member in Windhoek.

(Note.—(a) In Windhoek mainly imported German publications and cinematograph films are considered.

(b) The volume of work in connection with the arrangement and co-ordination of the viewing of cinematograph films by committees in Pretoria necessitates the appointment of a full-time member.)

(ii) to which members will be appointed with due regard to their educational qualifications, special knowledge, experience of life, character, and way of life;

(iii) members of which shall serve for a period of five years (instead of three years, as at present) to promote continuity and uniformity of standards of evaluation;

(iv) three members of which (four members at present) shall constitute a quorum, the member presiding at a particular meeting (who need not necessarily be the Chairman or the Vice-Chairman) to have a casting vote in addition to his deliberative vote;

(b) that a decision-making function in respect of publications and objects, cinematograph films and public entertainments be entrusted to the committees mentioned below, the Board's functions then being—

(i) organisational and co-ordinative (i.e. the constitution of committees, the daily allocation of work to the committees, and the co-ordination of the activities of the various committees);

Indien die Minister se bevoegdheid in dié verband gekwalifiseer moet wees, behoort slegs bepaal te word dat die Minister by die aanstelling van 'n persoon in die Raad sy opvoedkundige kwalifikasies, kundigheid, lewenservaring, karakter en leefwyse in ag neem.

Die Komitee ondersteun die gedagte dat die Raad funksioneel beter to behoort by die Departement van Nasionale Opvoeding.

Aanbevelings

Die uitgangspunt van die komitee se aanbevelings hieronder is—

(a) dat die gemeenskap self as die bewaker van sy goeie sedes en gewoontes moet optree;

(b) dat die instansie of instansies wat die beheer moet uitoefen oor die voortbrenging en verspreiding van ongewenste publikasies of voorwerpe, rolprente en openbare vermaaklikhede in die Republiek, daarom so verteenwoordigend van die verantwoordelike ouderdoms- en opvattingsgroepe van die gemeenskap as moontlik moet wees; en

(c) dat genoemde beherende instansie of instansies moet bestaan uit bevoegde, volksbewuste, beginselvaste persone wat in voeling is met die geestesstrominge van die tyd en die openbare mening;

wat inhoud dat genoemde geestesstrominge en openbare mening beter gepeil kan word en daar gevolglik groter steun vir die besluite van genoemde beherende instansie of instansies sal wees.

Die tema van die verslag van die Komitee is derhalwe:

BEHEER DEUR DIE GEMEENSAP

Aanbevelings

Die Komitee beveel aan—

A. ten opsigte van die Raad—

(a) dat die Minister 'n Raad van Beheer oor Publikasies saamstel—

(i) wat bestaan uit—

vier of vyf heeltydse lede te Kaapstad, dit is—
een voorsitter;
een adjunk-voorsitter;
twee of drie heeltydse lede;
een heeltydse lid te Pretoria;
een deeltidse lid te Windhoek.

(Opmerking.—(a) In Windhoek word in hoofsaak ingevoerde Duitse publikasies en rolprente oorweeg.

(b) Die werksomvang in verband met die reëling en koördinering van die besigtiging van rolprente te Pretoria deur komitees maak die aanstelling van 'n heeltydse lid nodig.);

(ii) waarin lede aangestel is met inagneming van hul opvoedkundige kwalifikasies, kundigheid, lewenservaring, karakter en leefwyse;

(iii) waarvan die lede termyn van vyf jaar (in plaas van drie jaar soos tans) sal dien om daardeur die deurloopenheid en eenvormigheid van beoordelingsstandaarde te bevorder;

(iv) waarvan drie lede (vier lede tans) 'n kworum uitmaak, met 'n beslissende stem, bo en behalwe sy raadgevende stem, vir die lid wat by die betrokke vergadering voorsit (wat nie noodwendig die Voorsitter of die Adjunk-voorsitter hoef te wees nie);

(b) dat 'n besluitnemingsfunksie ten aansien van publikasies en voorwerpe, rolprente en openbare vermaaklikhede aan ondergenoemde komitees opgedra word, en dat die Raad se funksies dan sal wees—

(i) organisatories en koördinerend (d.i. die samestelling van die komitees, die daaglikse toewysing van werk aan die komitees en die koördinering van die werksaamhede van die verskillende komitees);

(ii) to consider and review the committees' decisions, if deemed necessary, and to guide and direct the committees (i.e. the Board will consider and review, if necessary, all the committees' decisions and will guide and direct the committees in regard to the standards of evaluation to be applied by them; and

(iii) advisory (i.e. the Board may on application advise—or of its own accord warn—persons who intend to produce a publication or object, cinematograph film or public entertainment whether or not the publication, etc., in question might be considered undesirable in the light of the provisions of the Act);

as will become clearer further on;

B. in respect of the committees—

(a) that every year in July the Minister shall extend an open invitation in the press and on the radio to all interested parties to propose persons from every part of the country whom the Minister may annually nominate, with effect from 1 November, to a panel from which the under-mentioned committees shall be constituted (thus making the panel and committees, which should be changed continually, as representative of society as possible); and

(b) that the members of the committees may be remunerated at the rate of R12,50 per day (the existing tariff) for each day on which they actually sit or perform work on the instructions of the chairman of the committee—the chairman of a committee who, in addition to presiding at the committee, shall also prepare the relevant report to the Board, being remunerated at the rate of R15 per day;

C. in respect of the functions of the Board and committees:

(a) that the Board—

(i) shall appoint standing committees at its headquarters in Cape Town to consider publications and objects which are sent to the Board and which are submitted to the Board by the Department of Customs and Excise;

(ii) in view of the fact that most imported cinematograph films are imported through Jan Smuts and that South African-produced cinematograph films are mainly produced at film studios between Pretoria and Johannesburg, shall appoint standing committees in Pretoria to view and consider cinematograph films;

(iii) shall appoint a standing committee in Windhoek to consider German publications and cinematograph films (as well as other publications and cinematograph films);

(iv) shall continually change these standing committees to ensure a more broadly based judgement of publications or objects and cinematograph films;

(v) may appoint *ad hoc* committees (not necessarily in Cape Town and Pretoria only, but also in other cities where other competent persons are available to serve on such committees) to consider complicated publications or objects and cinematograph films and public entertainments, or if circumstances so require, to undertake examinations locally;

(vi) shall exercise great judiciousness in appointing the above-mentioned committees so as to make them as representative as possible of the interested parties concerned; for example, when a work of great literary value which might be blasphemous has to be considered, it should be considered by a committee including at least one person versed in literature and one person versed in Christian ethics;

(vii) may co-opt experts on to the said committees and may instruct the committees to consult members of the various nations in South Africa whenever the committees consider this to be necessary;

(ii) om die besluite van die komitees te oorweeg en te hersien, indien nodig geag, en leiding en rigting aan die komitees te gee (d.i. die Raad oorweeg en hersien, indien nodig, al die besluite van die komitee en gee leiding en rigting aan die komitees ten aansien van die beoordelingsstandaarde wat hulle moet toepas); en

(iii) adviserend (d.i. die Raad kan persone wat voornemens is om 'n publikasie of voorwerp, rolprent of openbare vermaaklikheid voort te bring, op aansoek adviseer—of uit eie beweging kan waarsku—of die betrokke publikasie, ens., in die lig van die bepalings van die Wet ongewens geag kan word, al dan nie); soos vervolgens duideliker sal blyk;

B. ten opsigte van die komitees—

(a) dat die Minister jaarliks gedurende Julie in die pers en oor die radio 'n ope uitnodiging rig aan alle belanghebbende instansies om landswyd persone voor te stel wat die Minister jaarliks met ingang van 1 November op 'n paneel kan benoem waaruit ondergenoemde komitees saamgestel moet word (hierdeur kan die paneel en komitees, wat gedurig moet wissel, so verteenwoordigend van die gemeenskap as moontlik wees); en

(b) dat die lede van die komitees vergoed kan word teen R12,50 per dag (die bestaande tarief) vir elke dag waarop hulle sit of werk in opdrag van die voorsitter van die komitee doen—die voorsitter van 'n komitee vergoed te word teen R15 per dag wat, behalwe dat hy op die vergadering van die komitee voorsit, ook die betrokke verslag aan die Raad opstel;

C. ten opsigte van die funksies van die Raad en komitees—

(a) dat die Raad—

(i) by sy setel te Kaapstad staande komitees aanstel om publikasies en voorwerpe wat aan die Raad gestuur word en wat deur die Departement van Doeane en Aksyns aan die Raad voorgelê word, te oorweeg;

(ii) in Pretoria staande komitees aanstel om rolprente te besigtig en te oorweeg in die lig daarvan dat die meeste ingevoerde rolprente by Jan Smuts ingevoer word, en Suid-Afrikaansvervaardigde rolprente hoofsaaklik by die rolprentateljees tussen Pretoria en Johannesburg vervaardig word;

(iii) in Windhoek 'n staande komitee aanstel om Duitse publikasies en rolprente (en ook ander publikasies en rolprente) te oorweeg;

(iv) hierdie staande komitees gedurig verwissel om 'n breër oordeel oor publikasies of voorwerpe en rolprente te verseker;

(v) *ad hoc*-komitees kan aanstel (nie noodwendig net in Kaapstad en Pretoria nie, maar ook in ander stede waar ander bevoegde persone beskikbaar is om in genoemde komitees te dien) om ingewikkelde publikasies of voorwerpe en rolprente en openbare vermaaklikhede te oorweeg of, indien omstandighede dit vereis, ondersoek plaaslik te onderneem;

(vi) voornoemde komitees met groot kundigheid saamstel om so verteenwoordigend as moontlik van die betrokke belanghebbende instansies te wees, bv. wanneer 'n werk van groot letterkundige waarde wat moontlik godslasterlik kan wees, oorweeg moet word, behoort dit deur 'n komitee waarin minstens 'n letterkundige en 'n persoon onderleg in die Christelike etiek dien, oorweeg te word;

(vii) deskundiges in genoemde komitees kan koöpteer en aan die komitees kan opdra om lede van die onderskeie volke in Suid-Afrika te raadpleeg wanneer die komitees dit nodig ag;

(viii) shall in each case appoint a member of a committee to act as chairman;

(ix) may decide that committees may even be one-man committees (e.g. to consider publications on the spot in the customs warehouse in Cape Town to expedite the release of consignments of publications); and

(x) may appoint readers to read publications at a fee of R2 for every 50 pages (the existing tariff);

(b) that such committees shall in the first instance give a decision on publications or objects, cinematograph films and public entertainments considered by them, and that such decisions shall apply subject to the following:

(i) That in exceptional cases the Board may immediately review a decision of a committee, and so review such decision without granting an opportunity for the making of representations;

(ii) that the decisions of the committees shall be conveyed by the Board, after review, to the persons who submitted the publications or objects, cinematograph films or public entertainments concerned;

(iii) that the Board may, within six weeks of the date of a decision by a committee, of its own accord, or on receipt and consideration of representations, which shall be submitted within one month of the date of the said decision, and after consulting experts, should the Board deem this necessary, review such decision;

(c) that, by reviewing all the decisions of the committees, the Board shall ensure continuity and uniformity in the standards of evaluation of the committees;

(d) that the Board (or a committee acting on the instructions of the Board) may on request advise any person (without the Board being bound thereby) who intends to produce or disseminate a publication or object, or a cinematograph film or a public entertainment, as to whether such publication or object, cinematograph film or public entertainment, or any parts thereof, may or may not be deemed to be undesirable in the light of the provisions of the Act, and that the Board may interview interested persons on intended, possibly undesirable, publications, or objects, cinematograph films and public entertainments, and warn them that they are running the risk of the intended publications, etc., being declared undesirable; and

(e) that members of the Board and members of the Panel, but not necessarily all the members but at least two or three in each city) authorised thereto in writing by the Minister of the Interior may, upon receipt of complaints, and acting on the instructions of the Board, enter upon any premises in terms of section 13A of the Act to examine any allegedly undesirable publications being produced or published or displayed or offered for sale there, and should they appear to be undesirable, to seize them;

D. in respect of the *Administrative Functions* of the Board and its committees—

(a) that the headquarters of the Board shall in course of time be moved to the administrative capital of the Republic, Pretoria; and

(b) that the said functions shall fall under the Department of National Education, the responsible Minister then being the Minister of National Education;

E. in respect of the *Transitional Stage*—

(a) that the Board shall continue to function as at present until 31 October 1973, and the proposed new functioning of the Board and committees shall come into operation on 1 November 1973;

(viii) in elke geval 'n lid van 'n komitee as voorsitter aanstel;

(ix) kan bepaal dat die komitees selfs een-man komitees kan wees (bv. om publikasies ter plaatse in die Doekaneloods in Kaapstad te oorweeg wat die los-sing van besendings publikasies sal bespoedig); en

(x) lesers kan aanstel om publikasies te lees teen R2 vir elke 50 bladsye (die bestaande tarief);

(b) dat genoemde komitees in eerste instansie besluit oor publikasies of voorwerpe, rolprente en openbare vermaaklikhede wat hulle oorweeg, en dat die besluite geld onderworpe daaraan:

(i) Dat die Raad in uitsonderlike gevalle die besluit van 'n komitee onmiddellik in hersiening kan neem en dit hersien, sonder om dan geleentheid vir vertoë te gee;

(ii) dat die besluite van die komitees deur die Raad aan die voorleggers van die betrokke publikasies of voorwerpe, rolprente of openbare vermaaklikhede, na hersiening oorgedra word; en

(iii) dat die Raad binne ses weke vanaf die datum van 'n besluit deur 'n komitee, uit eie beweging, of op ontvangs en oorweging van vertoë wat binne een maand vanaf die datum van genoemde besluit ingedien moet word, en na oorlegpleging met deskundiges, indien die Raad dit nodig ag, genoemde besluite kan hersien;

(c) dat die Raad deur die hersiening van al die besluite van die komitees sorg dra dat daar 'n deurloopenheid en eenvormigheid in die oordeelstandaarde van die komitees is;

(d) dat die Raad (of 'n komitee in opdrag van die Raad) enige persoon op aanvraag van advies kan dien (sonder dat die Raad daardeur gebind word) wat voornemens is om 'n publikasie of voorwerp, of 'n rolprent of 'n openbare vermaaklikheid voort te bring of te versprei, aangaande die vraag of daardie publikasie of voorwerp, rolprent of openbare vermaaklikheid, of dele daarvan, in die lig van die bepalings van die Wet ongewens, al dan nie, geag kan word, en dat die Raad belanghebbende persone oor voorgenome moontlik ongewenste publikasies of voorwerpe, rolprente en openbare vermaaklikhede kan spreek en waarsku dat hulle die risiko loop dat die voorgenome publikasie, ens. moontlik as ongewens verklaar sal word; en

(e) dat lede van die Raad en lede van die Paneel (maar nie noodwendig al die lede nie, maar minstens twee of drie in elke stad) deur die Minister van Binne-landse Sake skriftelik daartoe gemagtig, by ontvangs van klagtes, en in opdrag van die Raad, ingevolge artikel 13A van die Wet 'n perseel kan betree om ondersoek in te stel na beweerde ongewenste publikasies wat daar voortgebring of uitgegee of ten toon gestel of te koop aangebied word, en indien dit ongewens skyn te wees, beslag daarop te lê;

D. ten opsigte van die *Administratiewe Werksaamhede* van die Raad en sy komitees:

(a) dat die hoofkwartier van die Raad mettertyd na die administratiewe hoofstad van die Republiek, Pretoria, verskuif word; en

(b) dat genoemde werksaamhede onder die Departement van Nasionale Opvoeding sal ressorteer en die verantwoordelike Minister dan die Minister van Nasionale Opvoeding sal wees;

E. ten opsigte van die *Oorgangstadium*:

(a) dat die bestaande funksionering van die Raad voortduur tot 31 Oktober 1973, en die voorgestelde nuwe funksionering van die Raad en komitees op 1 November 1973, 'n aanvang neem;

(b) that the present full-time and part-time members of the Board shall remain in office until the expiry of their periods of office (which will be on different dates, the last date being 15 January 1975);

(c) that the present members of the Panel shall remain in office until the expiry of their period of office on 31 October 1973; and

(d) that the use of *part-time* members of the Board be discontinued, except in Windhoek, and that the present part-time members not be reappointed in such capacity on the expiry of their terms of office, but that they may be approached to serve on the said committees, when necessary;

F. in respect of *Amendments to the Act*—

(a) that the Act be amended to give effect to the recommendations above; and

(b) that the amending provisions shall come into operation with effect from 1 November 1973, but that certain provisions [such as those relating to the hearing of appeals, which will be dealt with later under item (f) of the terms of reference] shall come into operation at an earlier date.

The proposed modified functioning of the Board is not expected necessarily to entail an increase in the full-time members and staff of the Board, or in the staff of the offices of the responsible department in Windhoek and Pretoria. Although there will be an increase in the number of committees, which will involve increased expenditure on the remuneration of the committees, it will be possible to defray this increased expenditure in time from savings on the salaries of part-time members who, with the exception of one part-time member, will not be reappointed in that capacity on the expiry of their present terms of office.

TERMS OF REFERENCE ITEM (b)

PUBLICATIONS AND OBJECTS

Terms of reference

The terms of reference of the Committee are to inquire into the possible extension of the prohibition of the production and dissemination of undesirable publications and objects.

Existing provisions

The Act, the Customs and Excise Act, 1964, and other Acts contain provisions prohibiting the importation and/or possession and/or production and/or dissemination of undesirable publications and objects.

Problems, complaints and questions

Whereas there are statutory provisions which make the mere possession of photographic pornography and communistic publications which have been prohibited by proclamation an offence, the possession of *written* pornography and anarchistic publications and other publications which are a danger to the State is not an offence. This hampers the Police in their task of combating the production and dissemination of the last-mentioned publications in the Republic.

Undesirable publications, particularly pornographic publications, are brought into the Republic notwithstanding the vigilance of the authorities concerned.

Booksellers complain of long delays when publications imported by them are held back by Customs Officers for consideration by the Board.

Immigrant communities in the Republic complain that they have been deprived of the privilege of obtaining popular periodicals from their countries of origin because the importation of such periodicals as a series has been prohibited by the Board.

(b) dat die huidige healtydse en deelydse lede van die Raad in hul poste aanbly totdat hul dienstermyne verstryk het (wat op verskillende datums verstryk, en waarvan die laaste op 15 Januarie 1975 verstryk);

(c) dat die huidige lede van die paneel in hul poste aanbly totdat hul dienstermyne op 31 Oktober 1973 verstryk; en

(d) dat die gebruikmaking van *deelydse* lede van die Raad, behalwe te Windhoek, gestaak word en dat die huidige deelydse lede by die verstryking van hul dienstermyne nie weer in daardie hoedanigheid aangestel word nie, maar dat hulle genader kan word om wanneer nodig, in voornoemde komitees te dien;

F. ten opsigte van *Wetswysiging*—

(a) dat die Wet gewysig word om aan voornoemde aanbevelings gevolg te gee; en

(b) dat die wysigende bepalings met ingang van 1 November 1973 in werking gestel word, maar dat sekere bepalings [soos byvoorbeeld t.o.v. die verhoor van appelle, wat later onder opdrag (f) behandel word, vroeër in werking gestel kan word].

Daar word nie voorsien dat die voorgestelde gewysigde funksionering van die Raad noodwendig 'n toename in die healtydse lede en personeel van die Raad of in die personeel van die kantore van die verantwoordelike departement te Windhoek en Pretoria sal vereis nie. Weliswaar sal daar 'n toename in die aantal komitees wees wat verhoogde uitgawes aan die vergoeding van die komitees sal meebring, maar hierdie verhoogde uitgawes sal mettertyd gedek kan word uit die besparings aan die salarisse van deelydse lede wat, met die uitsondering van een deelydse lid, na verstryking van hul huidige dienstermyne nie weer in hierdie hoedanigheid aangestel sal word nie.

OPDRAG (b)

PUBLIKASIES EN VOORWERPE

Opdrag

Aan die Komitee is opgedra om ondersoek in te stel na die moontlike uitbreiding van die verbod op die voortbrenging en verspreiding van ongewenste publikasies en voorwerpe.

Bestaande bepalings

Die Wet, die Doecane- en Aksynswet en ander wette bevat bepalings wat die invoer en/of besit en/of voortbrenging en/of verspreiding van ongewenste publikasies en voorwerpe verbied.

Probleme, klagtes en vrae

Terwyl daar wetsbepalings is wat die blote *besit* van fotografiese pornografie en by proklamasie verbode verklaarde kommunistiese publikasies 'n oortreding maak, is die besit van *geskrewe* pornografie en anargistiese en ander staatsgevaarlike publikasies nie 'n oortreding nie. Dit bemoeilik die taak van die Polisie om die voortbrenging en verspreiding van laasgenoemde publikasies in die Republiek te bekamp.

Ongewenste publikasies, veral pornografiese publikasies, word die Republiek ingebring, niesteenstaande die waaksaamheid van die betrokke owerhede.

Boekhandelaars kla dat daar lang vertragsings voorkom wanneer publikasies wat hulle invoer deur Doecanebeampies teruggehou word vir oorweging deur die Raad.

Immigrantegemeenskappe in die Republiek kla dat hulle die voorreg ontnem word om populêre tydskrifte van hulle lande van oorsprong te bekom omdat die invoer van hierdie tydskrifte as reeks deur die Raad verbied word.

Because the prohibition of the dissemination of an undesirable publication comes into operation only when the prohibition has been published in the *Gazette*, it sometimes happens that the whole issue of an undesirable publication has been sold out before the prohibition of its dissemination has come into operation—when the harm has already been done.

The Board is not empowered to reconsider its decisions, and banned (as well as approved) publications and objects cannot, therefore, be resubmitted to the Board for consideration.

Complaints were made about the fact that no official consolidated list of banned publications has been published.

Undesirable cassettes and gramophone records enter the country, but very few of these cassettes and gramophone records are submitted to the Board for consideration.

Recommendations

It is recommended—

(a) that the mere possession of grossly undesirable publications, for example—

(i) written pornography (the possession of photographic pornography is already an offence under the Indecent or Obscene Photographic Matter Act, 1967);

(ii) publications which are a danger to the State and foment anarchy, violence, etc., and cannot be combated under any other Acts; and

(iii) grossly blasphemous publications or objects, etc.;

shall be made a statutory offence, although this necessarily constitutes an encroachment upon the right of private ownership of an individual; provided that the Board—

(i) shall in each case decide whether an undesirable publication is so grossly undesirable that its mere possession would constitute an offence; and

(ii) shall publish this fact in the *Gazette*;

(b) that customs officers and/or the police shall search the luggage of persons entering the Republic more frequently and intensively for undesirable publications and objects at border posts, harbours and airports;

(c) that, to obviate delays in the consideration of publications—

(i) which are imported and have to be submitted to the Board for a decision under section 113 (3) (a) of the Customs and Excise Act, 1964, shall be considered on the spot in the Customs Warehouse in Cape Town and at other harbours by one or more one-man committees of the Board, who shall decide immediately which publications may be approved, which must be banned for being patently undesirable (e.g. pornographic photographs, etc.), and which (less than 30 per cent) should be considered by a larger committee and should therefore be submitted to the Board; and

(ii) submitted to the Board by the said one-man committees or members of the public (including printers, publishers, booksellers, etc.) shall be submitted by the Board to a committee for consideration at one place (not necessarily always Cape Town);

(d) that the Board should be prepared to consider issues of periodicals (local as well as overseas periodicals) which have been prohibited as a series and submitted to it and, should the Board find an issue so submitted to it not to be undesirable, to lift the prohibition on the importation and/or dissemination in the Republic of such specific issue of the periodical concerned, and to publish the fact in the *Gazette*—this would dispose of the complaint that other language groups in the Republic cannot obtain popular periodicals in their mother tongue;

Omdat die verbod op die verspreiding van 'n ongewenste publikasie eers in werking tree nadat die verbod in die *Staatskoerant* afgekondig is, gebeur dit dat die hele oplaag van 'n ongewenste publikasie verkoop is voordat die verbod op die verspreiding daarvan in werking tree—die kwaad is dan alreeds gedoen.

Die Raad is nie by magte om sy besluite in heroorweging te neem nie, en afgekeurde (asook goedgekeurde) publikasies en voorwerpe kan derhalwe nie weer aan die Raad ter oorweging voorgelê word nie.

Daar is gekla dat daar geen amptelike gekonsolideerde lysie van afgekeurde publikasies gepubliseer word nie.

Ongewenste kassette en grammofoonplate kom die land binne, maar baie min van hierdie kassette en grammofoonplate word aan die Raad vir oorweging voorgelê.

Aanbevelings

Daar word aanbeveel—

(a) dat die blote besit van ergerlik ongewenste publikasies, byvoorbeeld—

(i) geskrewe pornografie (die besit van fotografiese pornografie is reeds ingevolge die Wet op Onbetaamlike en Onwettige Fotografiese Materiaal, 1967, 'n oortreding);

(ii) staatsgevaarlike publikasies wat anargie, geweld, ens., aanblaas en nie ingevolge ander wette bekamp kan word nie; en

(iii) ergerlik godslasterlike publikasies of voorwerpe, ens.;

by Wet 'n oortreding gemaak word, alhoewel daardeur noodwendig inbreuk op die reg van privaatbesit van die individu gemaak word; met dien verstande dat die Raad—

(i) in elke geval bepaal of 'n ongewenste publikasie so ergerlik ongewens is dat die blote besit daarvan 'n oortreding is; en

(ii) hierdie feit in die *Staatskoerant* bekend gemaak word;

(b) dat doeaneebeampies en/of die polisie meer dikwels intensiewe ondersoeke by die grensposte, hawens en lughawens uitvoer na ongewenste publikasies en voorwerpe in die bagasie van persone wat die Republiek binnekom;

(c) dat om vertraging by die oorweging van publikasies te voorkom, publikasies—

(i) wat ingevoer word en wat ingevolge artikel 113 (3) (a) van die Doeane- en Aksynswet, 1964, na die Raad vir beslissing verwys word ter plaatse in die Doeaneloods te Kaapstad en ander hawens deur een of meer een-man-komitees van die Raad oorweeg word wat onmiddellik besluit watter publikasies goedgekeur kan word, watter afgekeur moet word omdat dit ooglopend ongewens is (bv. pornografiese foto's, ens.) en watter (minder as 30 persent) deur 'n groter komitee oorweeg behoort te word en derhalwe aan die Raad voorgelê moet word; en

(ii) wat aan die Raad deur voornoemde een-man-komitees of lede van die publiek (insluitende drukkers, uitgewers, boekhandelaars, ens.) voorgelê word, deur die Raad aan 'n komitee op een plek (nie altyd noodwendig Kaapstad nie) vir oorweging verwys word;

(d) dat die Raad bereid moet wees om uitgawes wat aan hom voorgelê word, van tydskrifte (binnelandse en buitelandse tydskrifte) wat as 'n reeks verbied is, te oorweeg, en, indien die Raad 'n uitgawe wat so aan hom voorgelê is, nie ongewens bevind nie, die verbod op die invoer en/of verspreiding van daardie spesifieke uitgawe van die betrokke tydskrif in die Republiek op te hef, en die feit in die *Staatskoerant* bekend te maak—dit sal die klagte verwyder dat andersprekende gemeenskappe in die Republiek nie populêre tydskrifte in hul moedertaal kan bekom nie;

(e) that in order to expedite the notification of interested parties of the Board's decisions—

(i) the Board may, in its discretion, notify the owner, printer and/or publisher of a publication, as well as the person concerned who submitted the publication to the Board, by *telegraph* that the dissemination of the publication concerned is prohibited (provision already exists in section 12 of the Act that the Board may by notice by telegraph prohibit any person in charge of any public entertainment from proceeding with such entertainment);

(ii) if the publication concerned has already been or is being published, the publisher concerned shall immediately notify his various distribution points by telegraph that the publication concerned has been prohibited and must be withdrawn; and

(iii) the Board shall, as in the past [and having complied with (i) above], publish its decision in respect of the publication concerned in the customary manner in the *Gazette*;

(f) (i) that the Board shall be empowered to *reconsider*, of its own accord or on application, its decisions in respect of publications and objects after one year has elapsed after the taking of the decision concerned; and

(ii) that, in the case of *banned* publications, a fee of R25 shall be payable for resubmission (booksellers will usually be the ones to resubmit banned publications), but in the case of *approved* publications, resubmission shall be free (reconsideration by the Board will usually be requested by members of the public who are offended by an approved publication);

(g) (i) that a consolidated list of publications and objects the importation and/or dissemination of which in the Republic has been prohibited by the Board since its establishment in 1963 shall be published in the *Gazette* in alphabetical order every five years, with annual supplementations; and

(ii) that, in respect of scientific and educational publications and publications of the better type found to be undesirable, the Board shall consider publishing more particulars (e.g. name of printer and/or publisher, place and year of publication, etc.) in the *Gazette*, to make it possible to identify publications with reasonable ease;

(h) that in the combating of the dissemination of undesirable gramophone records, more use shall be made of the provisions—

(i) of section 5 (1) (a) of the Act which provides that no person shall produce or publish any undesirable publication or *object* (including gramophone records)—should the Police suspect that undesirable gramophone records are being produced on any premises, they may enter such premises, make an investigation, seize any undesirable gramophone records, and consider whether the producer and/or publisher should be prosecuted; and

(ii) of section 13A of the Act which provides that any person authorised thereto by the Minister (all the members of the Board and members of the Panel have been so authorised) may enter upon any place to examine any publication or object alleged to be undesirable, and, should the publication or object appear to be undesirable, to seize such object or publication and submit it to the Board together with a report—the Board may therefore, on receipt of complaints about allegedly undesirable gramophone records, instruct any authorised person to carry out the said examination on the premises where the allegedly undesirable gramophone records are kept; and

(e) dat, ten einde die bekendmaking van die Raad se beslissings aan belanghebbendes te bespoedig—

(i) die Raad, na goeë dunks, die eienaar, drukker en/of die uitgewer van 'n publikasie, sowel as die betrokke persoon wat die publikasie aan die Raad voorgelê het, *telegrafies* kan meedeel dat die verspreiding van die betrokke publikasie, verbied is (voorsiening is reeds in artikel 12 van die Wet gemaak dat die Raad 'n persoon in beheer van 'n openbare vermaaklikheids-telegrafies kan verbied om daarmee voort te gaan);

(ii) indien die betrokke publikasie reeds uitgegee is of uitgegee word, die betrokke uitgewer sy verskillende verspreidingspunte onmiddellik telegrafies in kennis moet stel dat die betrokke publikasie verbied is, en ont-trek moet word; en

(iii) die Raad soos in die verlede [en na uitvoering van (i) hierbo] op die gebruikelike wyse sy beslissing ten opsigte van die betrokke publikasie in die *Staatskoerant* moet publiseer;

(f) (i) dat die Raad met bevoegdheid beklee word om sy besluite ten opsigte van publikasies en voorwerpe na verloop van een jaar na die neem van die betrokke besluit, uit eie beweging of op aansoek in *heroerwering* te neem; en

(ii) dat in die geval van *afgekeurde* publikasies 'n bedrag van R25 vir die hervoorlegging daarvan betaalbaar moet wees (gewoonlik sal dit boekhandelaars wees wat afgekeurde publikasies weer voorlê), maar in die geval van *goedgekeurde* publikasies die hervoorlegging gratis moet wees (gewoonlik sal dit lede van die gemeenskap wat aanstoot neem aan 'n goedgekeurde publikasie wees wat om die heroerwering daarvan deur die Raad sal vra);

(g) (i) dat 'n gekonsolideerde lys van publikasies en voorwerpe waarvan die invoer en/of verspreiding in die Republiek sedert die Raad se totstandkoming in 1963 verbied is, vyfjaarliks, met jaarlikse aanvullings, in die *Staatskoerant* in alfabetiese volgorde gepubliseer moet word; en

(ii) dat die Raad oorwering daaraan moet skenk om ten opsigte van wetenskaplike en opvoedkundige en die beter gehalte publikasies wat ongewens bevind is, meer besonderhede (bv. naam van drukker en/of uitgewer, plek en jaar van uitgawe, ens.) in die *Staatskoerant* te publiseer, sodat die publikasies geredelik maklik geïdentifiseer kan word;

(h) dat daar by die bekamping van die verspreiding van ongewenste grammofoonplate meer gebruik gemaak word van die bepalings—

(i) van artikel 5 (1) (a) van die Wet wat bepaal dat niemand 'n ongewenste publikasie of *voorwerp* (ook grammofoonplate) mag voortbring of uitgee nie—die polisie kan, indien vermoed word dat ongewenste grammofoonplate op 'n perseel vervaardig word, daardie perseel betree, ondersoek instel, beslag lê op ongewenste grammofoonplate en oorwering daaraan skenk om die vervaardiger en/of uitgewer te vervolg; en

(ii) van artikel 13A van die Wet wat bepaal dat die deur die Minister daartoe gemagtigde persone (al die lede van die Raad en lede van die Paneel is reeds aldus gemagtig) 'n perseel kan betree om daar ondersoek in te stel na 'n beweerde ongewenste publikasie of voorwerp, en indien die publikasie of voorwerp ongewens skyn te wees, beslag daarop te lê en aan die Raad saam met 'n verslag daaroor te stuur—die Raad kan derhalwe by ontvangs van klagtes oor beweerde ongewenste grammofoonplate aan 'n gemagtigde persoon opdra om die voornoemde ondersoek te gaan instel op die perseel waar die beweerde ongewenste grammofoonplate gehou word; en

(i) that, should a publication which is printed and published in the Republic, be found by the Board to be undesirable, the Police shall consider taking action in terms of section 5 (1) (a) of the Act against the printers who printed the undesirable publication and/or against the publishers who published the undesirable publication;

(j) that section 5 (1) (c) (i) of the Act be amended by the deletion of the *omnibus prohibition* of the importation, except under the authority of a permit, of books with a soft cover of which the net selling price to an importer in the Republic does not exceed 50c, because the grounds for the differentiation made between cheap and more expensive books with soft covers have disappeared since the passing of the Act in 1963, and the fixing of the price of such books at not higher than 50c has become unrealistic owing to rising prices; and

(k) that section 5 (4) (b) (iii) of the Act be amended by the insertion of the word "belletristic" after the word "scientific" so that, as the said section 5 (4) (b) (iii) of the Act will then read, the provisions of the Act in respect of undesirable publications and objects will not apply to the printing or publishing of any matter of a technical, scientific, *belletristic* (i.e. literary works of aesthetic value) or professional nature bona fide intended for the advancement of or for use in any particular profession or branch of arts, literature or science;

(l) that the Department of Customs and Excise be requested to consider amending section 113 (3) (b) of the Customs and Excise Act, 1964, so as to provide that the prohibition of the importation of future issues of a periodical found to be undesirable shall be notified only *once* (and not twice as required at present) in the *Gazette*—this would bring the said provision of the Customs and Excise Act, 1964, into line with section 8 (1) (e) of the Act to the effect that if the Board declares the subsequent editions of any publication published periodically in the Republic to be undesirable, a notice to that effect shall be published in the *Gazette* only *once*.

It is further recommended that the Act and Regulations be amended, where necessary, to give effect to the recommendations above, if approved.

For obvious reasons or practical considerations the Committee does *not* recommend, as was proposed by some persons and bodies—

(a) that the Board should refer publications university staff consider to be valuable for their classwork to an independent examiner and that the Board should give its decision on such publications only after this has been done;

(b) that the importers of the masters from which gramophone records are made for dissemination in the Republic should, as in the case of cinematograph films, first submit the gramophone records made from them to the Board for approval, before dissemination in the Republic;

(c) that particulars of undesirable publications should be published in newspapers as well (and not only in the *Gazette*), and that even particulars of publications not found by the Board to be undesirable should be published in newspapers, so that the public will be better informed;

(d) that an age restriction be laid down for certain publications so that such publications will be sold only to persons over a certain age, or, in the case of libraries, will be issued only to them, or that persons under a certain age will have no access to certain bookshops and parts of libraries, or that persons should

(i) dat, indien 'n publikasie wat in die Republiek gedruk en uitgegee is, deur die Raad ongewens bevind is, die Polisie oorweging daaraan skenk om ingevolge artikel 5 (1) (a) van die Wet teen die drukkers wat die ongewenste publikasie gedruk het, en/of teen die uitgewers wat die ongewenste publikasie uitgegee het, op te tree;

(j) dat artikel 5 (1) (c) (i) van die Wet gewysig word deur die *omnibus-verbod* op die invoer, behalwe op gesag van 'n permit, van slapbandboeke waarvan die netto verkoopprijs in die Republiek aan 'n invoerder nie hoër as 50c is nie, te skrap, omdat die gronde vir die verskil wat gemaak word tussen goedkoop en duurder slapbandboeke sedert die aanneming van die Wet in 1963 verdwyn het, en die vasstelling van die prys van hierdie boeke op nie hoër as 50c nie, weens stygende pryse onrealisties geword het; en

(k) dat artikel 5 (4) (b) (iii) van die Wet gewysig word deur die invoeging van die woord "belletristiese" na die woord "wetenskaplike", sodat soos genoemde artikel 5 (4) (b) (iii) van die Wet dan sal bepaal, die bepalings van die Wet ten opsigte van ongewenste publikasies en voorwerpe nie van toepassing sal wees nie in die geval van die druk of publikasie van enige stof van 'n tegniese, wetenskaplike, *belletristiese* (d.i. letterkundige geskrifte van estetiese waarde) of professionele aard wat bona fide bedoel is vir die bevordering van of gebruik in 'n besondere beroep of vertakking van die kuns, lettere of wetenskap;

(l) dat die Departement van Doeane en Aksyns gevra word om oorweging daaraan te skenk om artikel 113 (3) (b) van die Doeane- en Aksynswet, 1964, te wysig sodat die verbod op die invoer van toekomstige uitgawes van 'n tydskrif wat ongewens bevind is, slegs *een maal* (en nie twee maal soos tans vereis word nie) in die *Staatskoerant* afgekondig moet word—dit sou dan genoemde bepaling van die Doeane- en Aksynswet, 1964, in ooreenstemming bring met artikel 8 (1) (e) van die Wet wat van die strekking is dat, indien die Raad die toekomstige uitgawes van 'n publikasie wat periodiek in die Republiek uitgegee word, ongewens verklaar, 'n kennisgewing dienaangaande slegs *een maal* in die *Staatskoerant* gepubliseer word.

Daar word voorts aanbeveel dat die Wet en Regulasies, waar nodig, gewysig word om aan die aanbevelings hierbo, indien goedgekeur, uitvoering te kan gee.

Die Komitee beveel om voor die handliggende redes of praktiese oorwegings *nie* aan nie soos deur sommige persone en liggame voorgestel—

(a) dat die Raad publikasies wat deur universiteitsdosente vir hul klaswerk waardevol geag word, na 'n onafhanklike ondersoeker moet verwys, en dat die Raad eers daarna sy beslissing oor so 'n publikasie moet gee;

(b) dat die invoerders van die moedergroewe waarvan grammofoonplate vir verspreiding in die Republiek gemaak word, eers die grammofoonplate wat daarvan gemaak word, soos in die geval van rolprente, aan die Raad vir keuring moet voorlê, alvorens dit in die Republiek versprei word;

(c) dat besonderhede ten opsigte van ongewenste publikasies ook in koerante (en nie slegs in die *Staatskoerant* nie) gepubliseer moet word, en dat selfs besonderhede van publikasies wat die Raad nie ongewens bevind het nie, in koerante gepubliseer moet word, sodat die gemeenskap beter ingelig sal wees;

(d) dat op sekere publikasies 'n ouderdomsbepaling geplaas word sodat hierdie publikasies dan slegs aan persone bo 'n sekere ouderdom verkoop kan word, of in die geval van biblioteke uitgeleen kan word, of dat sekere boekwinkels en dele van biblioteke nie deur

be authorised by licence to import undesirable publications (apparently even pornographic publications), and that such licensed persons should then be allowed to exchange such undesirable publications among themselves; and

(e) that provision should be made for more severe penalties for persons who contravene the Act (the Act already provides for severe penalties), and that printers and publishers who repeatedly produce and/or publish undesirable publications should be required to submit every publication they intend to print and/or publish to the Board for prior approval.

TERMS OF REFERENCE ITEM (c)

THE AUDI ALTERAM PARTEM RULE

Terms of reference

The terms of reference of the Committee are to inquire into the introduction of the *audi alteram partem* rule in the consideration of publications and objects by the Board. The terms of reference were interpreted as including cinematograph films and public entertainments.

Findings

The maxim *audi alteram partem* (literally "hear the other side") is a basic principle of South African law and has been upheld in decided cases in the highest court of the land.

In the exercise of a quasi-judicial discretion the examination as well as the hearing of the other side may be informal. The other party may also put its case in writing.

The maxim may be departed from, but not lightly.

In a decided case the Appeal Court drew attention to the fact that the introduction of the rule could lead to delays, and that the findings of the Board should be published in the *Gazette* without delay.

Strong representations were received by the Committee for the maxim to be introduced in the deliberations of the Board. There were a few representations to the effect that this was not necessary.

The introduction of this rule would mean that the Board would have to give reasons for its decisions. The proposal that the Board should furnish full reasons for its decisions cannot, however, be supported because delays would result (in the case of cinematograph films) if full reasons had to be given to the persons who had submitted them in every case of bannings and restrictions, and it would not be feasible in the case of undesirable publications and objects to publish full reasons in the *Gazette*.

It should be sufficient if, as is done at present in the case of cinematograph films, the Board were to indicate also in the case of publications and objects and public entertainments found to be undesirable the provision or provisions of the Act in the light of which the publication or object or public entertainment in question was found to be undesirable, and whether it was found to be undesirable in its entirety or which part of it was found to be undesirable.

The Board should, however, have the discretion to furnish a person who has submitted a publication or object, cinematograph film or public entertainment with full reasons for its decision, should the Board deem this fit and necessary.

Conclusion

It is concluded that—

(a) it would be consonant with South African legal principles to introduce the rule *audi alteram partem* in the consideration of publications or objects, cinematograph films and public entertainments;

persone onder 'n sekere ouderdom betree mag word nie, of dat persone by wyse van lisensie gemagtig word om ongewenste publikasies (blykbaar selfs ook pornografiese publikasies) in te voer, en dat sodanige gelisensieerde persone dan toegelaat moet word om genoemde ongewenste publikasies onder mekaar uit te ruil; en

(e) dat vir swaarder strawwe vir oortreders van die Wet voorsiening gemaak moet word (die Wet maak reeds vir swaar strawwe voorsiening), en dat van drukkers en uitgewers wat by herhaling ongewenste publikasies voortbring en/of uitgee, vereis moet word om elke publikasie wat hulle voornemens is om te druk en/of uit te gee, eers aan die Raad vir keuring voor te lê.

OPDRAG (c)

DIE AUDI ALTERAM PARTEM-REËL

Opdrag

Aan die Komitee is opgedra om ondersoek in te stel na die invoering van die *audi alteram partem*-reël by die oorweging deur die Raad van publikasies en voorwerpe. Die opdrag is geïntepreter om ook rolprente en openbare vermaaklikhede in te sluit.

Bevinding

Die regspraak *audi alteram partem* (letterlik "hoor die ander kant") is 'n basiese beginsel van die Suid-Afrikaanse reg en is in gewysde sake in die hoogste hof van die land gehandhaaf.

By die uitoefening van 'n kwasi-judisiële diskresie kan die ondersoek en ook die aanhoor van die ander kant informeel wees. Die ander party kan ook sy saak skriftelik stel.

Daar kan van die regspraak afgewyk word maar nie ligtelik nie.

In 'n gewysde saak het die Appèlhof die aandag daarop gevestig dat die invoer van die reël verdragings in die hand kan werk, en dat die bevindings van die Raad *sonder versuim* in die *Staatskoerant* afgekondig moet word.

Daar is sterk vertoë deur die Komitee ontvang dat die regspraak by die beraadslaging van die Raad ingevoer moet word. Daar was enkele vertoë dat dit nie nodig is nie.

Die invoering van die reël sal meebring dat die Raad redes vir sy beslissings sal moet gee. Dit kan egter nie ondersteun word dat volledige redes deur die Raad vir sy besluite gegee moet word nie, omdat dit verdragings in die hand sal werk indien daar in elke geval van afkeurings en beperkings (in die geval van rolprente) volledige redes aan die betrokke voorlegger gegee moet word en dit onprakties sou wees om in die geval van ongewenste publikasies en voorwerpe volledige redes in die *Staatskoerant* te publiseer.

Dit behoort voldoende te wees indien die Raad, soos tans in die geval van rolprente gedoen word, ook in die geval van publikasies en voorwerpe en openbare vermaaklikhede wat ongewens bevind word, sal aandui in die lig van watter bepaling of bepalings van die Wet die betrokke publikasie of voorwerp of openbare vermaaklikheid ongewens bevind is, en of die geheel of watter gedeelte daarvan ongewens bevind is.

Die Raad behoort egter die diskresie te hê om volledige redes vir sy beslissing aan 'n voorlegger van 'n publikasie of voorwerp, rolprent of openbare vermaaklikheid te verstrek, indien die Raad dit goed en nodig ag.

Gevolgtrekking

Daar word tot die gevolgtrekking gekom—

(a) dat dit in ooreenstemming met die Suid-Afrikaanse regsbeginsele sou wees om die reël *audi alteram partem* by die oorweging van publikasies of voorwerpe, rolprente of openbare vermaaklikhede in te voer;

(b) it would then be necessary to give some indication of the grounds on which a publication, etc., was rejected;

(c) it would also be necessary to indicate whether a publication, cinematograph film or public entertainment is undesirable in its entirety or only in part.

Recommendations

Should the idea find favour that a decision-making function in respect of publications and objects, cinematograph films and public entertainments should be entrusted to committees, the Board's functions then being—

(i) organisational and co-ordinative (i.e. the constitution of committees, the daily allocation of work to the committees, and the co-ordination of the activities of the various committees);

(ii) to consider and review the committees' decisions, if deemed necessary and to guide and direct the committees (i.e. the Board will consider and review, if necessary, all the committees' decisions and will guide and direct the committees in regard to the standards of evaluation to be applied by them); and

(iii) advisory [i.e. the Board may on application advise (or of its own accord warn) persons who intend to produce a publication or object, cinematograph film or public entertainment whether or not the publication, etc., in question might be considered undesirable in the light of the provisions of the Act];

it is recommended—

(a) that any person—

(i) who wishes to submit a publication or object shall send it to the Board who will then assign it to an appropriate standing committee for examination (e.g. a work of art would be assigned to a committee including connoisseurs of art among its members);

(ii) who wishes to submit a cinematograph film shall submit relevant particulars in advance to the member of the Board in Pretoria who will then assign it for viewing and consideration to a standing committee (here, again, a cinematograph film with, for example a religious theme would be assigned to a committee including theologians among its members); and

(iii) who wishes to submit a public entertainment shall notify the Board who will then refer the public entertainment to a standing committee for consideration or will constitute an *ad hoc* committee to consider the public entertainment (here, for example, connoisseurs of the theatre could also serve on the committee);

(b) that the decision of a committee shall in the case of—

(i) publications or objects and public entertainments be conveyed to the Board immediately in writing, by hand or express airmail (in urgent cases by telegraph) together with the grounds for the decision; and

(ii) cinematograph films be conveyed immediately in writing (by issuing a prescribed certificate) by the member of the Board in Pretoria to the person who submitted the film and to the Board—in the case of all approvals, and particularly in respect of excisions from, restrictions on and bannings of cinematograph films, the Board shall be advised of the grounds;

(c) that, on receipt of the said decision of the committee and its grounds, the Board—

(i) may immediately review and vary such decision or substitute another decision for it without affording any opportunity for representations to be made (it should seldom be necessary for the Board to make use of this provision);

(b) dat dit dan nodig sal wees dat 'n aanduiding verstrek word van die gronde waarop 'n publikasie, ens., afgekeur is; en

(c) dat dit ook nodig sal wees om aan te dui of 'n publikasie, rolprent of openbare vermaaklikheid in sy geheel of slegs dele daarvan ongewens is.

Aanbevelings

Indien die gedagte byval sou vind dat 'n besluitnemingsfunksie ten aansien van publikasies en voorwerpe, rolprente en openbare vermaaklikhede aan komitees opgedra word en dat die Raad se funksies dan sal wees—

(i) organisatories en koördinerend (d.i. die samestelling van die komitees, die daaglikse toewysing van werk aan die komitees en die koördinering van die werksaamhede van die verskillende komitees);

(ii) om die besluite van die komitees te oorweeg en te hersien indien nodig geag en leiding en rigting aan die komitees te gee (d.i. die Raad sal al die besluite van die komitees oorweeg en indien nodig hersien, en sal leiding en rigting gee aan die komitees ten aansien van die beoordelingsstandaarde wat hulle moet toepas); en

(iii) adviserend [d.i. die Raad sal persone wat voornemens is om 'n publikasie of voorwerp, rolprent of openbare vermaaklikheid voort te bring, op aansoek 'n adviseer (of uit eie beweging kan waarsku) of die betrokke publikasie, ens., in die lig van die bepalings van die Wet ongewens geag kan word, al dan nie];

word daar aanbeveel—

(a) dat 'n persoon—

(i) wat 'n publikasie of voorwerp wil voorlê, dit moet stuur aan die Raad wat dit dan aan 'n toepaslike staande komitee vir ondersoek moet toewys (bv. 'n kunswerk sal aan 'n komitee waarop ook kunskeners dien, toegewys word);

(ii) wat 'n rolprent wil voorlê, die lid van die Raad in Pretoria vooraf van besonderhede dienaangaande moet voorsien wat dit dan vir besigtiging en oorweging aan 'n staande komitee moet toewys (hier ook weer sal bv. 'n rolprent met 'n godsdienstige inslag aan 'n komitee waarin ook teoloë dien, toegewys word); en

(iii) wat 'n openbare vermaaklikheid wil voorlê, die Raad daarvan moet verwittig wat dan die openbare vermaaklikheid aan 'n staande komitee vir oorweging moet toewys, of 'n *ad hoc*-komitee moet saamstel om die openbare vermaaklikheid te oorweeg (hier bv. kan toneelkeners ook in die komitee dien);

(b) dat die besluit van 'n komitee in die geval van—

(i) publikasies of voorwerpe en openbare vermaaklikhede onmiddellik tesame met motivering van die besluit, skriftelik per hand of speedlugpos (in dringende gevalle telegrafies) aan die Raad oorgedra word; en

(ii) rolprente onmiddellik skriftelik (uitreiking van voorgeskrewe sertifikaat) deur die lid van die Raad te Pretoria aan die voorlegger en die Raad oorgedra word—in die geval van alle goedkeurings, en veral ten opsigte van uitsnydings uit, beperkings op en afkeurings van rolprente moet motivering daarvoor aan die Raad oorgedra word;

(c) dat die Raad by ontvangs van genoemde besluit deur 'n komitee en motivering—

(i) die besluit onmiddellik in hersiening kan neem en wysig of vervang sonder om dan geleentheid vir verhoor te bied (dit behoort selde vir die Raad nodig te wees om hiervan gebruik te maak);

(ii) shall, in the case of publications and objects and public entertainments, immediately convey the decision to the submitter in writing (in urgent cases by telegraph) and, if the decision has been varied or another decision substituted by the board, state the fact that it is a decision which has been varied or another decision which has been substituted by the Board, and, in the case of bannings, also advise the submitter of the information under (iii) (aa) and (bb) below;

(iii) in the case of publications and objects that have been banned, shall publish the decision as soon as possible in the *Gazette*, stating—

(aa) the provision of the Act in the light of which the publication or object has been found to be undesirable; and

(bb) whether it is undesirable in its entirety or only in part, and if so, which part; and

(iv) shall submit full reasons for the decision of a committee, in cases where the Board deems this to be fit and necessary, or, if the Board has varied the decision of a committee or substituted another decision, give full reasons for its decision to the submitter concerned;

(d) that if the said submitter or any other person is aggrieved by a decision of a committee (or of the Board where a decision of a committee has been varied by the Board or another decision has been substituted by the Board without any opportunity being afforded for representations to be made), he may make representations to the Board within one month of the date on which the decision of the committee was taken (or on the date on which the decision was varied or another decision substituted by the Board, if it was varied or a substitution made);

(e) that the Board may, within 14 days of the expiry of the period in which representations may be submitted in respect of the decision on a publication or object, cinematograph film or public entertainment, confirm or vary such decision or substitute another decision for such decision, of its own accord or after considering representations, if any, and if the Board considers it necessary, after hearing the submitter and/or after consulting experts, whereupon the Board shall advise the submitter and/or the person who submitted representations and, if in the case of publications and objects, the Board has varied or substituted another decision for such decision, the Board shall publish particulars thereof in the *Gazette* whereby such decision shall be deemed to be so varied or another decision so substituted;

(f) that, if the Board does not vary a decision or substitute another decision, such decision shall remain of force and effect after the expiry of the said period in which the Board could have varied the decision of its own accord or after considering representations; and

(g) that an appeal may be made to the Supreme Court, in the case of publications or objects and public entertainments, and to the Minister of the Interior, in the case of cinematograph films, only after representations have been made to the Board as proposed above.

TERMS OF REFERENCE ITEM (d)

PERIODICALS AND NEWSPAPERS

Terms of reference

The terms of reference of the Committee are to inquire into the occurrence, if any, of undesirable matter, as defined in section 5 of the Publications and Entertainments Act, 1963, in publications published periodically, and the steps, if necessary, that can be taken in the prevention thereof.

(ii) in die geval van publikasies en voorwerpe en openbare vermaaklikhede, die besluit onmiddellik skriftelik (in dringende gevalle telegrafies) aan die voorlegger oordra, en indien die besluit deur die Raad gewysig of vervang is, die feit dat dit 'n besluit is wat deur die Raad gewysig of vervang is, en in die geval van afkeurings die inligting by (iii) (aa) en (bb) hieronder, ook aan die voorlegger oordra;

(iii) in die geval van publikasies en voorwerpe wat afgekeur is, die besluit so gou doenlik in die *Staatskoerant* laat afkondig met vermelding—

(aa) van die bepaling van die Wet in die lig waarvan die publikasie of voorwerp ongewens bevind is; en

(bb) of die geheel of slegs 'n gedeelte daarvan ongewens is, en watter gedeelte; en

(iv) in dié gevalle waar die Raad dit goed en nodig ag, volledige redes vir die besluit van 'n komitee, of indien die Raad die besluit van 'n komitee gewysig of vervang het, volledige redes vir sy besluit aan die betrokke voorlegger kan oordra;

(d) dat, indien genoemde voorlegger of enige ander persoon hom veronreg voel deur 'n besluit van 'n komitee (of van die Raad waar 'n besluit van 'n komitee sonder geleentheid vir vertoë deur die Raad gewysig of vervang is), hy vertoë tot die Raad kan rig binne een maand vanaf die datum waarop die besluit van die komitee geneem is (of vanaf die datum waarop die besluit deur die Raad gewysig of vervang is, indien dit gewysig of vervang is);

(e) dat die Raad binne 14 dae na verloop van die tydperk waarin vertoë ten opsigte van die besluit oor 'n publikasie of voorwerp, rolprent of openbare vermaaklikheid ingedien kan word, genoemde besluit uit eie beweging of na oorweging van vertoë, as daar is, en indien die Raad dit nodig ag, na aanhoor van die voorlegger en/of raadpleging van deskundiges, kan bevestig, wysig of vervang, waarop die Raad die voorlegger en/of vertoëmaker daarvan verwittig, en, indien die Raad in die geval van publikasies en voorwerpe, genoemde besluit gewysig of vervang het, publiseer die Raad besonderhede daarvan in die *Staatskoerant* waarby genoemde besluit dan as aldus gewysig of vervang geag word;

(f) dat, indien die Raad nie 'n besluit wysig of vervang nie, daardie besluit van krag bly na verloop van genoemde tydperk waarin die Raad die besluit uit eie beweging of na oorweging van vertoë kon wysig; en

(g) dat teen 'n besluit slegs na die Hooggeregshof in die geval van publikasies of voorwerpe, en openbare vermaaklikhede, en na die Minister van Binnelandse Sake in die geval van rolprente, geappelleer kan word, nadat vertoë tot die Raad gerig is soos hierbo voorgestel word.

OPDRAG (d)

TYDSKRIFTE EN KOERANTE

Opdrag

Aan die Komitee is opgedra om ondersoek in te stel na die voorkoms, al dan nie, van ongewensthede, soos omskryf in artikel 5 van die Wet op Publikasies en Vermaaklikhede, 1963, in publikasies wat periodiek uitgegee word, en watter stappe, indien nodig, gedoen kan word ter bekamping daarvan.

Interpretation

The Committee decided to *confine* the inquiry in regard to this item of its terms of reference—

- (a) to those periodicals which cater mainly for a specific nation and circulate mainly among the members of such nation;
- (b) to those periodicals which appear to have the greatest circulation among the nations concerned; and
- (c) in the case of periodicals catering mainly for the White nation, to those periodicals which have been submitted to the Board since its establishment; and

that the inquiry would include *newspapers*, but only such newspapers as are published by publishers who are *NOT* members of the Newspaper Press Union of South Africa.

Existing provision

In terms of section 1 (1) (a) of the Act a publication includes any newspaper published by a publisher who is *NOT* a member of the Newspaper Press Union of South Africa.

Findings

The nature of undesirable matter which occurs in periodicals and newspapers (in reports, articles, columns, features, supplements, advertisements, etc.) about which complaints have been received by the Committee may be summed up as follows:

- (a) *Sex*.—(i) Photographs of nude or semi-nude girls or of girls in sexually provocative poses;
- (ii) suggestive and sexually provocative headings to articles and captions to photographs;
- (iii) indecent and sometimes vulgar letters from readers in columns, in connection with problems with their genital organs, sexual intercourse, love affairs, etc.;
- (iv) lurid reporting (in some cases), e.g. of court cases in connection with sexual crimes, lust, divorces, etc.;
- (v) indecent non-functional female nudity in advertisements, e.g. the display of semi-nude women to advertise motor-cars; and
- (vi) articles on, for example, sterilisation, adultery, virginity, etc., which belong more properly in scientific publications but are now also available to the immature in periodicals and newspapers.
- (b) *Violence, drug-taking, etc.*—Under this heading fall gruesome and sordid descriptions of murder, killing and excessive sensationalism, etc.
- (c) *Revolt against authority and the fomenting of antagonism between national groups*.—(i) Attempts to discredit the State and provincial and local authorities in the eyes of Non-Whites, and the denigration of those authorities in the eyes of Non-Whites; and
- (ii) the fomenting of antagonism against Whites and the making of propaganda for Non-White pressure groups and extremist movements.

The Committee considers the provisions of the Act, adequate to prevent the occurrence of undesirable matter in periodical publications.

Recommendation

None.

TERMS OF REFERENCE ITEMS (e) AND (g) CINEMATOGRAPH FILMS

Terms of reference

The terms of reference of the Committee are to inquire into the possible extension of the prohibition of the exhibition of cinematograph films not approved by the Board, and the imposition of a prohibition on the dissemination of cinematograph films not approved by the Board; and the registration of cinematograph films.

Interpretasie

Die Komitee besluit dat ten opsigte van hierdie punt van sy opdrag, die ondersoek *beperk* sal wees—

- (a) tot dié periodieke publikasies wat in hoofsaak tot 'n spesifieke volk gerig is, en hoofsaaklik onder daardie volk sirkuleer;
- (b) tot dié periodieke publikasies wat oënskynlik die grootste sirkulasie onder die betrokke volk geniet; en
- (c) in die geval van periodieke publikasies wat in hoofsaak tot die Blanke volk gerig is, tot dié periodieke publikasies wat sedert die totstandkoming van die Raad, aan die Raad voorgelê is; en

dat die ondersoek ook *koerante* sal insluit, maar slegs dié koerante wat uitgegee word deur uitgewers wat *NIE* lede van die Persunie van Suid-Afrika is nie.

Bestaande bepaling

Ingevolge artikel 1 (1) (a) van die Wet beteken 'n publikasie ook 'n koerant wat uitgegee word deur 'n uitgewer wat *NIE* lid van die Persunie van Suid-Afrika is nie.

Bevindinge

Die aard van ongewensthede wat in tydskrifte en koerante (in berigte, artikels, rubrieke, bylaes, advertensies, ens.) voorkom, en waaroor klagtes deur die Komitee ontvang is, kan soos volg saamgevat word:

- (a) *Seks*.—(i) Foto's van naakte of halfnaakte meisies of van meisies wat op 'n seksprikkelende wyse poseer;
- (ii) suggestiewe en seksprikkelende opskrifte van artikels en byskrifte by foto's;
- (iii) onbetaamlike en soms vieslike briewe van lesers in rubrieke, i.v.m. probleme met hul geslagsdele, seks-omgang, liefdes, ens.;
- (iv) oormatige verslaggewing (in party gevalle), bv. van hofsake i.v.m. seksmisdade, wellustigheid, egskedings, ens.;
- (v) die onbetaamlike nie-funksionele vrouenaaktheid in advertensies, bv. om motors te adverteer word halfnaakte vroue vertoon; en
- (vi) artikels oor bv. sterilisasie, owerspel, maagdelikheid, ens., wat meer tuis behoort in wetenskaplike publikasies, maar nou ook vir onvolwassenes in tydskrifte en koerante beskikbaar is.
- (b) *Geweld, gebruik van dwelmmiddels, ens.*—Hieronder ressorteer ook grusame en ongure beskrywings van moord en doodslag en oormatige sensasionalisme, ens.
- (c) *Verset teen gesag en aanblasing van antagonisme tussen volksgroepe onderling*.—(i) Pogings om die Staat en provinsiale en plaaslike owerhede in diskrediet by Nie-Blankes te bring, en die verkleining van daardie owerhede in die oë van Nie-Blankes; en
- (ii) aanblasing van antagonisme teen Blankes en propagandamaking vir Nie-Blanke pressiegroepe en ekstremistiese bewegings.

Die Komitee ag die bepalings van die Wet, genoegsaam om die voorkoms van ongewensthede in periodieke publikasies te bekamp.

Aanbeveling

Geen.

OPDRAG (e) en (g) ROLPRENTE

Opdrag

Aan die Komitee is opgedra om ondersoek in te stel na die moontlike uitbreiding van die verbod op die vertoning van rolprente wat deur die Raad afgekeur is, en die instelling van 'n verbod op die verspreiding van rolprente wat nie deur die Raad goedgekeur is nie; en die registrasie van rolprente.

General findings

Although some persons asked for less stringency to be applied when films are submitted for approval, it was generally agreed that, in the light of the composition of the population in South Africa and for the protection of the young and other mentally immature persons, films should be submitted for approval. Pornography in cinematograph films was consistently condemned.

Renters of cinematograph films

The 1971 amendment to the Act has checked the undesirable practice on the part of some renters of cinematograph films of publishing films not approved by the Board (or films without the cuts ordered).

They may still, however, publish cinematograph films the exhibition of which is restricted to certain national and/or age groups. Representations have now been made for renters of cinematograph films also to be prohibited by law from publishing such restricted cinematograph films for private exhibition, because national and/or age groups to whom the films may not be shown in public may now rent and see them in private, or others may rent them and exhibit them to such national and age groups in private.

The 1971 amendment to the Act has however been interpreted by the Cape Supreme Court as having the effect of making it an offence for a private person, for example, to exhibit a rejected cinematograph film in his private home—in other words, this is an encroachment upon his rights in his private home, which, as was stressed when the said amendment was passed, was not the intention of the amendment.

Moreover, the said judgment of the Court has revealed a serious gap in the Act in that any person who has shot a cinematograph film for private exhibition may subsequently exhibit the film in public, without it's having been approved by the Board, since the film was intended for private exhibition when it was produced.

Attention was also drawn to the fact that it costs the submitter of a cinematograph film about R60 to have a film approved by the Board and to obtain a certificate for its exhibition, while other renters of cinematograph films may obtain a duplicate of the certificate in respect of such approved film from the Board at a fee of R1, the latter sometimes having no legal disposal rights over such films.

Age restrictions

Complaints were made about the age restrictions at present imposed on the exhibition of cinematograph films being unrealistic. There are no less than seven age restrictions. This gives rise to confusion.

While the necessity of imposing age restrictions on the exhibition of certain cinematograph films is understood and accepted, society no longer appears to understand and accept without question—

(a) that male and female theatre goers should see certain cinematograph films separately—what is usually shown in such films, viz confinements, now being depicted and described in many publications;

(b) that the age restriction prohibiting the exhibition of cinematograph films to persons under 21 years (such films usually dealing with sexual matters) is still in any way necessary or makes any sense, since—

(i) young people today are physically mature at a much earlier age than years ago;

(ii) they receive sex instruction;

(iii) by the age of 18 years they have usually left their parental home and are exposed to all the influences of life without parental protection;

Algemene bevinding

Alhoewel sommige persone vra dat rolprente minder streng gekeur moet word, is almal dit eens dat in die lig van die volke-opset in Suid-Afrika en ter beskerming van jeugdiges en ander geestelikonvolwassenes, rolprente gekeur moet word. Pornografie in rolprente word deurgaans afgekeur.

Rolprentverhuurders

Deur die wetswysiging van 1971 is die ongewenste wanpraktyke van sommige verhuurders van rolprente om deur die Raad afgekeurde rolprente (of rolprente sonder die uitsnydings wat gelas is) uit te gee, aan bande gelê.

Hulle kan egter nog rolprente uitgee waarvan die vertoning aan sekere volks- en/of ouderdomsgroepe beperk is. Daar word nou gevra dat rolprentverhuurders ook by wet verbied moet word om voornoemde beperkte rolprente vir privaatvertoning uit te gee, omdat volks- en/of ouderdomsgroepe aan wie die rolprente nie in die openbaar vertoon mag word nie, dit nou kan huur en privaat kan besigtig of ander dit kan huur en aan genoemde volks- en ouderdomsgroepe privaat kan vertoon.

Die wetwysiging van 1971 is egter deur die Kaapse Hooggeregshof so uitgelê dat dit die effek het dat dit vir 'n private persoon 'n oortreding is om bv. 'n afgekeurde rolprent in sy private woning te vertoon—dit is, inbreuk word op sy reg in sy private woning gemaak, iets wat by aanname van genoemde wetswysiging beklemtone is as nie in die bedoeling van die wetswysiging te lê nie.

Daar is in die lig van genoemde hofuitspraak nou ook 'n ernstige leemte in die Wet, deurdat 'n persoon wat 'n rolprent vir private vertoning geskiet het, die rolprent later in die openbaar kan vertoon sonder dat die Raad dit goedgekeur het, omdat die rolprent by die vervaardiging daarvan vir private vertoning bestem is.

Die aandag is ook daarop gevestig dat dit die voorlegger van 'n rolprent ongeveer ±R60 kos om 'n rolprent deur die Raad te laat keur en 'n sertifikaat vir die vertoning daarvan te bekom, terwyl ander rolprentverhuurders 'n duplikaat van die sertifikaat ten opsigte van sodanige gekeurde rolprent teen R1 van die Raad kan bekom, en dan het laasgenoemdes soms ook geen wetlike beskikkingsreg oor genoemde rolprente nie.

Ouderdomsbeperkings

Daar word gekla dat die ouderdomsbeperkings wat teenswoordig op die vertoning van rolprente gelê word, onrealisties is. Daar is nie minder nie as sewe ouderdomsbeperkings. Dit skep verwarring.

Terwyl begryp en aanvaar word dat dit nodig is dat op vertoning van sekere rolprente ouderdomsbeperkings geplaas moet word, word blykbaar nie meer sonder meer deur die gemeenskap begryp en aanvaar nie—

(a) dat manlike en vroulike teatergangers sekere rolprente afsonderlik moet besigtig—dit wat gewoonlik in hierdie rolprente afgebeeld word, naamlik bevallings, word in baie publikasies afgebeeld en beskryf;

(b) dat die ouderdomsbeperking wat die vertoning van rolprente aan persone onder 21 jaar verbied (hierdie rolprente gaan gewoonlik oor seksaangeleenthede), nog enigsins nodig is en sin het, want—

(i) jong mense is vandag op 'n vroeër ouderdom fisies volwasse as jare gelede;

(ii) hul ontvang seksvoorligting;

(iii) hulle is gewoonlik teen die ouderdom van 18 jaar uit hul ouerlike huis en aan al die lewensinvloede sonder ouerlike beskerming blootgestel;

(iv) by the age of 18 years many of them have married with the consent of their parents, and are legally adults, so why should they be barred from the exhibition of such cinematograph films; and

(v) at the age of 18 years they have the vote and have to make up their minds on weighty political issues of policy.

It was proposed—

(a) that symbols should be used to indicate which cinematograph films are suitable for adults exclusively (e.g. the symbol R-B=restricted/beperk)—it was argued in favour of this proposal that families no longer go to theatres as a family and that this makes for disintegration of the family; and

(b) that trailers of cinematograph films on which there are age restrictions should not be shown together with cinematograph films with no age restrictions.

In regard to the latter proposal it should be mentioned—

(a) that theatres are largely dependent on this means of advertising for the successful operation of their businesses; and

(b) that for this very reason the Board always tries to make sufficient cuts from trailers, if necessary, to qualify them for a certificate without restrictions;

(c) that, if a cinematograph film is subject to age restrictions, the Board these days requires that, when the trailer of a film is shown, it be indicated that such film is subject to an age restriction and what the age restriction is.

The Committee feels that the age restrictions could be reduced to three and that the certificates issued in respect of cinematograph films could also serve as *symbols* for the information of the public regarding the age restrictions imposed on the exhibition of the cinematograph films concerned.

Influencing of the Board or Minister

The objection made to the 1971 amendment to the Act on the above-mentioned aspect has now again been lodged with the Committee. When the amendment was passed in 1971 an adequate reply was given to this objection. It was explained that the provision in question was levelled against attempts to influence the Board in the consideration of cinematograph films, and the Minister in the consideration of appeals against decisions of the Board on cinematograph films, before a final decision had been given on a cinematograph film, after which critics could give free rein to their talents.

Appeal

The idea that appeals from decisions of the Board on cinematograph films should lie to the Supreme Court and *not* to the Minister, as at present, cannot be supported by the Committee, because—

(a) the present procedure of appeal to the Minister of the Interior works well;

(b) this has not in the past resulted in the said Minister's becoming politically embroiled;

(c) it would not be feasible for a court, together with all the officers of the court, to view cinematograph films under appeal about six times a month; and

(d) it would be time-consuming for producers and distributors of cinematograph films (as well as for the State) and could involve considerable expense if such appeals had to be heard by the Supreme Court.

Reconsideration

The proposal that cinematograph films can be resubmitted to the Board for consideration a year after their examination by the Board is supported.

(iv) baie van hulle is op 18jarige leeftyd getroud met die goedkeuring van hul ouers, en regtens is hul volwassenes; waarom moet die vertoning van hierdie rolprente hulle dan ontsê word?; en

(v) op 18-jarige ouderdom moet hulle as stemgeregtigdes oor gewichtige politieke beleidsrigtings oordeel.

Daar is voorgestel—

(a) dat daar deur simbole aangedui word watter rolprente uitsluitlik vir volwassenes geskik is (bv. deur die simbool R-B=restricted/beperk)—motivering hiervoor is dat gesinne nie meer teaters as 'n gesin besoek nie en dat dit tot gesinsverbrokkeling bydra; en

(b) dat lokprente ten opsigte van rolprente waarop daar ouderdomsbepelings is, nie tesame met rolprente waarop daar geen ouderdomsbepelings is nie, vertoon mag word nie.

Ten opsigte van laasgenoemde voorstel moet gemeld word—

(a) dat teaters grootliks van hierdie advertensiemiddel afhanklik is om van hul bedryf 'n sukses te maak; en

(b) dat die Raad juis om hierdie rede deurgaans poog om, indien nodig, soveel uit lokprente te sny dat 'n sertifikaat sonder bepelings ten opsigte daarvan uitgereik kan word;

(c) dat die Raad dit deesdae as 'n vereiste stel dat, indien 'n rolprent aan ouderdomsbepelings onderworpe is, daar by die vertoning van die lokprent ten opsigte van daardie rolprent vermeld moet word dat die rolprent aan ouderdomsbepelings onderworpe is en wat daardie bepelings is.

Die Komitee voel dat die ouderdomsbepelings tot 3 verminder kan word en dat die sertifikate wat ten opsigte van rolprente uitgereik word, ook as *simbole* kan dien ter inligting van die publiek aangaande die ouderdomsbepelings wat op die vertoning van die betrokke rolprente gelê is.

Beïnvloeding van die Raad of Minister

Die beswaar wat teen die wetswysiging van 1971 oor bogenoemde aspek geopper is, is nou weer aan die Komitee voorgelê. Daar is in 1971 by aanname van die wetswysiging afdoende op die beswaar geantwoord. Daar is verduidelik dat die betrokke bepaling gemik is teen beïnvloeding van die Raad by oorweging van rolprente, en van die Minister by oorweging van appêlle teen besluite van die Raad aangaande rolprente, totdat daar finaal oor 'n rolprent besluit is, en dat kritici daarna vrye teuels aan hulle talentte kan gee.

Appel

Die gedagte dat daar teen besluite van die Raad aangaande rolprente by die Hooggeregshof geappelleer kan word en *nie* by die Minister soos tans nie, kan nie deur die Komitee ondersteun word nie, omdat—

(a) die huidige prosedure van appêl by die Minister van Binnelandse Sake goed werk;

(b) genoemde Minister nie in die verlede daardeur in politieke gedrang gekom het nie;

(c) dit onprakties vir 'n hof sou wees om ongeveer 6 keer per maand met al die hofbeampies rolprente in appêl te besigtig; en

(d) dit vir rolprentvervaardigers en verspreiders (en vir die Staat) tydrowend sal wees en baie koste kan meebring indien hierdie appêlle voor die Hooggeregshof moet dien.

Herkeuring

Die voorstel dat rolprente, na dat 'n jaar verstryk het sedert dit deur die Raad gekeur is, weer aan die Raad vir keuring voorgelê sal kan word, word ondersteun.

Submission of film scripts

The Committee supports the proposal that it should be possible for film scripts to be submitted to the Board before the Board considers the cinematograph film produced from the script.

Consideration in Pretoria

The request that cinematograph films should no longer be considered in Cape Town is supported. It was explained that virtually all cinematograph films from abroad enter the country by freight aircraft at Jan Smuts, that in South Africa cinematograph films are mainly produced at the studios between Pretoria and Johannesburg, that well-equipped film laboratories and better exhibition facilities are available in Johannesburg and in Pretoria, that the transport of films to and from Cape Town (sometimes of necessity more than once) involves unnecessary expense, and that the rising cost structure in the motion picture industry makes it essential to introduce every possible economy.

Restriction of Open-Air Exhibitions

The Committee does not agree that certain theatres should be set aside for the exhibition of cinematograph films to adults only, because, while big film companies controlling several theatres in a city would be able to put this into practice, and some of them are already doing so to a small extent, it would not be possible for smaller companies to set aside some of their theatres for this purpose. Such an arrangement would not be practicable in the rural areas either.

Registration of cinematograph films

The National Film Board supports the idea that all cinematograph films produced in the Republic should be registered, that archives of such films should be built up, and that the National Film Board should undertake this task, for which it would require no additional staff for the next few years.

Television films

The Committee wishes to point out that cinematograph films can also be shown on television, and that the same films would therefore be considered by two bodies, namely the Board and the Television Control Board. Different standards of evaluation could therefore be applied by these two bodies.

Various other proposals

Various other proposals were put forward which cannot be supported for obvious reasons, viz.:

- (a) That it should be possible to show films which have not been approved to adults only or to responsible societies only;
- (b) that certain age restrictions should not apply at drive-in theatres, but should apply at other theatres;
- (c) that there should be no prohibition on the exhibition and dissemination of 16 mm cinematograph films, except in the case of pornographic films;
- (d) that, if cuts have been made from a cinematograph film by a committee with a view to a possible age restriction, such film should be considered by another committee after the cuts have been made for the imposition of a possible age restriction; and
- (e) that film producers in the Republic should be permitted to see imported cinematograph films which have not been considered by the Board in order to improve their production techniques.

Voorlegging van draaiboeke

Die Komitee steun die voorstel dat die draaiboeke van rolprente aan die Raad voorgelê sal kan word alvorens die Raad die rolprente waarop dit betrekking het, oorweeg.

Oorweging te Pretoria

Die versoek dat rolprente nie langer in Kaapstad gekeur sal word nie, word ondersteun. Daar is verduidelik dat feitlik alle rolprente van die buiteland die land per vragvliegtuig by Jan Smuts binnekom, rolprente in Suid-Afrika hoofsaaklik by die ateljees tussen Pretoria en Johannesburg produseer word, goed toegeruste rolprentlaboratoriums en beter vertoningsfasiliteite in Johannesburg en in Pretoria beskikbaar is, die heen-en-weer-vervoer van rolprente na Kaapstad (soms noodwendig meer as een keer) onnodige koste meebring en die stygende kostestruktuur in die rolprentbedryf dit noodsaaklik maak dat alle moontlik besparings ingestel moet word.

Beperking t.o.v. Ope-lugvertonings

Die Komitee stem nie saam dat bepaalde teaters vir die vertoning van rolprente aan slegs volwassenes uitgezonderd word nie, omdat, terwyl groot rolprentmaatskappye wat etlike teaters in 'n stad beheer, hieraan uitvoering sal kan gee, en sommige van hulle dit ook al in geringe mate doen, dit vir kleiner maatskappye nie moontlik sal wees om van hul teaters vir hierdie doel aan te wys nie. In die platteland sal so 'n reëling ook nie uitvoerbaar wees nie.

Registrasie van rolprente

Die Nasionale Filmraad ondersteun die gedagte dat alle rolprente wat in die Republiek vervaardig word, geregistreer moet word, dat 'n argief van hierdie rolprente opgebou moet word, en dat die Nasionale Filmraad hierdie taak, waarvoor die Raad die volgende paar jaar geen addisionele personeel nodig sal hê nie, onderneem moet word.

Televisierolprente

Die Komitee vestig die aandag daarop dat rolprente ook op televisie vertoon kan word, en dat dieselfde rolprent dan deur twee liggame gekeur sal word, naamlik die Raad en die Televisiebeheerraad. Bygevolg kan verskillende beoordelingsstandaarde deur hierdie twee liggame toegepas word.

Etlike ander voorstelle

Etlike ander voorstelle is gedoen wat om voor die handliggende redes nie ondersteun kan word nie, naamlik:

- (a) Dat ongekeurde rolprente net aan volwassenes of net aan verantwoordelike verenigings vertoon moet kan word;
- (b) dat sekere ouderdomsbeperkings nie by inryteaters nie, maar wel by ander teaters moet geld;
- (c) dat daar geen verbod op die vertoning en verspreiding van 16 mm-rolprente moet wees nie behalwe op pornografiese rolprente;
- (d) dat, indien snitte deur 'n komitee met die oog op 'n moontlike ouderdomsbeperking op 'n rolprent aangebring is, die rolprent, nadat die snitte aangebring is, deur 'n ander komitee vir die oplegging van 'n moontlike ouderdomsbeperking oorweeg moet word; en
- (e) dat rolprentvervaardigers in die Republiek toegelaat moet word om ongekeurde rolprente wat ingevoer is te besigtig, sodat hulle hul vervaardigingstechniek kan verbeter;

Conclusions

The 1971 amendment to the Act was not intended to encroach upon the private rights of persons by prohibiting the private exhibition of cinematograph films (except pornographic cinematograph films) which have not been considered by the Board, but it was, and still is, the intention to check the publishing of such films.

The prescribing of groups of age restrictions for cinematograph films and the allocation of symbols to identify the respective groups of age restrictions should be considered.

Provision should be made for the reconsideration of cinematograph films after a certain period has elapsed.

The Board should be able to advise persons on film scripts at their request.

The Board should be authorised to restrict cinematograph films to exhibition indoors.

Cinematograph films should be considered by committees in Pretoria.

The registration of cinematograph films produced in South Africa should be considered.

Cinematograph films exhibited in theatres as well as on television should be subject to the same standards of evaluation.

Recommendations

It is recommended that the Act and/or Regulations be amended to provide—

(a) that only the exhibition in *public* of cinematograph films which have not been considered by the Board shall be an offence, and that to give effect to this recommendation section 9 (1) (a) of the Act be amended to the following effect—

“9 (1) No person shall—

(a) exhibit a cinematograph film which has not been approved by the Board in public or at any place to which admission is obtained by virtue of membership of any association of persons or for any consideration, direct or indirect, or by virtue of any contribution towards any fund; or

(b) exhibit any cinematograph film which he intends to exhibit in public or at any place to which admission is obtained by virtue of membership of any association of persons or for any consideration, direct or indirect, or by virtue of any contribution towards a fund, until such cinematograph film has been approved by the Board”;

(b) that the *publishing* of cinematograph films not approved by the Board shall be further restricted by providing that—

(i) the Board shall not consider a cinematograph film and issue a duplicate certificate in respect of a cinematograph film already considered, unless documentary proof of the lawful right of disposal over the cinematograph film has been submitted to the Board by the person submitting the cinematograph film or the applicant for the duplicate certificate; and

(ii) the fees for a duplicate certificate shall be increased to the amount paid by the person who submitted the cinematograph film for approval by the Board; provided that the fee payable by the person who submitted a cinematograph film for a duplicate certificate for such film shall be R1 (the existing amount); and

that consideration be given to restricting the publishing of cinematograph films further by providing that cinematograph films in respect of which the Board has imposed *restrictions* shall not be published, save that cinematograph films which have been granted an A certificate (no age restrictions) or a B certificate (i.e.

Gevolgtrekking

Dit het nie in die bedoeling van die wysiging van die Wet wat in 1971 aangebring is, gelê nie om op die private reg van persone inbreuk te maak deur die private vertoning van rolprente wat nie vooraf deur die Raad gekeur is nie (behalwe pornografiese rolprente) te verbied nie, maar dit was, en is steeds nog die bedoeling om die uitgee van hierdie rolprente aan bande te lê.

Die bepaling van voorgeskrewe groepe ouderdomsbeperkings op rolprente en die toekenning van simbole om die onderskeie groepe ouderdomsbeperkings te identifiseer, dien oorweeg te word.

Daar behoort voorsiening gemaak te word vir die herkeuring van rolprente na verloop van 'n sekere tydperk.

Die Raad moet persone wat daarom aansoek doen, kan adviseer ten aansien van die draaiboek van rolprente.

Die Raad behoort gemagtig te word om rolprente tot vertoning in binnemuurse lokale te kan beperk.

Rolprente behoort te Pretoria deur komitees gekeur te word.

Die registrasie van rolprente wat in Suid-Afrika vervaardig word, dien oorweeg te word.

Ten opsigte van rolprente wat in beide teaters en op televisie vertoon word, behoort dieselfde beoordelingsstandaarde te geld.

Aanbevelings

Daar word aanbeveel dat die Wet en/of Regulasies gewysig word om daarvoor voorsiening te maak—

(a) dat slegs die vertoning in die *openbaar* van rolprente wat nie vooraf deur die Raad gekeur is nie, 'n oortreding sal wees, en dat om hieraan uitvoering te gee artikel 9 (1) (a) van die Wet gewysig word om van die volgende strekking te wees—

“9 (1) Niemand mag—

(a) 'n rolprent wat nie deur die Raad goedgekeur is nie, in die openbaar of op 'n plek waartoe toegang verkry word op grond van lidmaatskap van 'n vereniging van persone of teen vergoeding, regstreeks of onregstreeks, of op grond van 'n bydrae tot 'n fonds, vertoon nie; of

(b) 'n rolprent wat hy ten doel het om in die openbaar of op 'n plek waartoe toegang verkry word op grond van lidmaatskap van 'n vereniging van persone of teen vergoeding, regstreeks of onregstreeks, of op grond van 'n bydrae tot 'n fonds, te vertoon, vertoon nie, alvorens daardie rolprent deur die Raad goedgekeur is;”

(b) dat die *uitgee* van rolprente wat nie deur die Raad goedgekeur is nie, verder aan bande gelê word deur te bepaal—

(i) dat die Raad nie 'n rolprent keur nie en nie 'n duplikaatsertifikaat ten opsigte van 'n reeds gekeurde rolprent uitreik nie, tensy dokumentêre bewys van wetlike beskikkingsreg oor die rolprent deur die voorlegger van die rolprent of die aanvrager van die duplikaatsertifikaat aan die Raad voorgelê is; en

(ii) dat die gelde vir 'n duplikaatsertifikaat verhoog word tot die bedrag wat deur die voorlegger van die rolprent vir die keuring daarvan deur die Raad, betaal is; met dien verstande dat die gelde wat deur die voorlegger van 'n rolprent vir 'n duplikaatsertifikaat vir daardie rolprent betaalbaar is, R1 (die bestaande bedrag) moet wees; en

dat oorweging daaraan geskenk word om die uitgee van rolprente nog verder aan bande te lê deur te bepaal dat rolprente ten opsigte waarvan die raad beperkings opgelê het, nie uitgegee mag word nie, behalwe dat rolprente wat 'n A-sertifikaat (dit is geen ouderdomsbeperking nie) of 'n B-sertifikaat gekry het (4-12 mag

such films may be seen by persons aged 4-12 years provided they are accompanied by an adult) and have not in either case been endorsed to the effect that they shall not be exhibited to certain nations, may be published;

(c) that groups of age restrictions be prescribed and be assigned symbols by regulation, that the groups and symbols be restricted to a minimum, and that the groups and symbols shall be—

A—no age restriction;

B—4-12-year-olds not admitted unless accompanied by a parent or a person over the age of 18 years (film, for example, contains some violence);

C—4-16 years (film, for example, contains gross violence and other evils to which this impressionable age group should rather not be exposed);

D—4-18 years (film deals, for example, mainly with sexual matters);

Note.—1. The public will soon learn to know the meaning of the symbols, and advertising media will use the symbols.

2. Provision will no longer be made in the regulations, as at present, for certain certificates to indicate that the cinematograph film concerned has been approved for exhibition to certain nations only, but if a film is restricted to exhibition to certain nations, the restriction will be endorsed on the certificate and will come to the notice of film producers and distributors in this way.

3. If excisions are ordered, the certificate will be endorsed to that effect, and if excisions are not ordered, the certificate will be endorsed accordingly—the fact that excisions have been made or not also being *known* to the said interested parties in this way.

4. If a cinematograph film is rejected, the person who submitted it will be advised accordingly.

(d) that while representations by a person who has submitted a cinematograph film in regard to a decision of a committee on such film are under consideration by the Board, or an appeal by such person who has submitted the film in respect of such film is being considered by the Minister, such film shall not be exhibited, not even in compliance with the conditions laid down by the committee and/or the Board;

(e) that cinematograph films may be *reconsidered* after one year has elapsed since it was previously considered and that, as in the case of the resubmission of publications and objects to the Board—

(i) for the submission of a rejected cinematograph film (or a cinematograph film approved subject to restrictions on the exhibition thereof, which is accompanied by representations for the relevant restrictions to be lifted wholly or in part) a fee of R25 shall be payable for the reconsideration of such film, in addition to the normal viewing fees payable to the Board (i.e. persons in the cinematograph film production and distribution industry will have to pay the Board reconsideration fees of R25 and the normal viewing fees—usually about R60—for reconsideration of cinematograph films by the Board); but

(ii) should the Board decide of its own accord or on receipt of representations for the reconsideration of an approved cinematograph film (with or without restrictions on the exhibition of such film) after one year has elapsed since the date on which the cinematograph film was approved, to reconsider such film, no reconsideration or viewing fees will be payable (i.e. members of the public and interested bodies will be able to make representations for the reconsideration of cinematograph films without having to pay any fees); and

dit besigtig op voorwaarde dat hulle van 'n volwassene vergesel is) en wat in beide gevalle nie geëndosseer is dat dit nie aan sekere volke vertoon mag word nie, wel uitgegee sal kan word;

(c) dat by regulasie groepe ouderdomsbeperkinge voorgeskryf en simbole daaraan toegeken word, dat die groepe en simbole tot 'n minimum beperk word, en dat die groepe en simbole is—

A—geen ouderdomsbeperking;

B—4-12 jaar nie toegelaat nie tensy van ouer of persoon bo 18 jaar vergesel (rolprent bevat bv. 'n mate van geweld);

C—4-16 jaar (rolprent bevat bv. ergerlike geweld en ander euwels waarmee hierdie ontvanklike ouderdomsgroep liever nie kennis moet maak nie);

D—4-18 jaar (rolprent gaan bv. hoofsaaklik oor seksaangeleenthede).

Nota.—1. Die publiek sal spoedig oor die betekenis van die simbole ingelig wees, en in advertensie-media word van die simbole gebruik gemaak.

2. Daar word nie meer soos tans in die regulasies voorsiening daarvoor gemaak dat sekere sertifikate sal aandui dat die betrokke rolprent net vir vertoning aan sekere volke goedgekeur is nie, maar indien 'n rolprent vir vertoning aan sekere volke beperk is, word die beperking op die sertifikaat geëndosseer en kom die beperking op dié wyse tot die kennis van die rolprentvervaardigers en -verspreiders.

3. Indien snitte gelas is, word dit op die sertifikaat geëndosseer, en indien snitte nie gelas is nie, word die sertifikaat dienooreenkomstig geëndosseer—hier ook word die feit dat daar snitte was al dan nie, op dié wyse aan genoemde belanghebbendes *bekend gemaak*.

4. Indien 'n rolprent afgekeur is, word die voorlegger so meegedeel.

(d) dat terwyl vertoë van 'n voorlegger van 'n rolprent oor 'n besluit van 'n komitee oor daardie rolprent in oorweging deur die Raad is, of 'n appél deur genoemde voorlegger ten opsigte van daardie rolprent deur die Minister oorweeg word, daardie rolprent nie vertoon mag word nie, selfs nie in nakoming van die voorwaardes deur die komitee en/of die Raad opgelê;

(e) dat rolprente na verloop van een jaar na keuring, *herkeur* kan word, en dat soos in die geval van die hervoorlegging van publikasies en voorwerpe aan die Raad—

(i) vir die voorlegging van 'n afgekeurde rolprent (of 'n goedgekeurde rolprent met beperkings op die vertoning daarvan, wat vergesel gaan van vertoë dat die betrokke beperkings geheel of gedeeltelik opgehef moet word) 'n bedrag van R25 vir die herkeuring daarvan bo en behalwe die gewone besigtigingsgelde aan die Raad betaalbaar is (dit is, persone in die rolprentvervaardigings- en -verspreidingswese sal herkeuringsgelde van R25 en die gewone besigtigingsgelde—gewoonlik ±R60 vir die herkeuring van rolprente deur die Raad, aan die Raad moet betaal); maar

(ii) indien die Raad uit eie beweging of by ontvangs van vertoë om die herkeuring van 'n goedgekeurde rolprent (met of sonder beperkings op die vertoning daarvan) na verstryking van 'n jaar vanaf die datum waarop die rolprent goedgekeur is, besluit om die rolprent te herkeur, geen herkeuring of besigtigingsgelde betaalbaar is nie (dit is lede van die publiek en belanghebbende liggame sal vertoë vir die herkeuring van rolprente kan rig, sonder dat enige gelde deur hulle daarvoor betaalbaar sal wees); en

(iii) that it shall be provided further that the Board may require a person who has the right of disposal over the cinematograph film in question to submit such film to the Board for reconsideration after one year has elapsed since the date on which the cinematograph film was examined;

(f) that the Board may advise persons on the scripts of cinematograph films;

(g) that the Board may restrict the exhibition of cinematograph films to certain places.

It is further recommended—

(i) that cinematograph films shall be considered by committees of the Board in Pretoria;

(ii) that the National Film Board Act, 1963, be amended to provide—

(a) that all cinematograph films produced in South Africa, whether by a local or a foreign company, be registered with the National Film Board; and

(b) that, on registering their cinematograph films, producers shall submit two copies of the scenario, a number of stills from the cinematograph films, and two copies of the cinematograph films, to the National Film Board—instead of the producer supplying copies of the cinematograph film, the National Film Board itself will be able to make copies of the master copy;

(iii) that consideration should be given at a later stage to introducing an arrangement whereby the consideration of cinematograph films to be exhibited in theatres and on television will be done by one body in order to ensure that the same standards of evaluation will be applied.

It is not recommended—

(a) that trailers (which themselves are not subject to age restrictions) of cinematograph films on which age restrictions have been imposed should *not* be exhibited together with cinematograph films on which there are no age restrictions;

(b) that section 9 (4A) of the Act prohibiting the influencing of the Board or the Minister in regard to the consideration of a cinematograph film be deleted;

(c) that appeals from decisions on cinematograph films shall be to the Supreme Court instead of to the Minister; and

(d) that certain theatres should be set aside for the exhibition of cinematograph films intended for adults only.

TERMS OF REFERENCE ITEM (f)

NORMS AND APPEALS

Terms of reference

The terms of reference of the Committee are to inquire into the form of appeal against decisions of the Board in respect of publications and objects, and public entertainments, and the authority with whom an appeal may be noted.

Existing provisions

Section 5 (2) (a) of the Act provides that a publication or object shall be deemed to be undesirable if it is *indecent or obscene or is offensive or harmful to public morals*.

Section 6 (1) of the Act gives substance to the above-mentioned words.

In terms of section 14 of the Act an appeal lies to the Supreme Court from decisions of the Board in respect of publications and objects, and public entertainments.

(iii) voorts bepaal word dat die Raad van 'n beskiker oor 'n betrokke rolprent kan vereis dat hy daardie rolprent na verstryking van 'n jaar vanaf die datum waarop die rolprent goedgekeur is, aan herkeuring deur die Raad moet onderwerp;

(f) dat die Raad persone oor die draaiboekke van rolprente kan adviseer;

(g) dat die Raad die vertoning van rolprente tot sekere plekke sal kan beperk.

Daar word voorts aanbeveel—

(i) dat rolprente te Pretoria deur komitees van die Raad gekeur word;

(ii) dat die Wet op die Nasionale Filmraad, 1963, gewysig word om daarvoor voorsiening te maak—

(a) dat alle rolprente wat in Suid-Afrika vervaardig word, hetsy deur 'n plaaslike of buitelandse maatskappy, by die Nasionale Filmraad geregistreer moet word; en

(b) dat produsente by registrasie van hul rolprente twee afskrifte van die draaiboekke, 'n aantal stillfoto's van tonele uit die rolprente, en twee afdrucke van die rolprente by die Nasionale Filmraad moet indien—in plaas van die lewering van afdrucke van die rolprent deur die vervaardiger, sal die Nasionale Filmraad self afdrucke van die meesterrolprent kan maak;

(iii) dat daar later oorweging daaraan geskenk word om te reël dat die keuring van rolprente wat in teaters en op televisie vertoon word deur een liggaam gedoen word om daardeur te verseker dat dieselfde oordeelstandaarde toegepas word.

Daar word nie aanbeveel nie—

(a) dat lokprente (waarop daar self *geen* ouderdomsbeperkings is nie) ten opsigte van rolprente waarop daar ouderdomsbeperkings is, *nie* tesame met rolprente waarop daar geen ouderdomsbeperkings is nie, vertoon mag word nie;

(b) dat artikel 9 (4A) van die Wet wat 'n verbod plaas op die beïnvloeding van die Raad of Minister ten aansien van die oorweging van 'n rolprent, geskrap moet word;

(c) dat appèl teen besluite oor rolprente by die Hooggeregshof in plaas van by die Minister aangetekener moet word; en

(d) dat sekere teaters uitgesonder moet word vir die vertoning van rolprente wat slegs vir volwassene bedoel is.

OPDRAG (f)

NORME EN APPÈL

Opdrag

Aan die Komitee is opgedra om ondersoek in te stel na die vorm van appèl teen beslissings van die Raad ten aansien van publikasies en voorwerpe, en openbare vermaaklikhede, en die instansie by wie appèl aangetekener kan word.

Bestaande bepalings

Artikel 5 (2) (a) van die Wet bepaal dat 'n publikasie of voorwerp ongewens geag word indien dit *onbetaamlik* of *onweloweglik* is of vir die *openbare sedes aanstootlik* of *skadelik* is.

By artikel 6 (1) van die Wet word inhoud aan bostaande woorde gegee.

Ingevolge artikel 14 van die Wet is daar 'n reg van appèl na die Hooggeregshof teen die beslissings van die Raad ten opsigte van publikasies en voorwerpe, en openbare vermaaklikhede.

Factors which gave rise to terms of reference

The confusion created in the public mind by a number of court cases which the Board lost in regard to its decisions on certain publications, *inter alia*, gave rise to the above-mentioned terms of reference.

Representations

The representations received by the Committee may be summed up as follows:

- (a) The majority felt that there should be a right of appeal from decisions of the Board.
- (b) Some felt that an appeal to the courts should be retained, while others felt that a special appeal court should be instituted, and a few felt that there should be an intermediate body of first appeal.
- (c) Some modifications of the procedure of appeal were proposed.

Findings

(a) *Norms.*—Basically, the morals and customs of the various nations in South Africa are religious and conservative in character.

An analysis of the approximately 600 representations received by the Committee from—

four hundred and fifty-one members of the public (294 Afrikaans, 157 English), old and young, including doctors, ex-magistrates, architects, accountants, lecturers, students, and even pupils;

ninety-four church and religious organisations (83 Afrikaans, 11 English); and

forty-one other organisations (20 Afrikaans, 21 English), including associations of art, students' associations, booksellers' associations, cinematograph societies, and other societies and associations, university faculties, etc.;

showed that in regard to the desirability of controlling the production and dissemination of undersirable publications or objects, cinematograph films and public entertainments in the Republic—

- (a) 79 advocated the *retention* of existing control;
- (b) 473 called for *stricter* control;
- (c) 22 called for the *relaxation* of existing control; and
- (d) 12 advocated the *abolition* of such control.

Since the late sixties, in particular, South Africa has been inundated by a flood of permissive writings and other media aimed at undermining the goods morals and customs of the nations in South Africa. Authoritative warnings are constantly being given to the effect that it is the young, in particular, who are the target of this permissive conditioning, and that this is but one of the methods of international communism.

Norms change continually. What is acceptable to one generation is not acceptable to the next generation. There is constant tension between the older and the younger generations and between the two polarised views in a society, the Puritans and the Libertines.

(b) *Court Cases.*—It is clear from a study of the relevant court cases on appeals from decisions of the Board, *inter alia*—

- (i) that the relevant provisions of the Act are difficult and complicated;
- (ii) that the norms to be taken into account are the norms applying today;
- (iii) that, consequently, a publication or an object or a public entertainment *cannot* be considered in the light of what were norms *in the past* or what the norms *ought to be*, but that the publication or objects or public entertainment should be considered in the light of the norms as they *are today*; and

Aanleiding tot Opdrag

Die verwarring wat by die gemeenskap ontstaan het na aanleiding van 'n aantal hofsake wat die Raad ten aansien van sy beslissings oor sekere publikasies verloor het, het onder andere aanleiding tot bostaande opdrag gegee.

Vertoë

Die vertoë wat die Komitee ontvang het, is van die volgende strekking:

(a) Die meerderheid voel dat daar 'n reg van appèl teen besluite van die Raad moet wees.

(b) Sommiges voel dat appèl na die houe behou moet word, terwyl andere voel dat 'n spesiale appèlhof ingestel moet word, terwyl enkeles voel dat daar 'n tussenliggaam moet wees waarna in eerste instansie geappelleer kan word.

(c) Enkele veranderings van die appèlprosedure is voorgestel.

Bevindinge

(a) *Norme.*—Dit is 'n basiese kenmerk van die sedes en gewoontes van die onderskeie volke in Suid-Afrika dat dit in karakter godsdienstig en behoudend is.

'n Ontleding van die bykans 600 vertoë wat die Komitee van—

vierhonderd een-en-vyftig lede van die publiek (294 Afr. 157 Eng.), oud en jonk, onder wie geneeshere, oud-landdroste, argitekte, rekenmeesters, dosente, studente, en selfs skoliere;

vier-en-negentig kerklike en godsdienstige organisasies (83 Afr. 11 Eng.); en

een-en-veertig ander organisasies (20 Afr. 21 Eng.) waaronder kuns-, studente-, boekhandelaars-, rolprent- en ander verenigings, universiteitsfakulteite, ens.;

ontvang het, toon aan ten opsigte van die wenslikheid van beheer oor die voortbrenging en verspreiding van ongewenste publikasies of voorwerpe, rolprente en openbare vermaaklikhede in die Republiek—

(a) dat 79 die *behoud* van die bestaande beheer bepleit;

(b) dat 473 om *strenger* beheer vra;

(c) dat 22 om die *verslapping* van die bestaande beheer vra; en

(d) dat 12 die *afskaffing* van genoemde beheer voorstaan.

'n Vloedgolf permissiewe geskrifte en ander media kom sedert veral die laat sestigerjare Suid-Afrika op groot skaal binne en is daarop gerig om die goeie sedes en gewoontes van die volke in Suid-Afrika te ondermyn. Daar word gedurig gesaghebbend gewaarsku dat dit veral die jeug is wat die skyf van hierdie permissiewe kondisionering is, en dat dit maar een van die metodes van die internasionale Kommunisme is.

Norme verander gedurig. Wat vir die een geslag aanvaarbaar is, is vir die volgende geslag nie aanvaarbaar nie. Daar is deurlopend spanning tussen die jongere en ouere geslag en tussen die twee gepolariseerde menings in 'n gemeenskap, die Puriteine en die Libertyne.

(b) *Hofsake.*—By bestudering van die betrokke hofsake oor die appelle teen besluite van die Raad blyk dit, onder andere—

(i) dat die betrokke bepalings van die Wet moeilik en ingewikkeld is;

(ii) dat die norme wat in ag geneem moet word, die norme is wat vandag geld;

(iii) dat bygevolg 'n publikasie of voorwerp, of openbare vermaaklikheid *nie* oorweeg kan word in die lig van wat die norme *in die verlede was nie*, of wat dit behoort te wees *nie*, maar dat die publikasie of voorwerp, of openbare vermaaklikheid oorweeg moet word in die lig van wat dit *vandag is*; en

(iv) that the provisions of the Act do not prohibit the realities of life and associated problems, such as sexual matters and problems, from being dealt with, but prohibit them from being dealt with in an *indecent* manner.

(c) *Should appeals from decisions of the Board be dealt with by the Supreme Court?*—Although doubts were expressed about the desirability of the Supreme Court sitting in appeal on decisions of the Board, the view is also held that the Court is not so ignorant of the contemporary mood and attitudes as to require special knowledge and information here.

The Committee also pointed out in its findings under Item (a) of the terms of reference that nation-conscious, highly principled and responsible persons with broad general knowledge, considerable experience of life and balanced judgment should be suitable for appointment to the Board and that they need not necessarily have special knowledge of some field (art, literature, etc.).

(d) *Institution of a special body of appeal.*—The Committee does not support the idea of a special body of appeal to hear appeals from decisions of the Board because, if the recommendation by the Committee is accepted that the function of reviewing the decisions of its committees should be assigned to the Board, the Board will in effect be a body of appeal (on which experts in the fields of art, literature, librarianship, the book trade, the theatre, etc., could serve) and that the institution of a special body of appeal will not then be necessary.

(e) *Hearing of appeals by magistrates' courts.*—The idea that appeals from decisions of the Board should lie to magistrates' courts was objected to on the grounds that the appeals in question are so weighty and so complicated that they should rather be heard by the supreme courts.

Conclusions

The proper place of the *positive* combating of the evil of undesirable publications and objects, as well as undesirable public entertainments, is not in legislation, which amounts to no more than negative combating of this evil and has a limited impact. The proper place for the positive combating of this evil is the family, the school, the church, people's own societies and associations, and the community as a whole.

The State cannot, however, stand by passively and must use the means at its disposal (such as legislation) to help to combat this evil.

If existing legislation does not succeed, the good judgment of the courts should not be questioned, for they merely interpret and apply the provisions of the Act as they find them. The competence of the courts should not be called in question, any more than the competence, good faith and integrity of the Board and its Chairman should be called in question, as has apparently been done so often in utterances in public and the press.

The remedy should rather be sought in possible statutory amendments and/or other fields.

Proposals

Several proposals were received for the amendment of sections 5 (2) (a) and 6 (1) of the Act with a view to making the provisions of the Act in respect of publications and objects more stringent.

It was proposed, *inter alia*—

(a) that the word "improper" in section 6 (1) (c) should be made stronger by the addition of or the substitution for it of such words as—

- (i) "unethical" . . . ;
- (ii) "indecent and unseemly" . . . ;
- (iii) "improper and unsuitable" . . . etc.;

(iv) dat die bepalings van die Wet nie belet dat daar met die realiteite van die lewe en gepaardgaande probleme, bv. seks-aangeleenthede en -probleme, gehandel word nie, maar dat belet word dat daarmee op *onbetaamlike* wyse handel word.

(c) *Behoort appelle teen besluite van die Raad deur die Hooggeregshof aangehoor te word?*—Alhoewel twyfel uitgespreek is oor die wenslikheid dat die Hooggeregshof in appèl moet sit oor beslissings van die Raad, word die mening ook gehuldig dat die Hof nie so onkundig aangaande die hedendaagse temperament en houdinge is dat hy spesiale kennis en toeligting hieroor nodig het nie.

Die Komitee vestig ook in sy bevindinge onder opdrag (a) die aandag daarop dat volksbewuste, beginselvaste en verantwoordelike persone met 'n breë algemene kennis, aansienlike lewenservaring en 'n gebalanseerde oordeel geskik behoort te wees vir aanstelling in die Raad, en nie noodwendig spesiaal in die een of ander rigting (kuns, lettere, ens.) onderleg hoef te wees nie.

(d) *Instelling van 'n spesiale appèlliggaam.*—Die Komitee ondersteun nie die gedagte van 'n spesiale appèlliggaam om appelle teen beslissings van die Raad aan te hoor nie, omdat as die aanbeveling deur die Komitee aanvaar word dat aan die Raad 'n funksie van *hersiening* van die besluite van sy komitees toegeken word, die Raad dan in wese 'n appèlliggaam (waarin deskundiges van die kuns, letterkunde, biblioteekwese, boekhandel, toneel, ens., kan wees) sal wees en dat die instelling van 'n spesiale appèlliggaam dan nie nodig is nie.

(e) *Verhoor van appelle deur landdroshoue.*—Teen die gedagte dat appèl teen besluite van die Raad tot landdroshoue gerig sal kan word, is die beswaar geopper dat die betrokke appelle so gewigtig is en so ingewikkeld kan wees dat die appelle liefs deur die hooggeregshoue aangehoor moet word.

Gevolgtrekking

Die *positiewe* bekampings van die euwel van ongewenste publikasies en voorwerpe, asook ongewenste openbare vermaaklikhede, lê elders as in wetgewing, wat maar 'n negatiewe bestryding van hierdie euwel is en waarvan die trekkrag maar beperk is. Die positiewe bekampings van die euwel lê in die huisgesin, die skool, die kerk, die eie vereniging en die gemeenskap as geheel.

Die Staat kan egter nie passief staan nie en moet die middele tot sy beskikking (bv. wetgewing) aanwend om te help met die bekampings van die euwel.

As bestaande wetgewing nie slaag nie, moet daar nie aan die goeie oordeel van die houe getwyfel word nie wat maar slegs die bepalings van die Wet uitlê en toepas soos hulle dit vind. Die bekwaamheid van die houe moet nie in twyfel getrek word nie, net so min as wat die bekwaamheid, goeie trou en integriteit van die Raad en sy Voorsitter in twyfel getrek moet word, soos so dikwels deur uitlatings in die openbaar en die pers skyn te gebeur het.

Eerder moet die remedie in moontlike wetswysiging en/of op ander terreine gesoek word.

Voorstelle

Heelwat voorstelle is ontvang ter wysiging van artikels 5 (2) (a) en 6 (1) van die Wet met die oog daarop om die bepalings van die Wet ten opsigte van publikasies en voorwerpe strenger te maak.

Daar is onder andere voorgestel—

(a) dat die woord "onbetaamlike" in artikel 6 (1) (c) vervang of versterk word deur woorde soos—

- (i) "onetiese" . . . ;
- (ii) "onweloweglike en onordentlike" . . . ;
- (iii) "onbehoorlike en ongepaste" . . . ens.;

(b) that to the aspects referred to in section 6 (1) (c) should be added "premarital and extra-marital sex" . . . etc.;

(c) that section 5 (2) (a) of the Act should be made stronger so as to make a publication or object undesirable if "it descends below a desirable level of decency or descends to vulgarity" . . . etc.;

(d) that section 6 (1) of the Act should be deleted because on the one hand it is unduly restrictive and on the other hand it departs too much from the usual meaning of the words in section 5 (2) (a) of the Act.

After consulting the State law advisers the Committee came to the conclusion—

(a) that the ideas contained in the proposals were already embodied in the relevant sections of the Act, as it reads at present, and that the publications concerned were tested by these criteria in the court cases concerned;

(b) that it would only lead to confusion if publications or objects or public entertainments had to be tested in the light of ideas of what the norms were in the past or of what the norms ought to be because such ideas are open to so many interpretations; and

(c) that the remedy does not lie in the amendment of the relevant sections of the Act.

Recommendations

Should the idea find favour that a decision-making function in respect of publications and objects, cinematograph films and public entertainments should be entrusted to committees, the Board's functions then being—

(i) organisational and co-ordinative (i.e. the constitution of committees, the daily allocation of work to the committees, and the co-ordination of the activities of the various committees);

(ii) to consider and review the committees' decisions, if deemed necessary, and to guide and direct the committees (i.e. the Board will consider and review, if necessary, all the committees' decisions and will guide and direct the committees in regard to the standards of evaluation to be applied by them); and

(iii) advisory [i.e. the Board may on application advise (or of its own accord warn) persons who intend to produce a publication or object, cinematograph film or public entertainment, whether or not the publication, etc., in question might be considered undesirable in the light of the provisions of the Act];

it is recommended—

(a) that the right of appeal to a provincial or local division of the Supreme Court from decisions of the Board in respect of publications and objects and public entertainments, as provided in section 14 of the Act, be retained, subject to the following three minor amendments, viz—

(i) that such appeals shall be heard by at least three judges;

(ii) that the Court may, in its discretion, hear expert evidence; and

(iii) that an appeal may be made to the Court only after representations have been made to the Board against a decision of a committee [as explained under item (c) of the terms of reference]; and that amendments (i) and (ii) above shall come into operation *immediately* the amending Act is passed and that they shall not, like the other amendments proposed, for example under item (a), come into operation only as from 1 November 1973, as proposed there; or

(b) dat by die aspekte genoem in artikel 6 (1) (c) bygevoeg moet word—"voor-huwelike en buite-egtelike seks" . . . , ens.;

(c) dat artikel 5 (2) (a) van die Wet versterk word sodat 'n publikasie of voorwerp ongewens sal wees as "dit benede 'n wenslike peil van fatsoenlikheid is of tot vulgariteit daal" . . . , ens.;

(d) dat artikel 6 (1) van die Wet geskrap word omdat dit enersyds onnodig beperkend is en andersyds te veel afwyk van die gewone betekenis van die woorde in artikel 5 (2) (a) van die Wet.

Na oorlegpleging met die Staatsregsadviseurs kom die Komitee tot die slotsom—

(a) dat die begrippe wat in die voorstelle vervat is, reeds in die betrokke artikels van die Wet, soos dit tans lui, beliggaam is en dat die betrokke publikasies in die betrokke hofsake ook daarteen getoets is;

(b) dat dit net tot verwarring kan lei indien publikasies of voorwerpe of openbare vermaaklikhede in die lig van begrippe soos wat die norme in die verlede was, of wat dit behoort te wees, getoets moet word, omdat daar so vele interpretasies van hierdie begrippe kan wees; en

(c) dat die remedie nie in die wysiging van die betrokke artikels van die Wet lê nie;

Aanbevelings

Indien die gedagte byval sou vind dat 'n besluitnemings-funksie ten aansien van publikasies en voorwerpe, rolprente en openbare vermaaklikhede aan komitees opgedra word en dat die Raad se funksies dan sal wees—

(i) organisatories en koördinerend (d.i. die aanstelling van komitees, die daaglikse toewysing van werk aan die komitees, en die koördinering van die werksaamhede van die verskillende komitees);

(ii) om die besluite van die komitees te oorweeg en te hersien indien nodig geag en leiding en rigting aan die komitees te gee (d.i. die Raad sal al die besluite van die komitees oorweeg en hersien, indien nodig, en sal leiding en rigting gee aan die komitees ten aansien van die beoordelingsstandaarde wat hulle moet toepas); en

(iii) adviserend [d.i. die Raad sal persone wat voornemens is om 'n publikasie of voorwerp, rolprent of openbare vermaaklikheid voort te bring, op aansoek kan adviseer (of uit eie beweging kan waarsku) of die betrokke publikasie, ens., in die lig van die bepalings van die Wet ongewens geag kan word, al dan nie];

word aanbeveel—

(a) dat die reg van appèl na 'n provinsiale of plaaslike afdeling van die Hooggeregshof teen besluite van die Raad ten aansien van publikasies en voorwerpe en openbare vermaaklikhede, soos bepaal in artikel 14 van die Wet, behou word met die volgende drie geringe wysigings, naamlik:

(i) Dat genoemde appèlle deur nie minder nie as drie regters verhoor word;

(ii) dat die Hof na goeë dunks deskundige getuies kan aanhoor; en

(iii) dat daar slegs na die Hof geappelleer kan word nadat verhoë tot die Raad gerig is teen die besluit van 'n komitee [soos onder opdrag (c) verduidelik is]; en dat wysigings (i) en (ii) hierbo *dadelik* by aanname van die Wysigingswet in werking tree, en dat dit nie soos die ander wysigings wat byvoorbeeld onder opdrag (a) voorgestel is, eers met ingang van 1 November 1973, in werking gestel word nie, soos daar voorgestel; of

(b) that such appeals from decisions of the Board shall be heard by a judge and two assessors who may be experts (e.g. in the case of a publication of great literary value which may be deemed to be blasphemous by some persons, one assessor may, for example, be a person versed in literature and the other a person versed in Christian ethics, etc.), and that, in addition to an advisory function, the assessors shall also have a deliberative vote—this alternative recommendation being subject to the proposed amendments under (ii) and (iii) above.

In the light of the reasons given above, it is *not* recommended—

(a) that section 6 (1) of the Act be deleted or that sections 5 (2) (a) and/or 6 (1) of the Act be amended;

(b) that a special body of appeal be instituted to hear appeals from decisions of the Board in respect of publications or objects, cinematograph films and public entertainments; and

(c) that such appeals shall be heard by magistrates' courts.

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(b) dat genoemde appelle teen besluite van die Raad deur 'n regter en twee assessore, wat deskundiges kan wees, verhoor word (bv. in die geval van 'n publikasie van groot letterkundige waarde wat moontlik deur sommige godslasterlik geag mag word, kan een assessor byvoorbeeld 'n letterkundige wees en die ander 'n persoon onderleg in die Christelike etiek, ens.), en dat die assessore bo en behalwe 'n raadgevende funksie ook 'n beraadslagende stem het—hierdie alternatiewe aanbeveling is onderworpe aan die voorgestelde wysigings by (ii) en (iii) hierbo.

In die lig van die redes wat hierbo weergegee is, word *nie* aanbeveel nie—

(a) dat artikel 6 (1) van die Wet geskrap word, of dat artikels 5 (2) (a) en/of 6 (1) van die Wet gewysig word;

(b) dat 'n spesiale appèlliggaam ingestel word om appelle teen besluite van die Raad ten aansien van publikasies of voorwerpe, rolprente en openbare vermaaklikhede te verhoor; en

(c) dat genoemde appelle deur landdroshowe verhoor word.

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