

THE WHOLE IS THE FALSE : An analysis of censorship in
South Africa with particular reference to the
Publications Act and its predecessors.

Submitted in partial fulfillment of the
requirements for the degree of
Master of Arts
in the
Department of Political Studies,
University of Natal,
Pietermaritzburg.

PETER MACDONALD STEWART
1994

ABSTRACT

In this dissertation the discourse on censorship in South Africa is projected against an historical sociology of censorship under the Publications Act and its predecessors. It is argued that the dominant thesis on censorship in South Africa, which maintained that censorship is in the interest of apartheid, is an inadequate explanation for censorship under the Publications Act and its predecessors.

Chapter One is an examination of censorship in South Africa prior to 1963. Chapters Two and Three outline the events preceding the enactment of the Publications and Entertainments Act of 1963. Chapter Four addresses the operation of this Act. Chapter Five looks at the events leading to the enactment of the Publications Act in 1974. Chapters Six and Seven investigate the operation of this Act.

It is argued that the conclusions reached in this dissertation have implications for theories of the state and society in South Africa. In particular, the view that state policy in South Africa after 1948 can be explained by reference to a more or less monolithic "Afrikanerdom" is challenged.

ACKNOWLEDGEMENTS

The financial assistance of the Institute for Research and Development of the Human Science Research Council towards this research is hereby acknowledged.

The Department of Political Studies, University of Natal, Pietermaritzburg has been most accommodating.

Maryann Stewart has been very generous with her computer skills.

My friends Bonita Alice, Christo Doherty and Matthew Temple referred me to journal and newspaper articles. Gavin Anderson helped with the proof-reading.

I am especially grateful to my supervisor, teacher and friend, Francis Antonie.

DECLARATION

Except where the contrary is acknowledged this study is the original work of the author. This dissertation has not been submitted in any form to another University.

In memoriam Claude MacDonald Stewart.

28 August 1902 - 30 July 1944

Where did it all go wrong? There ought to be a law against Henry.

- Mr. Bones : there is.

John Berryman, The Dream Songs.

I mistrust all sytematizers and avoid them. The will to a system is a lack of integrity.

Friedrich Nietzsche, Twilight of the Idols.

CONTENTS

<u>INTRODUCTION: CENSORSHIP AND APARTHEID.</u>	1
<u>CHAPTER ONE: GENEALOGY - CENSORSHIP BEFORE 1963.</u>	27
a.The foundations of censorship in South Africa.	36
b.The extension of Censorship away from import control.	49
c.Things fall apart, 1953-1963.	53
<u>CHAPTER TWO: DR. DÖNGES'S DILEMMA.</u>	77
a.The censorship of publications produced in S.A.	80
b.The Cronjé Commission.	105
c.Responses to the Cronjé Commission.	114
<u>CHAPTER THREE: "A LOT OF STUPID NONSENSE".</u>	123
a.Mr. P.W. Botha's brief and unsuccessful career.	127
b.Senator De Klerk has a go.	132
c.Dr. Jonker's Publications and Entertainments Bill.	138
d.Despite opposition, the Bill becomes an Act.	143
<u>CHAPTER FOUR: THE PUBLICATIONS CONTROL BOARD.</u>	155
a.The Dekker Board.	156
b.Chill winds within the eye of the hurricane.	166
c.The Kruger Board.	173
d.Appeals to the Court within the Kruger Period.	179
e.The legacy of the Publications Control Board.	187
<u>CHAPTER FIVE: THE PUBLICATIONS ACT.</u>	193
a.Yet more Censorship? .	194
b.Further Complications.	203
c.Jimmy Kruger's Commission of Inquiry.	215
d.The Publications Act.	230
<u>CHAPTER SIX: THE SNYMAN PERIOD.</u>	241
a.The question of statistics.	247
b.New criteria for censorship.	254
c.Representations in Parliament?	262
d.Behind the scenes.	288
e.Some qualifications.	291
f.A beginners guide to twentieth century literature.	293
<u>CHAPTER SEVEN: THE VAN ROOYEN PERIOD.</u>	300
a.The Van Rooyen Board.	312
b.The Statistics of the Van Rooyen Period.	325
c.A sharp decrease in censorship.	333
d.The clampdown?	347
e.Why the reservations?	356
<u>CONCLUSION: APARTHEID & CENSORSHIP.</u>	364
<u>SOURCES.</u>	372

INTRODUCTION : CENSORSHIP AND APARTHEID

Of all the books produced since the most remote age by human talents and industry only those that treat cooking are, from a moral point of view, above suspicion. The intention of every other piece of prose may be discussed and even mistrusted.

Joseph Conrad, from the preface to a cookery book by his wife, Jessie^[1]

"And the first step, as you know, is always what matters most ...", Plato wrote, and proceeded to argue that censorship is necessary to limit harmful influences on children and, by extension, the polis.^[2] Aristotle was less inclined towards censorship hence Stephen Dedalus's reply to John Eglinton, who, waxing wrath, said: "Upon my word it makes my blood boil to hear anyone compare Aristotle with Plato". "Which of the two, Stephen asked, would have banished me from his commonwealth"?^[3] Subsequent to Plato and Aristotle the pros and cons of censorship have been debated to the extent that virtually everything that can be said about censorship has been said. The debate is inconclusive.

Discussion of censorship revolves around four issues: the delineation of the rights and duties of the state in relation to those of the individual/citizen; an assessment of the hypothesis that censorship contributes to the protection of society or the individual; an evaluation of the hypothesis that unhindered communication is essential to the well-being of society

and/or the individual; and, a consideration of the extent and nature of the protection which may be provided by censorship in relation to debilitating consequences which censorship may have on society or the individual. The arguments for and against the poles of the debate are well known.

Subsequent to the gradual reception of the Enlightenment by the Western world, the right of the state to limit the freedoms of citizens has been circumscribed. As regards censorship the consequences have been as follows:^[4]

1. Prior restraint, that is censorship prior to publication, has given way to legislation (or - as was the case in England following the prosecution of Sir Charles Sedley in 1663^[5] - to the evolution of Common Law) which rendered the publication, sale or distribution, but not the possession, of certain publications a crime. As technology advanced such legislation came to include other media, for example, cinematograph films, gramophone records and videos.
2. Censorship has come to require prosecution in ordinary courts of law.
3. Political and theological issues have been superceded by morality as the primary emphasis of censorship.

Exceptions to the trends identified in this model include the censorship of the theatre in the United Kingdom which, prior to its abolition in 1968, was

administered by the Lord Chamberlain's department. More recently, with the enactment of the Video Recordings Act in 1985, the British Board of Film Classification became the first statutory censorship board to be introduced in the United Kingdom since the commencement of theatre censorship in 1737.^[6] This Board, which subjects all videograms intended for sale or hire to a systematic pre-censorship, is not Government-appointed. Rather, it is a private, industry-appointed but independent body. In its previous guise as the British Board of Film Censors this Board exercised prior restraint over cinematograph films but was neither statutory nor Government-appointed. A comparable situation still prevails in the United States where the Motion Picture Association of America, which is neither statutory nor Government-appointed, grades films prior to release.

The above model ought not to suggest that censorship is a closed subject in the West, but rather that the jostling for and against censorship tends to occur within the parameters sketched by the model. Except where exceptional circumstances are present, as in times of war, censorship which exceeds these bounds strains the legitimacy of Roman-Dutch and Anglo American jurisprudence.

It is not the writer's intention to polemicize against

editorial censorship. Like J.M. Coetzee the writer is of the opinion that

[the] general debate is an uninteresting one failing to rise above the level of the political in the worst sense. It remains stalled at the level of (to use a good Flaubertian word) *bêtise*, stupidity. ... [The dynamic of this stupidity] dictates that instead of becoming more pointed and conclusive, debates about censorship should become more and more dull and heated and endless.^[7]

If the general debate is "dull and heated and endless" much of the literature on censorship under the Publications Act in South Africa is doubly so.

While there are numerous statutes which have provided for censorship in South Africa - notably the Internal Security Act^[8] and Protection of Information Act^[9] - it is the Publications Act^[10] which has been the favoured instrument of censorship, as was its predecessor the Publications and Entertainments Act.^[11] It is the last mentioned two Acts and the Acts which preceded them that are the subject of this study. All too often the various statutes which have provided for censorship in South Africa are compressed into an amorphous "censorship", thereby obscuring the specific and different historical contents of each of these statutes.

The Publications Act of 1974, which replaced and repealed the Publications and Entertainments Act of 1963, came into operation on 1 April 1975. While both of these Acts provide considerable latitude for the

censorship of films, publications, entertainments and other objects on political, moral and religious grounds, they were, of course, not identical. The most striking differences between them are that, prior to the 1974 legislation, appeal against a prohibition imposed by the administrative agency constituted for the managing of censorship was to the Supreme Court and no provision was made for the crime of possession of a banned publication. Under the 1974 legislation appeal is to the Publications Appeal Board, created by the Publications Act, and the Committees constituted by the Directorate of Publications are empowered to deem an "undesirable" publication banned for possession, subject to ratification by the Publications Appeal Board.

Censorship under these Acts diverges from the prevailing practice in the West as follows:

1. Censorship of films, publications, entertainments and other objects is administered by a Government appointed administrative agency and does not require judicial action.
 2. Censorship ranges widely across the political, moral and sexual terrains.
 3. Prior restraint by a Government-appointed and statutory body is involved in the censorship of cinematograph films and, in recent years, videos.
- Under the Publications Act, but not its predecessor, a fourth point of difference can be identified; hence
4. publications can be "banned for possession".

Given these points of difference it is not surprising that censorship in South Africa has been more extensive than that which one encounters in the modern period of censorship in the West.

There is a sizable body of literature on censorship under the Publications Act and Publications and Entertainments Act. The bulk of the literature is critical of censorship in South Africa. Individuals and organisations sympathetic to the Publications Act and its predecessor have tended to communicate by means of press statements, letters to the press or private audiences with Government officials. Such communications are documented in the chapters which follow. Notable exceptions are the two books on the subject by J.C.W. van Rooyen, Chairman of the Publications Appeal Board 1980-1990,^[12] and Pieter Geldenhüys's Pornografie, Sensuur en Reg.

Most of the critical literature comprises articles and chapters published in various journals and books. The few books exclusively devoted to the subject are either annotated documents with, in some cases, an explanatory article or two, such as What Happened to Burger's Daughter or How South African Censorship Works; Magersfontein, O Magersfontein : Die Dokumente and Louise Silver's A Guide to Political Censorship in South Africa or collections of articles by various authors.

Such collections include Censorship, edited by Theo Coggin; The Grey Ones, edited by J.S. Paton; Sensuur, which comprises articles by F.I.J. van Rensburg and Censorship and Apartheid in South Africa, edited by Ellen Binder. There is also a handful of theses, the most substantial being that by Doreen Switzer.

The articles, chapters and theses on the subject each tend to concentrate on a specific dimension of censorship. Of these dimensions it is the impact which censorship has had on creative writing that has received the most attention. Here the most notable contributors include Nadine Gordimer,^[13] the most prolific writer on censorship in South Africa and - given her output, her status as an author of international repute and the frequency with which she is quoted on the subject - the most influential contributor to the literature; André Brink,^[14] another prolific and influential contributor; Ampie Coetzee;^[15] Ezekiel Mphahlele;^[16] J. Grant;^[17] L.L. Rose Innes;^[18] D. Kunene;^[19] R. Royston;^[20] W. Pretorius;^[21] D. Adey;^[22] W. Hatcheson and C. Giffard;^[23] Jack Cope^[24], Ellison Kahn^[25] and J.M. Coetzee.^[26]

The legal ramifications of censorship have also received considerable attention. Ellison Kahn;^[27] John Dugard and Louise Silver;^[28] Gilbert Marcus;^[29] Johan van der Vyver;^[30] Gerald Gordon;^[31] Barry Dean^[32] and Tony Mathews^[33] have examined the legal framework of

censorship, its inadequacies, and the implications thereof; Louise Silver^[34] has analysed the statistics and decisions of the Publications Committees and the Publications Appeal Board; Radford Jordan^[35] has argued a particular point of law with regard to the decision of the Supreme Court in *Duckworth v Publications Control Board*; while Nicholas Haysom and Gilbert Marcus^[36] have concentrated on "undesirability" and criminal liability under the Publications Act, which they correctly argue was a previously neglected area.

Other contributors to the literature include K. Druker;^[37] Keyan Tomaselli^[38] and Thelma Gutsche,^[39] who have focused on the relationship between censorship and the cinema; Barry Gilder^[40] and Ian Kerkhof^[41] who have amplified the effects of censorship on popular music; David Welsh,^[42] Christopher Merrett^[43] and Jonathan Paton^[44] who have examined the debilitating consequences which censorship has had on the academic process; Doreen Switzer who has viewed censorship in relation to the library profession; ^[45] Ian McDonald^[46] who has evaluated censorship in terms of conceptions of morality; Allan Boesak^[47] who has emphasised the religious dimension of censorship; Dorothy Driver^[48] who has argued that control of the "black mind" is the main objective of censorship; André du Toit^[49] who has sought to reveal the rationale of controlling political publications by means of

statistical analysis and an investigation of the standards employed under the Publication Act; and Jacques Alvarez Pereyre^[50] who has provided annotated examples of texts which have been censored.

Were one to be guided by the literature one could not but conclude that the distinguishing feature of censorship in South Africa is that censorship is a consequence of, and is in the interests of, apartheid. This position is either maintained or strongly implied by, amongst others, Gordimer,^[51] Alvarez Pereyre,^[52] Driver,^[53] Royston,^[54] Merrett,^[55] Paton,^[56] Kerkhof,^[57] Binder,^[58] Gilder,^[59] Hatcher and Giffard,^[60] Tomaselli,^[61] and Kahanovitz and Manoim.^[62] Other formulations suggest that censorship is in the interest of "Afrikaner calvinist morality" or the "Afrikaner oligarchy", as in Dugard and Silver;^[63] "Afrikanerdom" as in V.A. February;^[64] the "system", as in Brink;^[65] the dominant ideology, as in Rose Innes;^[66] the socio-political orthodoxy, as in Welsh;^[67] or, as Budlender writes in his preface to Censorship, edited by Theo Coggin:

All of the contributors to this book provide the same answer, although they arrive at it by different routes: censorship is a political process, 'a cover for the decisions of the politically dominant group'. It is a means of monopolising political power through the control of information.^[68]

These alternative formulations are all compatible with the dominant position that censorship has been in the interest of apartheid. Conversely, with the exception

of the writer's argument in a paper titled "Beyond the Mythology of Censorship in South Africa",^[69] none of the contributors to the literature has challenged the formulation that censorship is in the interest of apartheid, Afrikaner-Calvinist morality, or the like excepting that after the late 1970s certain observers tentatively recognised a shift away from apartheid in the implementation of censorship and, in an erudite and complex article which has been published recently, J.M. Coetzee has explored the relationship between censorship in South Africa and paranoia.^[70] By implication Coetzee's emphasis on paranoia is contrary to any "interest-based" assessment.

The mythology which supports the dominant position and, with slight variations, passes for the history of censorship in South Africa holds that the decisive turning point for censorship occurred in 1963. Before 1963, there were "no specific censorship laws" but "there were other forms of censorship being exercised informally, so to speak"^[71] [Gordimer] / "censorship was effected by a variety of statutes"^[72] [Dugard] / "for what it was worth the Customs Act gave some measure of control but only of imported literature"^[73] [Cope]. "Little attempt was made to suppress locally produced publications"^[74] [Dugard] / "There was no formal internal censorship of books or the visual arts" and no need for a censorship board^[75] [Gordimer].

By 1960 it was clear to the Government that the Customs were not competent to decide which imported works, whether nude statues or books, should not be allowed into the country. ... It was decided the books would actually have to be read by some.

There was also the problem of internal censorship - local publishing of more than coffee-table books was beginning, and writers were getting wise to the fact that if you published within South Africa, there was no procedure of censorship to threaten your work, except for the unusual and unlikely means of prosecution in the Courts.^[76] [Gordimer]

A draft censorship Bill, based on the Report of the Commission of Enquiry into Undesirable Publications "headed by the extremist apostle of apartheid, Dr. G. Cronjé",^[77] [Cope] was drawn up. The Bill was discussed and criticised. Finally, in 1963 the Censorship Act was passed. This Act introduced an "official codified censorship",^[78] [Brink] / "created a central body, the Publications Control Board" ^[79] [Dugard] / and "established a roster of judging Committees"^[80] [Gordimer]. The Publications and Entertainments Act and the subsequent Publications Act were constructed from "abstracted ideological formulations" derived from the "actual definitions and ideas" of the Cronjé Commission ^[81] [Rose Innes]. "It is important not to see censorship as an aberration - it is an institutionalized and integral part of that South African system of social engineering known as grand apartheid, in which South Africans are reconciled to a role commensurate with race classification"^[82] [Merrett].

That "apartheid" should have been considered a sufficient explanation for a phenomenon as complex as censorship in South Africa is a symptom of the development of theoretical discourse relating to South African society and the state in South Africa. Much of the scholarly debate about South Africa since 1948, the year the Herenigde Nasionale Party (National Party) came to power, has concentrated on the relationship between economic growth and political change, or more crudely, capitalism and apartheid. Stripped down to fundamentals the debate has been between the liberal position that capitalism would eventually erode apartheid, as in Michael O'Dowd and Norman Bromberger, or that industrialisation would at least be neutral in a situation of racial confrontation, as in H. Blumer, and the Marxist conception, epitomized by Harold Wolpe and F.A. Johnstone, that apartheid and capitalism have been mutually reinforcing systems.^[83] For Harold Wolpe, apartheid

[provides] the specific mechanism for maintaining labour-power cheap through the elaboration of the entire system of domination and control and the transformation of the function of the pre-capitalist societies.^[84]

While this debate contributed to the clarification and development of both positions, with the liberals evolving into neo-liberals the Marxists into neo-Marxists as they refined their models, it was accompanied by the neglect of other important areas of study, most noticeably Afrikaner nationalism and the

state.

This neglect resulted in Afrikaner Nationalism being conceived of as the ideology of a "monolithic" ethnic group with privileged access to a state which pursues the interests of the "Volk". Policy enacted by the state could consequently be assumed to be in the interest of the Afrikaner Nationalist policy of apartheid while analysis was reduced to demonstrating that the policies enacted by the state did actually benefit Afrikaner Nationalism. Michel Foucault describes such analysis as the "descending type analysis". It can also be viewed as an example of Jon Elster's description of the "naive variety of functionalism, which tacitly assumes that pointing to beneficial consequences is sufficient for an explanation".^[85] Elster continues:

This view neglects not only the possibility that the benefits might arise accidentally, but also the possibility that even if non-accidental they might still be non-explanatory. It might be the case, that is, that the explanandum and the benefits are joint effects of a third variable.^[86]

For Foucault the descending type analysis is characterised by

[...some] kind of deduction of power starting from its centre and aimed at the discovery of the extent to which it permeates into the base, of the degree to which it reproduces itself down to and including the most molecular elements of society.^[87]

Citing the example of madness, Foucault elaborates:

The descending type of analysis, the one of which I believe one ought to be wary, will say that the bourgeoisie has, since the 16th or 17th century, been the dominant class; from this premise, it will then set out to deduce the internment of the insane. One can always make this deduction, it is always easily done and that is precisely what I would hold against it. It is in fact a simple matter to show that since lunatics are precisely those persons who are useless to industrial production, one is obliged to dispense with them. One could argue similarly in regard to infantile sexuality - and several thinkers, including Wilhelm Reich have indeed sought to do so up to a certain point. Given the domination of the bourgeois class how can one understand the repression of infantile sexuality? Well, very simply - given the human body had become essentially a force of production from the seventeenth and eighteenth centuries, all the forms of its expenditure which did not lend themselves to the constitution of the productive forces - and were therefore exposed as redundant - were banned, excluded and repressed. These kinds of deduction are always possible. They are simultaneously correct and false. Above all they are too glib, because one can always do exactly the opposite and show, precisely by appeal to the principle of the dominance of the bourgeois class, that the forms of control of infantile sexuality could in no way have been predicted. [88]

In the same way the deduction of censorship from the general phenomenon of "apartheid" is too simple and too obvious. After all, one could argue that censorship is not in the interest of "apartheid". As will be illustrated in subsequent chapters, prominent Afrikaner Nationalists have maintained this position against fierce opposition.

The neglect of the state has been recognised by both liberals and Marxists. In 1980, in his important paper "Towards an Analysis of the South African state", [89]

Wolpe, a Marxist, points to two common inadequacies - "the homogenization of the state into a simple, integral instrument and the reduction of politics to economics"^[90] - which, in his opinion, were common to different approaches to the analysis of the state in South Africa. For Wolpe these inadequacies have the following effects.

Firstly, it denudes the state of its complex, contradictory, specificity and denies the possibility that the State structures are themselves the site of political struggles outside the sphere of the State structures. Thirdly, and as a consequence, class power is seen as first being constituted in 'society' and only then does the dominant class deploy the State/instrument to give effect to its interests. The State thus enters the class struggle as the instrument of the already dominant class. Now, not only does this render the State entirely unproblematical, it always operates to give effect to the interests of the dominant class, and therefore, unnecessary to analyse, except in so far as its interventions are described, it also defines a particular conception of the political struggle. The objective of the political struggle is to take the State/instrument out of the hands of the dominant class, but since the State apparatuses (however conceived) do not constitute the sites of struggle, that struggle takes place only in 'society'. The State is exclusively the object of the class struggle, it is never a site of that struggle.^[91]

Similarly in his study The Emergence of Modern South Africa: state, Capital and the Incorporation of Organized Labour on the South African Gold Fields, 1902-1939, published in 1984, David Yudelman, a liberal, chastises both Marxists and liberals for underestimating the extent to which the state has interests and imperatives of its own.^[92]

With regard to the analysis of Afrikaner Nationalism, in his pioneering study Volkskapitalisme, published in 1985, Dan O'Meara attacks the then widely held belief that apartheid is the policy of a monolithically conceived "Afrikaner" ethnic group which has used the state to pursue the narrow interests of the volk. The Afrikaner Nationalist alliance, he argues, was "based on Transvaal, Cape and OFS farmers, specific categories of white labour, the Afrikaner petty bourgeoisie and the emerging capitalists of the reddingsdaad movement".^[93] Each of these groupings represent specific interests hence "'apartheid' should not be seen as an undifferentiated phenomenon".^[94] For O'Meara the appeal of apartheid was consequential to its accommodating the distinct interests of each member of the Afrikaner Nationalist alliance into a single policy blueprint. O'Meara, like many earlier observers,^[95] suggests that it was the Sauer Report that both provided this blueprint, or "grand plan", and informed the substance of apartheid policies after 1948.

More recently, in her article "The Meaning of Apartheid before 1948 : Conflicting interests and Forces within the Afrikaner Nationalist Alliance",^[96] published in 1987, Deborah Posel has taken issue with O'Meara over the notion of a "grand plan". She argues that "it was precisely because the Afrikaner Nationalist Alliance was comprised of an alliance of class groupings that

consensus was not reached over the meaning of apartheid".^[97] She continues:

It is argued that by 1948 incompatible conceptions of apartheid coexisted within Afrikanerdom. Notwithstanding their common ideological ground, these versions of apartheid differed over a basic question: the relationship between 'political segregation' and the 'economic integration' of Afrikaans in 'white' areas. Furthermore, the version of apartheid expounded by Afrikaner capital was neither hegemonic nor uncontested within the Nationalist alliance. Indeed, the Sauer Report, accepted by O'Meara as an expression of that hegemony was a symptom of exactly its absence.^[98]

Posel concludes that "apartheid" policy-making during the 1950s was not so much the implementation of a pre-existing long-term blue-print as, in some respects, ad hoc reactions to immediate problems and priorities.^[99] The first three chapters of this thesis can be read as a demonstration that Posel's conclusion applies to censorship in South Africa.

Marxists and liberals alike, or at least the better analysts among them, now readily concede an element of autonomy to the state, although, as Richard Elphick has noted, this is not always given content.^[100] Similarly analysis of Afrikaner Nationalism has become more aware of the complexity of the subject. Given that these advances in scholarship have been relatively recent it is not surprising that they have been slow to filter into popular discourse and that "apartheid" and "system" remain the most common similes for the state and society in South Africa.

While "system" is not an inappropriate metaphor for a political order which tends towards totalitarianism, at the level of popular consciousness it has mutated into the fundamental characteristic of the state in South Africa. Consider for example the following statement made in 1977 by Amadou-Mahtar M'Bow, the Director-General of Unesco:

Unesco's position is based primarily on a detailed analysis of the effects of apartheid on education, on culture and on information. What is involved is not just isolated occurrences. Apartheid is a whole, a system, and this system is not the result of chance, it cannot be improved with a little tinkering here and there. It is, like Nazism, the coherent ideology of a racist State which, though it first hits the numerically largest black community, also affects the coloureds, the Asians and the whites themselves. Nobody escapes this master-slave dialectic.

This ideology finds expression in every institution of the Republic. It permeates the educational system at all levels, it is taught in the schools, it is imposed on creative artists and it controls information within South Africa and seeks to control it in other countries as well.

Unesco has repeatedly proclaimed that it is totally and radically opposed to this system.^[101]

Adherents of this belief that apartheid is a system, an all engulfing whole, have come to call themselves "radicals" thereby confusing a brutal simplification of conception with a radical commitment to the eradication of apartheid. As will be noted in Chapter Seven, it was a dispute between radicals and liberals that, after 1980, dominated the discourse on censorship under the Publications Act in South Africa. Liberals welcomed

the liberalisation of censorship under Publications Appeal Board Chairman J.C.W. van Rooyen while "radicals" argued that no change had occurred.

That "radicals" should have come into conflict with liberals over censorship at this time was inevitable. In the radical scenario the "apartheid system" contaminates all the parts. Any involvement with the parts, even an attempt to reform the parts, is regarded as giving legitimacy to the whole. This was recognised by the eminent South African legal scholar, John Dugard, in a paper presented in 1985:

The radical left increasingly portrays any form of working within the present 'system' as collaboration. Liberal judges are called upon to resign rather than to pursue an activist course in defense of human rights; human-rights lawyers are accused of legitimising an evil system; and participation in the debate over constitutional models is labeled as reactionary or unprogressive.^[102]

The only way to challenge the "system", it follows, is in its entirety. For Nadine Gordimer, a self-confessed "radical",^[103] this implies commitment to the "black cultural liberation struggle" for freedom is seen to be imminent in this struggle.^[104] Until this struggle eradicates apartheid, until the state has been captured, it follows further, there can be no fundamental/significant change in South Africa. All remains apartheid. All remains the whole.

In contrast liberals have, or ought to have, a less

systematic view of society. Where liberals have conceived of "apartheid" as a system, this system is seldom given the conceptual priority that it has for radicals. Liberals, as Elphick notes, to be liberals, have to free themselves from the tyranny of any total vision.^[105] Liberals thus tend to engage with the parts, with the institutions of the state in South Africa, in an attempt to maximize the domain of human autonomy. For liberals this task is simply too important to be surrendered to the future. To return to Elphick:

I assume that the struggle for tolerance, freedom and justice will continue long after the demise of the Nationalist regime.^[106]

In the chapters which follow the writer will elucidate the development of censorship in South Africa. The writer's conviction that "apartheid" is an inadequate explanation for this development is both explicit and implicit in this project. The writer will demonstrate that:

1. The distinguishing features of censorship in South Africa pre-date apartheid.
2. Censorship has been a deeply divisive issue within Afrikaner Nationalism.
3. Censorship was not a manifestation of the "system of apartheid", or any "grand plan" for that matter.
4. References to "apartheid" do not account for, on the one hand, the enactment of the Publications and Entertainments and the Publications Acts and, on the

other, the changes in the application and interpretation of these Acts.

These arguments have obvious implications not only for the literature on censorship but also for discourse on the state and society in South Africa. Following Theodor Adorno the writer would suggest that ["The] whole is the false"^[107] in so far as any discourse which attempts to conceptualise state policy as being a simple and inevitable consequence of a (more or less) monolithic "apartheid" must at best distort the subject matter or at worst descend into its own particular totalitarianism.

REFERENCES AND NOTESINTRODUCTION

- 1 . Jessie Conrad suffered from obesity; perhaps cookery books ought not to be exempt from mistrust.
- 2 Plato. The Republic. Page 131.
- 3 Joyce, J. Ulysses. Page 153.
- 4 See for instance,
Tribe, D. Questions of Censorship.
Abraham H. "Censorship". International Encyclopaedia of the Social Sciences, 1972 edition, Vol. 1.
Laswell, H. "Censorship", Encyclopaedia of the Social Sciences, 1930 edition.
Steinberg, S. Five Hundred Years of Printing.
- 5 See Alpert. L. "Naughty Naughty". Downs, R. (ed.). The First Freedom. Page 4.
- 6 Article 19. Information, Freedom and Censorship. Page 238.
- 7 Coetzee, J.M. Doubling the Point. Page 299.
- 8 Act No. 74 of 1982.
- 9 Act No. 84 of 1982.
- 10 Act No. 42 of 1974.
- 11 Act No. 26 of 1963.
- 12 Van Rooyen, J.C.W. Publikasie Beheer in Suid Afrika and Censorship in South Africa.
- 13 Gordimer, N. "South Africa : Towards a desk drawer literature". The Classic. Vol. 2, No. 4, 1968.
"Censorship and the Primary Homeland". Reality. Vol. 1, No. 6, 1970.
"Apartheid and Censorship". Paton, J. (ed.). The Grey Ones.
"English language politics and literature in South Africa". Heywood, C. (ed.). Aspects of South African literature.
"New forms of strategy, no change of heart". Critical Arts. Vol. 1, No. 2, 1980.
"Censorship and the word". Bloody Horse. No. 1, 1980.
"The South African censor : No change". Index on Censorship. Vol. 10, No. 1, 1981.
"Censorship and the artist". Staffrider. Vol. 7, No. 2, 1988.
- 14 Brink, A. "Literature and Offence". Philosophical Papers. May 1976.
"Writers as mapmakers". Index on Censorship. Vol. 7, No. 6, 1978.
"Censorship and the author". Critical Arts. Vol.1, No. 2, 1980.
"Censorship and literature". Coggin, T. (ed.). Censorship.
- 15 Coetzee, A. "The beginning of a revolt". Paton, J. (ed.). The Grey Ones.
- 16 Mphahlele, E. Chapter on censorship in Voices in the Whirlwind.

- 17 Grant, J. "The silenced generation". Index on Censorship. Vol. 6, No. 3, 1977.
- 18 Rose Innes, L. The Blues is the Screeches of the Censor's Pen.
- 19 Kunene, D. "Holding the Lid Down : Censorship and the Writer in SA". South African Literature. November, 1986.
- 20 Royston, R. "A Tiny Unheard Voice, the Writer in SA". Index Censorship. Vol. 2, No. 9, 1973.
- 21 Pretorius, W. "Nie vir Suid-Afrikaanse Lesers nie". De Kat. November, 1988.
- 22 Adey, D. "Censorship, Class and Clichè". Malan, C. (ed.). Race and literature.
- 23 Hatcher, W. and Giffard, C. Chapter on censorship in Total Onslaught.
- 24 Cope, J. Chapter on censorship in the The Adversary Within.
- 25 Kahn, E. "The Dirty Books We Have Banned". Standpunte. Vol. 20, No. 4.
- 26 Coetzee, J.M. "Censorship in South Africa". English in Africa. Vol. 17, No. 1, 1990.
- 27 Kahn, E. "When the Lion Feeds - and the Censor Pounces". South African Law Journal. February, 1966.
- 28 Dugard, J. Human Rights and the South African Legal Order. Chapter Six.
- 29 Marcus, G. "Blacks Treated more Severely". Index on Censorship. No. 6, 1984.
- 30 Van Der Vyver, J. "General Aspects of the South African Censorship Laws". Coggin, T. (ed.). The Grey Ones.
- 31 Gordon, G. "The Right to Write". Index on Censorship. Vol. 4, No. 2, 1975.
- 32 Dean, B. "Censorship and the Law". Philosophical Papers. Vol. 5, No. 1, 1976.
- 33 Matthews, A. "Censorship, Access to Information and Public Debate". Theoria.
- 34 Silver, L. "Criticism of the Police - Standards Enunciated by the Publications Appeal Board". South African Law Journal. Vol. 95, 1978.
"The Statistics of censorship". South African Law Journal. March, 1979.
"Who are the custodians? A close look at publications control". South African Law Journal. Vol. 98, No. 1, 1981.
"Trends in Publications Control : a Statistical Analysis". South African Law Journal. Vol. 100, 1983.
- 35 Jordon, R. "Withdrawal of Ban by the Publications Control Board". South African Law Journal. Vol. 98, Pt. 1, 1981.
- 36 Haysom, N. and Marcus, G. "Undesirability and Criminal Liability under the Publications Act". South African Journal of Human Rights. Vol. 1, No. 1, 1985.
- 37 Drukker, K. The Administration of Censorship in

- South Africa with Particular Reference to the Cinema.
- 38 Tomaselli, K. The Cinema of Apartheid and "Ideology and Censorship in South African Film". Critical Arts. Vol. 1, No. 2, 1980.
- 39 Gutsche, T. The History and Social Significance of Motion Pictures in South Africa.
- 40 Gilder, B. "Finding New Ways to Bypass Censorship". Index and Censorship. Vol. 12, No. 1, 1983.
- 41 Kerkhof, I. "Music in South Africa : Censorship and Repression". Re-Records. Vol. 2, 1985.
- 42 Welsh, D. "Censorship and the Universities". Philosophical Papers. Vol. 5, No. 1, 1976.
- 43 Merrett, C. "Censorship and the Academic Process". Wits Journal of Librarianship and Information Science. No. 4, 1986.
"The Academic Librarian and Political Censorship in South Africa". Wits Journal of Librarianship and Information Science. 3 April, 1985.
- 44 Paton, J. "Censorship and the University". Paton, J. (ed.). The Grey Ones.
- 45 Switzer, D. Legal Censorship in South Africa.
- 46 McDonald, I. "Defending Censorship Legislation in Terms of Society's Right to Protect Public Morals". Coggin, T. (ed.). Censorship.
- 47 Boesak, A. "To Guard the Faith. ...". Coggin, T. (ed.). Censorship.
- 48 Driver, D. "Control of the Black Mind is the Main Aim of Censorship". South African Outlook. June, 1980.
- 49 Du Toit, A. "The Rationale of Controlling Political Publications". Coggin, T. (ed.). Censorship.
- 50 Alvarez Pereyre, J. "Pyramids of Shame". Genève Afrique. Vol. xvi, No. 2, 1977-78.
- 51 Any of the above Gordimer articles. For example, "Censorship and the Primary homeland". Op cit. Page 12.
- 52 Alvarez Pereyre, J. Op cit. Page 8.
- 53 Driver, D. Op cit. Page 10.
- 54 Royston, R. Op cit. Page 88.
- 55 Merrett, C. "The Academic Librarian and Political Censorship in South Africa". Op cit. Page 18.
- 56 Paton, J. Op cit. Page 9.
- 57 Kerkhof, I. Op cit. Page 9.
- 58 Binder, E. "Introduction". Censorship and Apartheid in South Africa.
- 59 Gilder, B. Op cit. Page 18.
- 60 Hachen, W. and Giffard, C. Op cit. Page 155.
- 61 Tomaselli, K. The Cinema of Apartheid. Page 13.
- 62 Kahanovitz, S. and Manoim, S. Radically

- Undesirable. Page 2.
- 63 Dugard, J. Op cit. Page 192.
- 64 February, VA. Mind your colour. Page 131.
- 65 Brink, A. "Censorship and Literature". Op cit.
Page 53.
- 66 Rose Innes, L. Op cit. Page 1.
- 67 Welsh, D. Op cit. Page 19.
- 68 Budlender, G. "Preface". Coggin, T. (ed.).
Censorship.
- 69 Stewart, P. "Beyond the Mythology of Censorship in
South Africa". Reality. Vol. 22, No. 4,
1990.
- 70 Coetzee, J.M. "Censorship in South Africa".
English in Africa. Vol. 17, No. 1, May
1990.
- 71 Gordimer, N. Staffrider. Op cit. Page 11.
- 72 Dugard, J. Human Rights and the South African Legal
System. Page 193.
- 73 Cope, J. The Adversary Within. Page 73.
- 74 Dugard, J. Op cit. Page 193.
- 75 Gordimer, N. Staffrider. Op cit. Page 11.
- 76 Ibid. Page 12.
- 77 Cope, J. Op cit. Page 74.
- 78 Brink, A. Critical Arts. Op cit. Page 17.
- 79 Dugard, J. Op cit. Page 194.
- 80 Gordimer, N. Staffrider. Op cit. Page 12.
- 81 Rose Innes, LL. The Blues is the Screeches of
the Censor's Pen. Page 10.
- 82 Merrett, C. Wits Journal. Op cit. Page 17.
- 83 Davenport, T. South Africa : A modern history.
Page 289.
- 84 Wolpe, H. "Capitalism and Cheap Labour-power in
South Africa: From Segregation to Apartheid".
Economy and Society. Vol. 1, No. 4, 1972.
Page 425.
- 85 Elster, J. "Further Thoughts on Marxism,
Functionalism and Game Theory". Roemer, J.
(ed.). Analytical Marxism. Page 203.
- 86 Ibid.
- 87 Foucault, M. "The Juridical Apparatus".
Connolly, W. (ed). Legitimacy and the
State. Page 213.
- 88 Ibid. Page 214.
- 89 Wolpe, H. "Towards an Analysis of the South
African State". International Journal of
the Sociology of Law. No. 8, 1980.
- 90 Ibid. Page 412.
- 91 Ibid.
- 92 Elphick, R. "Historiography and the Future of
Liberal Values". Butler, Elphick and Welsh
(eds.). Democratic liberalism in South
Africa. Page 178.
- 93 O'Meara, D. Volkskapitalisme. Page 243.
- 94 Ibid.
- 95 For a fuller account see Posel, D. "The Meaning
of Apartheid before 1948". Journal of
Southern African Studies. Vol. 14, No. 1,

- 1987.
- 96 Ibid.
- 97 Ibid. Page 126.
- 98 Ibid. Page 125.
- 99 Ibid. Page 139.
- 100 Elphick. Op cit. Page 170.
- 101 The Unesco Courier. November, 1977. Page 4.
- 102 Dugard, J. "Human Rights and the rule of law".
Butler, Elphick and Welsh (eds.).
Democratic Liberalism in South Africa. Page
280.
- 103 Sunday Tribune. 1 March, 1981.
- 104 Ibid.
- 105 Elphick. Op cit. Page 172.
- 106 Ibid. Page 167.
- 107 Adorno, T.W. Minima Moralia. Page 50.

CHAPTER ONE : GENEALOGY - CENSORSHIP BEFORE 1963

There are so many ghosts here. In the dark mildewed wing, where the rotting mosquito nets hang, lives the apparition of the Dutch governor's daughter.

Michael Ondaatje.^[1]

An incident in Gabriel Garcia Marquez's One Hundred Years of Solitude illuminates the attitude to the past as revealed in the discourse on censorship in South Africa. The first symptoms of an outbreak of the insomnia plague - the most fearsome symptom of which is the gradual loss of memory - are recognised in the town of Macondo. In order to win time from the quicksand of forgetfulness the inhabitants of Macondo set about labelling objects with their name and function.

At the beginning of the road into the swamp they put up a sign that said MACONDO and another larger one on the main street that said GOD EXISTS. In all the houses keys to memorizing objects and feelings had been written. But the system demanded so much vigilance and moral strength that many succumbed to the spell of an imaginary reality, one invented by themselves, which was less practical for them but more comforting. Pilar Ternera was the one who contributed most to popularize that mystification when she conceived the trick of reading the past in cards as she had read the future before. By means of that recourse the insomniacs began to live in a world built on the uncertain alternatives of the cards, where a father was remembered faintly as the dark man who had arrived at the beginning of April and a mother remembered only as the dark woman who wore a gold ring on her left hand, and where a birth date was reduced to the last Tuesday on which a lark sang in the laurel tree.^[2]

In South Africa scholars have been so awake to any manifestation of apartheid that it is as if they have

erected a large sign in the main street of the discourse on censorship which states CENSORSHIP IS IN THE INTEREST OF APARTHEID while the pre-1963 censorship is dimly recollected as a time when Customs men stood, in the words of Nadine Gordimer, "scratching their thick heads trying to decide on the evidence of a title, a jacket illustration and an author's name, alone, whether a book was subversive or indecent or both." [3]

The acceptance of apartheid as sufficient explanation for censorship has rendered engagement with the development of censorship, and the context of that development, obsolete. With the exceptions of Ellison Kahn's scholarly and important article "When the Lion Feeds - and the Censor pounces" [4], Thelma Gutsche's History of Motion Pictures in South Africa - and the summaries of Khan and Gutsche which are tacked onto the better researched theses as historical introductions [5] - Pieter Geldenhuys's Pornografie, Sensuur en Reg and Doreen Switzer's doctoral thesis Legal Censorship in South Africa there is little concern for "process", for historical sociology. As Switzer expressed it in 1986, "A thorough study has yet to be written about [censorship in] South Africa." [6]

Kahn's article is a concise sketch of the development of censorship up until 1966. Gutsche's book has a single chapter in which film censorship during the period 1895-1940 is considered, while Geldenhuys includes a brief

review of censorship prior to 1963 in his work.

Notably neither Kahn, Gutsche, nor Geldenhuys conclude that censorship is in the interest of "apartheid". The point of departure for Switzer's thesis is censorship as it relates to the library profession. From this perspective she views the various aspects of censorship -including those under the Customs Act, the Riotous Assemblies Act, the Suppression of Communism Act, the Publications Act and the Internal Security Act - as having

[evolved] to form the complicated and interlinked network of legislation under which a small group of mainly Afrikaans whites control the information to which South Africa's research libraries can provide access.^[7]

Her inclination to lump the various forms of censorship together does not prevent her from providing a history of the Publications Act and its predecessors which is considerably more extensive than any other in the literature. Unfortunately her history is flawed.

Her project rests on the assumption that,

[With] the essential promotion of Christian Nationalism and apartheid as a way of life in which all emphasis is placed on group identity, it was a logical step to the rejection of the importance of individual liberties.^[8]

Her thesis is thus another example of the descending type of analysis where it is taken as self-evident that the Publications Act and its predecessors are a logical consequence of apartheid. In the face of overwhelming

evidence to the contrary her determininism falters:

[The] interlacing network of legal provisions developed by governments before 1948 was, in the main, intended as a curb against salacious materials, not political or sociological documents, but, as Professor Rodney Davenport put it 'it is salutary to recall the extent to which infringements of civil rights since 1948 are in reality extensions of infringements made before 1948'.^[9]

Such lapses are fairly frequent but are not incorporated into the fabric of her history. The raw materials necessary for the examination of her assumptions are within her grasp yet clues are not investigated, stones are left unturned, the labyrinth remains intact.

The writer concedes that an historical sociology may be beyond the scope of certain of the articles on censorship, in particular legal studies of the implications of specific "censorship" Acts. For such investigation the Act under consideration may be regarded as providing the context. Nonetheless in the literature as a whole the historical sociology of censorship has been neglected; yet numerous commentators, including legal scholars, have asserted their conclusions as to the essential nature of censorship: it is generally assumed that censorship is in the interest of apartheid and that this is an adequate explanation for censorship. The historical contents of censorship have consequently been buried in a dreary functionalist coherence.

Kahn, Gutsche, Geldenhuys and Switzer aside, where there

are references to the history of censorship in South Africa they tend to be what the writer has previously called the mythology of censorship.^[10] This mythology which permeates the literature and, with some variations, passes for the history of censorship holds that the decisive turning point for censorship occurred in 1963. In Dugard this is not so much by inaccuracy as by emphasis:

Before 1963 censorship was effected by a variety of statutes. Films, local and imported were subject to the approval of a Board of Censors established by the Entertainments (Censorship) Act of 1931. Imported publications might be prohibited by the Customs authorities, under the Customs Act, where they were considered to be 'indecent or obscene or on any ground whatsoever objectionable', with the final say vested in the Minister of the Interior. Books published within South Africa were subject to a number of national and provincial enactments which brought the sanction of the criminal law to bear upon the distribution and display of obscene works. Little attempt was made to suppress locally produced publications, as this involved judicial proceedings. The same could not, however, be said of foreign publications which were ruthlessly banned under the Customs law. Among the thousands of banned publications, consisting largely of pornographic magazines, were included John Cleland's Fanny Hill, D.H. Lawrence's Lady Chatterley's Lover, and works by Erskine Caldwell, John O'Hara, John Steinbeck, Richard Wright, Henry Miller, Christopher Isherwood, Stuart Cloete, and Vladimir Nabokov. All these works remain banned today as succeeding censorship schemes have in most instances inherited the banned works of their predecessors.

In 1963 the Publications and Entertainments Act was passed which created a central body, the Publications Control Board, to decide on the compatibility of publications (excluding newspapers), objects, films, and public entertainments with certain standards of indecency and obscenity laid down in the

Act.^[11]

The clear implication is that before 1963 censorship, although extensive under the Customs Act, resembled an imbroglio. Moreover Dugard only makes reference to a Board of Censors in regard to films during this period; it took the 1963 Act to create a central body, the Publications Control Board, to regulate publications, films etc. Hence my conclusion that 1963 is taken as the decisive turning point. The writer is not alone in this reading of Dugard. In their chapter "Censorship under the Publications Act" in Total Onslaught Hatches and Giffard base their history of censorship before 1963 on Dugard. They start by conceding that "Controls on literary and artistic works predates Nationalist political domination, though the process accelerated after 1948".^[12] Such control as existed before 1963 is soon characterised as "haphazard", however:

In order to systemize the existing haphazard arrangement, the Publications Control Board was established in 1963 with the passage of the Publications and Entertainments Act.^[13]

At the other end of the spectrum to Dugard is Gordimer. Her reconstruction of the history of the censorship is much more impressionistic. Hence, in her article "Censorship and the Artist", she writes:

Before 1963 there were no specific censorship laws in our country. Obvious pornography was spotted at the Customs offices when it arrived at our ports from overseas. There was no formal internal censorship of books or the visual arts. Apparently it was presumed that the influence of the Dutch Reformed Church ensured that there would be no explicit sexual

reference in the work of local writers and other artists, and so for ideas subversive to the apartheid regime, these would come only in the form of corruption from Europe and America. It was not thought that South Africans themselves would be capable of articulating such ideas except in the form of crude pamphlets which could be easily dealt with by seizure by the police and would be useful as evidence of treasonable activity. You didn't need a censorship board for that.

Of course, then, already, there were other forms of censorship being exercised informally, so to speak, at the discretion and whim of various individuals, groups, and petty authorities. ...

In 1936 - the year of the centenary commemoration of the Great Trek, remember - a novel appeared that was actually, officially banned. I do not know exactly what legislation was used, but it is not hard to see why, in the absence of a censorship structure, something had to be found to serve. The book was Stuart Cloete's Turning Wheels, it was about the trek, and it showed the trekkers as flawed human beings, not entirely shining heroes. ...

But by 1960 it was clear to the government that the Customs officials were not competent to decide which imported works, whether nude statues or books, should not be allowed into the country. Sometimes these books, although published abroad, were the work of South African writers, over whom a special vigilance was to be kept. The Customs men had a list of names of such writers (myself among them) but you can imagine them scratching their thick heads, trying to decide on the evidence of a title, a jacket illustration, and an author's name, alone, whether a book was subversive or indecent or both. It was decided the books would actually have to be read by someone.

There was also the problem of internal censorship - local publishing of more than coffee-table books was beginning, and writers were getting wise to the fact that if you published within South Africa, there was no procedure of censorship to threaten your work, except for the unusual and unlikely means of prosecution in the courts.

The first draft of a Censorship Bill was drawn

up, and, as is customary, the public was invited to make submissions about its provisions. We writers and artists were asked to help devise means of censoring ourselves. The writers' organizations that existed at the time fell for this ploy made in the name of democratic participation. The PEN club, for example, asked for the Minister's assurance that 'competent literary experts' would be the judges of what should be banned and what should not.

They got the Minister's assurance. And when the Censorship Act was finally passed in 1963, there was established a roster of judging Committees whose names and identities were not, and never were to be, revealed. The 'competence' of these people was anonymous.

One or two writers, like myself, had opposed the Act from the beginning three years before; you didn't have to look into a crystal ball to see that once you agree to accept censorship conditionally, you have endorsed it in principle and you will have to accept whatever means are used to apply it, in the end.^[14]

This discourse holds up well, owing no doubt to how easy it is to uphold. A solemn historical and political guarantee protects it. By placing the advent of "coherent" censorship in 1963 one adjusts it to coincide with the development of grand apartheid: it becomes an integral part of the apartheid order.^[15] "Hence", in the words of André Brink,

[in] South Africa, censorship is only one part of an overall strategy which also expresses itself in such forms as detention without trial, arbitrary bannings, job reservations, the Group Areas Act, those clauses of the Immorality Act which prohibit miscegenation or any form of 'love across the colour bar', influx control, the frustration of black solidarity and stripping 9 million black South Africans of their citizenship through the creation of a mosaic of 'independent' homelands, the web of legislation controlling the press, and all the awesome secret activities of the Secret Police.^[16]

The censorship which occurred in South Africa prior to the enactment of the Publications and Entertainments Act in 1963 was considerably more substantial, complex and interesting than is generally recognised. The cornerstones of censorship prior to 1963 were the Customs Management Act of 1913 and the Entertainments (Censorship) Act of 1931^[17]. The Customs Management Act provided for the censorship of imported publications while the latter Act regulated cinematograph films and public entertainments. In 1934, by means of an amendment to the Customs Act,^[18] the censorship provisions of these two Acts were effectively joined together, the cement being a common censorship board. The censorship subsequent to this bonding is recognisable as the precedent for that which transpired after 1963. This view is shared by Gelderhüys, except that he locates the turning point in 1931 (the establishment of the film Censorship Board). The writer opts for 1934 since it was in this year that the practice whereby publications, films and entertainments are all censored by the same statutory government-appointed censorship body - a distinguishing feature of censorship in South Africa - was established.

Gelderhüys:

In 1931 word die Sensuurwet op die wetboek geplaas. Hierdie Wet bring 'n eenvormige reëling vir al die provinsies en plaas ons op 'n pad waarvan ons tot dusver nog nie afgekyk het nie. Sensuur in Suid-Afrika word opgedra aan 'n onafhanklike administratiewe orgaan en

nie ingeskakel by enige bestaande afdeling van die Staatsdiens nie. Verfyning het met elke nuwe wet ingetree maar die basiese gedagte was van die begin af daar.^[19]

In the next section of this chapter the writer will discuss, first, the censorship under the Customs Act prior to 1934 and, second, the events leading to the enactment of the Entertainments (Censorship) Act in 1931.

a. The foundations of censorship in South Africa - Censorship before 1934

The delegation of a censorship function to the Customs authority, as occurred in South Africa prior to 1963, was not without precedent. What is exceptional is the manner in which the Customs legislation was gradually amended to provide for a censorship which substantially exceeded the requirements of import control.

The right of English Customs authorities to examine goods prior to admittance into England - initially for the purpose of the King's taxation - was established as early as the thirteenth century. Edward Carson, in his book The Ancient and Rightful Customs sketches the origins of the centralized system of Customs control:

The first real attempt to set up a centralized system was made by King John at the Winchester assize in 1203. This imposed a duty of one-fifteenth on imports and exports (the quindecima) and provided for officials to be appointed to deal with it. In each port of England 'six or seven or more of the wiser and

more learned men of substance of the port and one knight and one clerk were to be chosen and also a further official, who should not himself receive any money but should keep rolls against the bailiffs who receive the quindecima'.^[20]

By the early seventeenth century the Customs authorities had assumed the right to regulate the importation of books, as is evident from an incident, described by Carson, which occurred during the Stuart period:

An interesting sidelight on Customs affairs is provided by the story of John Prettyman, Customs Officer at Dover who seized some books which had been unlawfully imported. The sailor who had introduced them into the country from Calais claimed that he had brought a box and a bundle from another person, not knowing that they contained books. The reason for the embargo on their importation is not stated, but even today obscene and seditious books may be seized by Customs officers, as well as in cases where copyright has been infringed.^[21]

The provisions providing for censorship in the South African Customs Management Act of 1913^[22] were direct descendants - via the Cape Customs Act of 1872 - of the Customs Consolidation Act, 1853, of the United Kingdom. Taking over the wording of the British Act, but adding the words "or objectionable", the 1913 Act provided that "no indecent or obscene or objectionable prints, paintings, photographs, books, cards, lithographic or other engraving, or any other indecent or obscene or objectionable articles" should be imported into South Africa. An innovation of the Customs Management Act was that it specified that "in the event of any question arising as to whether such articles are indecent,

obscene, or objectionable, the decision of the Minister shall be final", the "Minister" being the Minister of Finance. Importation of any such indecent, obscene or objectionable matter was an offence. Prohibited goods were liable to forfeiture and, on seizure, were to be disposed of as provided for by the Act unless the person from whom they were seized, or the owner, claimed them within a month. On goods being so claimed the Commissioner was required to apply to the Supreme Court for a condemnation order, the onus of proof of lawful import being on the owner or claimant.

To borrow an expressive understatement from Ellison Kahn, the "Act eventually disappointed the Government".^[23] This disappointment was precipitated by the decision of the Court in Commissioner of Customs v Joffe,^[24] a case which concerned the seizure by the Customs Department of certain issues of a journal called The Militant. Joffe gave notice that he claimed them, the result being that the Commissioner of Customs asked the Court for an order of condemnation. The Commissioner's application was rejected. In his article "When the Lion Feeds - and the Censor Pounces" Kahn considers the implications of this case:

Barry J. ... decided that, on the eiusdem generis and noscitur a sociis rules, 'objectionable' in the context meant 'something that offends or is offensive to delicacy or modesty or decency.' The consequence was an amendment to the Act. No longer was there mention of prints, paintings, books and the like. The prohibition on import applied to 'goods which

are indecent or obscene or on any ground whatsoever objectionable'. This was to crush any argument based on the ejusdem generis rule, and to deter counsel from again contending (as he unsuccessfully did in Joffe's case) that the books and other printed matter contemplated in context would have to offend the eye and not simply the mind.^[25]

Besides inserting the crucial words "or on any ground whatsoever [objectionable]" to the specification of prohibited imports, the amendment, the Customs Tariff (Amendment) Act of 1934,^[26] shifted the responsibility for this section of the Act from the Minister of Finance to the Minister of the Interior and laid down that with printed, engraved, lithographic and photographic matter the Minister's decision should follow consultation with the Board of Censors established by the Entertainments (Censorship) Act, 1931.^[27]

These significant amendments to the Customs legislation, which marked a decisive break from the British legislation, were achieved in one brief section of the Amendment Act:

6. Section twenty-three of the Customs Management Act, 1913 (Act No.9 of 1913), as amended, is hereby further amended by deleting paragraph (c) and substituting:

(c) Goods which are indecent or obscene or on any ground whatsoever objectionable; in the event of any question arising as to whether any goods are indecent or obscene or objectionable the decision of the Minister of the Interior shall be final: Provided that in respect of printed, engraved, lithographic and photographic matter the decision shall be given after consultation with the Board of Censors appointed in terms of sub-section (1) of section two of the Entertainments (Censorship) Act, 1931 (Act No. 28 of 1931).^[28]

This section was not considered sufficiently important to warrant any discussion in Parliament. The honourable members were more concerned to discuss the provisions relating to import duty on hospital nurses's uniforms.^[29]

The Entertainments (Censorship) Act,^[30] which created the Board of Censors which subsequent to the 1934 amendment also operated in terms of the Customs Act, was the culmination of a series of events relating to controversial cinematograph films. In her account of the emergence of the film industry in South Africa, The History and Social Significance of Motion Pictures in South Africa 1895 - 1940, Thelma Gutsche gives extensive consideration to these events. According to Gutsche, the first instance of the official prohibition of a film occurred in 1910, concurrent with the appearance of the first permanent "picture palaces" in South Africa:

On the 4th July, the coloured boxer, Jack Johnson, defeated Jeffries (backed by Corbett) in the United States. Race riots ensued in which hundreds were killed and thousands injured. Prisons were filled to overflowing and troops had to be called out. A film had been taken of the fight and, fearing that its exhibition might further disturb the public peace, the mayors of many American towns prohibited its showing. On the 6th July, the Natal Times and Natal Witness urged similar and united action on the part of all South African municipalities (in which the control of public amusements was then vested). On the 7th the Bloemfontein Friend endorsed this appeal which the Sunday Times and Sunday Post also supported. Meanwhile in Europe and America controversy had broken out. The Canadian Government banned the film and movements were launched in Australia and New

Zealand demanding that their governments prohibit its exhibition. On the 8th an order was issued from the Government Offices in Pretoria instructing the police of the four provinces to prohibit exhibition of pictures of the Johnson-Jeffries fight. On the 9th the Town Clerk of Johannesburg circularised all owners of palaces of entertainments warning them not to attempt to show the film or incur the expense of importing it (which had of course been planned) as the Municipal Council would certainly prohibit its showing. This was the signal for the outbreak of acrimonious controversy (in which the churches actively participated) and a flood of correspondence to the Press. It was pointed out that the sole menace of the film was the inculcation of racial hatred which could instantly be obviated by prohibiting its exhibition to coloured people, that the Burns-Johnson film had innocuously been shown the year before etc. etc. In time, the outcry died away but it had effectively demonstrated the social importance of the 'bioscope' and in particular, that the public actively desired to see films, that certain films were pernicious and that no machinery, except direct Central Government action, existed for their censoring other than arbitrary prohibition by separate municipal councils. [31]

The controversy over the Johnson-Jeffries fight was soon followed by generalized protests at the "vulgarity and suggestiveness" of the cinema. A wide range of social groups, in particular women's social welfare groups, were of the opinion that such laws as prohibited obscenity within South Africa (these will be discussed in Chapter Two) were inadequate for the control of films. Indignant letters, deploring the outrageous sights which had come to pass for entertainment, began to appear regularly in the press. In Cape Town - the port of entry of all films and the place of first screening of most - this movement gathered force,

precipitating the formation of a voluntary vigilance Committee in April 1913.^[32]

According to Gutsche this "Bioscope Advisory Committee", which secured the co-operation of the cinema trade, emerged directly from the Social Reform Association, which was founded in 1900 to combat the organised "white slave traffic" and prostitution for which Cape Town was notorious.^[33] Prior to the public indignation at the quality of films, this association's interest in the cinema had been directed at the conditions under which "Bioscope exhibitions" took place. Evidently, if a revealing footnote in Gutsche is to be believed, this interest was not all together unfounded:

The rush to capitalise on 'movie madness' resulted in the appearance of extremely crudely equipped 'picture palaces' whose original functions (such as warehouses, stores, auction rooms etc.) had, in point of ventilation, lighting etc., no pretensions towards houses of entertainment. Their rough benches and fetid atmosphere were the least of associated evils. Hygienically they suffered not only from an almost total lack of ventilation but also from the close proximity of hastily constructed lavatories of dubious efficiency. Their audiences consisted largely of disreputable and frequently diseased elements whose habits were not calculated to improve hygienic conditions. Morally, there was a variety of evils which were encouraged by the total darkness of the auditorium upon which the weak and flickering light of the screen had little effect. Drunken individuals were admitted regardless of their unwelcome attentions on more sober members of the audience and adolescents were crowded together in an atmosphere thoroughly conducive to pernicious practices. Immoral acts did in fact take place in 'bioscopes' and furnished one of the first causes of attracting the attention of the Social Reform

Association. A further evil was the behaviour of coloured audiences which, being rowdy and difficult to control, presented a special problem. Finally and at first of paramount importance, was the danger of fire against which the early proprietors took little or no precaution, despite the frequent publication of news of fatal tragedies in cinema fires overseas.^[34]

For the Social Reform Association the films that were exhibited in these early cinemas became just another site of apparent moral decay to be sanitised on behalf of middle-class respectability.

The Bioscope Advisory Committee - which was financed by various small grants from the Cape Provincial Council, the Cape Town City Council and other sources - consisted of approximately 150 members "all of whom were devoted to its purpose and who worked wholeheartedly towards its furtherance".^[35] Nonetheless its procedures were makeshift and its authority dependent on the goodwill of film importers. As a consequence the Committee, with the support of the National Council of Women and other Social Welfare organisations, persistently petitioned the Cape Provincial authorities to institute an official censorship of films.^[36]

In April 1916, after the Union Government prevented the screening of the Dop Doctor, a film which was believed to misrepresent the "Boer character", the Cape Provincial Council passed the Public Performance Control Ordinance.^[37] This Ordinance, passed on 9 July 1916 empowered the Administrator to forbid, by letter or

telegram, any performance or exhibition calculated to bring any section of the public into ridicule or contempt. The Cape Times criticised this Ordinance on the grounds that it was obviously panic and not constructive legislation.^[38] At the same time, a motion that the control of films be provided for was introduced into the Natal Provincial Council by the Mayor of Pietermaritzburg, but was defeated.^[39]

The Public Performance Ordinance was not sufficient to prevent the screening of Enlighten thy Daughter in Cape Town in July 1917, contrary to a Bioscope Advisory Committee decision. This prompted the passing of the stringent Cinematograph Film Ordinance^[40] of the Cape Province in 1917. The provisions of this ordinance - which included an extensive list of topics which could render a film unacceptable to the Board of Inspectors established by the Ordinance - were to be the model for the Entertainments (Censorship) Act^[41] fourteen years later.

None of the other provinces promulgated similar measures. In the Transvaal, however, members of the police force inspected films in their spare time. This was regarded by the police as an interim measure in the absence of any other controls and it was a duty from which the police sought to be released.^[42] In 1923 the Provincial Council of the Transvaal decided to work,

in conjunction with representatives of the other provinces, towards the establishment of a film censorship board for the Union.^[43] Commenting on the inadequacy of measures for the control of films outside the Cape, Gutsche states:

That the anomalous State should have persisted for fourteen years is the more remarkable when it is considered that throughout this time, the press, the public and the trade itself continuously protested against it. Persistent appeals both to the Union and Provincial authorities had no effect and it was only when the effects of the anomaly became so striking through the advent of talkie films which were freely shown in some provinces though banned at the Cape, that action was finally taken.^[44]

In December 1929 the press reported that in consultation with the Minister of the Interior, Dr. D.F. Malan, representatives of each of the four provincial administrations had concluded that the matter of film censorship properly belonged to the central government.^[45] On 5 March 1930, Dr. Malan introduced an appropriate Bill in the House of Assembly, but it was not proceeded with. In 1931 the Bill was reintroduced and referred to a select Committee.

The Report of the Select Committee on the Entertainments (Censorship) Bill^[46] is an unimpressive document, notable in that all the persons interviewed by the Committee were in agreement that the proposed legislation was necessary. Where there was disagreement it concerned the jurisdiction of the proposed censorship authority. The witnesses to the

Committee included Mr. F. Howe-Browne, the Chairman of the Board of Film Inspectors in the Cape Province; other members of his Board; Col. R.S. Godley, the police officer in charge of inspecting, in his spare time, films in the Transvaal; Mr. W.F. White, a representative of African Films Ltd, African Theatres Ltd and African Film Productions Ltd; and Mr. J. Kalusky, the circuit manager of Kinemas Ltd and Kinemas Films Ltd.

Mr. White and Mr. Kalusky, who between them represented the most important film exhibitors and public entertainment concerns in the Union, concurred with each other and against the other witnesses that a general clause facilitating the prohibition of a film which was "offensive to decency" would be sufficient. Here they were objecting to a long list of topics which, following the Cape Cinematograph Film Ordinance, would render a film liable to prohibition. Mr. Kalusky submitted:

We respectfully submit that this section terminate at the words 'be offensive to decency' and that particular scenes as is done in paragraphs (a) to (t) be excluded entirely. Our reason for suggesting this is that it limits the function and the censor board too much, and it would be advisable to leave these matters to the discretion of the board. One must presume that the board will consist of broad-minded people who will have the welfare of the nation at heart and will act in the best interests. To tie them down to definite limits might defeat the purpose of censorship and might result in robbing the public, perhaps of the opportunity of seeing some great films.^[47]

The Committee was not convinced by this argument. When the Bill reappeared it retained the list of topics.

Despite a spirited attempt to have the list excluded from the Act by Mr. Jan Hofmeyer (SAP), in the House of Assembly, the Bill was duly enacted with these provisions intact.^[48]

The Entertainments (Censorship) Act^[49], passed on 3 June 1931, created and defined the powers of the National Board of Censors. This Board was comprised of not less than seven members appointed by the Minister for a period of not more than three years. The Chairman or his designate had a casting vote with four members constituting a quorum. The Act provided that cinematograph films and film adverts required the prior approval of the Board before they could be exhibited in the Union. In evaluating a film the Board was required to take cognisance of an extensive list of subjects, which, in the opinion of Alex Hepple, was inspired by the sensitivities of most white South Africans:^[50]

5.(1) The board shall not approve any film which, in its opinion, depicts any matter that prejudicially affects the safety of the State, or is calculated to disturb peace or good order, or prejudice the general welfare or be offensive to decency.

(2) The board shall not approve any film which in its opinion depicts in an offensive manner:-

- a) impersonation of the King.
- b) scenes holding up to ridicule or contempt any member of the King's military or naval forces.
- c) treatment of death.
- d) nude human figures.
- e) passionate love scenes.
- f) scenes purporting to illustrate 'night life'.
- g) scenes containing reference to controversial or international politics.
- h) scenes representing antagonistic relations

- of capital and labour.
- i) scenes tending to disparage public figures.
 - j) scenes tending to create public alarm.
 - k) the drug habit, white slave traffic, vice or loose morals.
 - l) scenes calculated to affect the religious convictions or feelings of any section of the public.
 - m) scenes calculated to bring any section of the public into ridicule or contempt.
 - n) scenes of juvenile crime and in the case of older persons, scenes of the technique of crime and criminality.
 - o) scenes of brutal fighting.
 - p) scenes of drunkenness and brawling.
 - q) pugilistic encounters between Europeans and non-Europeans.
 - r) scenes of intermingling of Europeans and non-Europeans.
 - s) scenes of rough-handling or ill treatment of women and children.^[51]

Chapter Two of the Act provided that the Minister could prohibit the publication of any picture, photograph, painting or drawing and the giving of any public entertainment unless the Board of Censors was satisfied that it was not calculated to give offence to religious convictions, or bring any section of the public into ridicule or contempt and was not contrary to the public interest or good morals. The penalty, as outlined in Chapter Three, for the contravention of any provision of the Act was, on conviction, a fine not exceeding one hundred pounds.

The Act was widely criticized as being the imposition of an arbitrary censorship and its provisions were regarded as being so exacting that any film would be liable to banning or mutilation. Hence the following editorial in the The Star:

The nature of the discretionary powers of the proposed Board may be judged from the list of prohibited films. The list is little short of amazing and if the provisions were narrowly interpreted, most of the films which come to South Africa would be liable to rejection. Surely it is a mistake to dictate beforehand and in such detail what is and what is not to be allowed^[52]

- b. The extension of Censorship away from import control, 1934-1950.

The 1934 amendment to the Customs Management Act^[53] was a decisive juncture for censorship in South Africa. By extending the jurisdiction of the Board of Censors to include publications detained in terms of the Customs Act the Amendment initiated a practice which has become a characteristic of censorship in South Africa. The censorship of films, public entertainments and publications was henceforth administered by a single, statutory, government-appointed censorship body. This was at odds with British law where the only statutory censorship body in operation at that time was the Lord Chamberlain's department in its administration of theatre censorship. Since the introduction of theatre censorship in 1737, no statutory censorship body had been introduced in the United Kingdom. In the United States of America there were no statutory censorship boards.

In South Africa, the incorporation of the Board of Censors within the ambit of the Customs Management Act transposed a bureaucratic infrastructure onto the

existing mechanisms for the control of imported publications. This facilitated much more extensive and thorough control than was previously possible. Whereas the responsible Minister had hitherto borne the sole responsibility for the adjudication of publications, after 1934 there was a Board of Censors to assist in this task, the Minister's function, on the whole, being reduced to that of rubber stamp.

A common, statutory censorship board was not the only bond between the censorship provisions of the Customs legislation and those of the Entertainments Censorship Act.^[54] In a statement published in the Cape Times, in 1947, the Department of the Interior stated that in the absence of the specific definition of terms under the Customs Act, "the Board of Censors, in forming its opinion in regard to any publication referred to it, applies - as far as is deemed expedient or desirable - the provisions of subsections (1) and (2) of the Entertainments (Censorship) Act".^[55] Nonetheless such control of imported publications as existed under the Customs Acts in the wake of the 1934 amendment^[56] - in contrast to the situation with regards to films and entertainments - remained limited to confiscation at the points of entry into South Africa.

In 1939, as a consequence of a further amendment to the Customs Act,^[57] the Minister of the Interior was

empowered to ban in advance. Provided he was satisfied that a publication was one of a series, he could publish the name of the publication in two consecutive issues of the Government Gazette, thereafter every issue would be deemed indecent, obscene or objectionable. This clause was aimed at periodicals. In terms of this amendment it also became an offence to sell, offer or keep for sale, or distribute, or exhibit any issue of any publication in respect of which a notice had been issued. Kahn notes that it is not entirely clear if this significant clause (which dramatically extended the censorship of publications away from import control) related to periodicals only, as the only explicit reference to a notice in the Government Gazette was to periodicals, or to any gazetted notice of a banned publication. Kahn adds that

[The] latter was always taken to be the meaning.^[58]

For a number of years the listing of banned publications in the Government Gazette was confined to periodicals. The first such list was G.N. No. 1308 of 1939, but this list was later withdrawn leaving G.N. No. 1355 of 8 September 1939 as the first official list. This later list of 52 periodicals commenced with Ace - G Man Stories and ran through Crime Detective, Dime Detective Magazine, Facts of Life, Movie Life, Reel Humour, Stocking Parade, Ten Detective Aces, Your Body and The Spider to conclude with G-Men. The notice was signed

by Mr. Richard Stuttaford, the Minister of the Interior, and dated 18 August 1939. As far as the writer can determine - from a scrutiny of the lists subsequent to 8 September 1939 - the first book to be listed was Sunshine and Naturism by Charles Sennett, which was gazetted on 3 December 1943. This was followed by a list of 14, mostly anti-Semitic, tracts and books on 21 September 1945. The first novel to be listed, assuming that the Sennett book is not a work of fiction, appears to have been Some Like it Hot by Sidney Marshall, listed on 16 November 1945, followed by D.H. Lawrence's The First Lady Chatterley, 22 February 1946, and Henry Miller's The World of Sex, 1 November 1946.

Following their listing books could no longer be sold, distributed or exhibited. In addition, in terms of the amending Customs Act of 1944,^[59] which further extended the reach of the censor away from import control, goods (including publications) imported contrary to the Customs legislation became liable to forfeiture and the knowing possession of goods liable to forfeiture became an offence. The same amendment provided that the Commissioner was no longer required to obtain a condemnation order, the onus being on the claimant to institute proceedings to obtain the release of the goods. A provision of an Act designed to control the points of entry into South Africa had provided the fulcrum on which an ever more mephitic censorship apparatus was balanced. No longer did the Customs Act

merely provide for the confiscation of publications by Customs Officials - by 1944 the distribution, sale, exhibition and even the possession of certain publications was prohibited by this Act. In 1953 a magistrate extended the definition of goods imported contrary to the Customs Act to include publications which were imported prior to their being banned. According to this reading, which will be discussed presently, the Customs Act provided for the banning of the possession of books which were imported legally.

c. Things fall apart, 1950-1963

In the preceding sections of this chapter the writer has emphasized the gradual, yet dramatic, increase in the capacity for official censorship in South Africa during the period 1910-1953. In contrast the period after 1950 and before the enactment of the Publications and Entertainments Act (in 1963) appears as a time when censorship system came close to disintegration. A number of closely related factors contribute to this impression. Firstly, public criticism of censorship was intense during this period. Secondly, certain important decisions of the Courts reversed the development of censorship away from import control. Thirdly the increase in the application of censorship strained the resources of the Customs department. Fourthly contradictions and anachronisms arising from the unsystematic and opportunistic extension of the

censorship of imported publications became increasingly apparent. Most of these problems emanated from the imposition of an extensive censorship infrastructure, which substantially exceeded the requirements of import control, onto the Customs Act.

Commenting on the public image of the Board of Censors acting in terms of the Entertainment (Censorship) Act,^[60] Gutsche observes that for many years the Board of Censors worked unobtrusively. Within South Africa it was not regarded as unduly prudish and even provoked occasional protest over suggestive posters that it passed.^[61] Nonetheless in September 1938 a circular of the Bureau of Foreign and Domestic Commerce attached to the United States Department of Commerce stated that "censorship is so strict in the Union of South Africa that exhibitors hesitate to offer films for review that may be rejected".^[62] In any case, by the 1950s the Board was anything but unobtrusive.

Mrs. F.H.P. Creswell, a member of the Board of Censors, told members of the Women's Efficiency Club at a meeting in Cape Town, 19 June 1956, that "the Board kept up a determined front to exclude from South Africa the many films where Red Indians were shown as good fellows and the White Man invariably as a crook because of the bad influence they would have on Natives...".^[63] The numerous films which fell foul of the censors included

The Joe Louis Story (prohibited), The Glen Miller Story (cut), Guys and Dolls (cut), Come Back Africa (prohibited), Battleship Potemkin (prohibited) and The King and I (cut). With regard to the latter film, Hepple narrates the following incident:

When The King and I was brought to South Africa in 1956, its advertising posters showed Deborah Kerr in the arms of bald-headed, bare-chested Yul Brunner, playing the role of a Siamese King. The censors considered this objectionable and ordered a blackout of the amorous male figure. The result was that whenever The King and I was screened, the large advertising posters outside the cinemas showed Deborah Kerr in the arms of a towering blue blob.^[64]

The Board even gave Marilyn Monroe an extra skirt in posters featuring the famous still from the The Seven-Year Itch where Marilyn stands above a subway ventilator, her skirt fluttering in the updraught.^[65]

In 1958 the Board cut nearly a quarter of Island in the Sun, a film based on a novel by Alec Waugh.^[66]

Predictably, such heavy handed censorship gave rise to much condemnation and many irate letters to the press. The Rhodesian public, which suffered South African film censorship by default, was particularly upset. In 1958 Die Landstem reported that Rhodesians were requesting that the Federal Government of Rhodesia establish a Rhodesian Censorship Board. Since Rhodesia had no censorship facilities the authorities relied on the South African censors. By 1958 the Rhodesian public was, in the words of Die Landstem, "die duiwel [in]" with mutilated films.^[67]

As with the censorship of films, the growing number of publications which succumbed to censorship provoked many indignant articles, editorials and letters in the press, particularly the English-language press. The following editorial was printed soon after the banning of The First Lady Chatterley in 1946:

The Minister derives his powers to dictate the reading of the South African public from the Customs Act. In a list which includes counterfeit coins, spears and assegais and loaded and spiked sticks as articles which cannot be brought through Customs there appears 'goods which are indecent or obscene or on any ground whatsoever objectionable'. The clause is obviously aimed at pornographic postcards and sordid trash whose only appeal is to feeble minds which thirst after the sordid and debased. The legislators of 1913 who passed the original act never even discussed the clause, as presumably they would have done if they had realized that thirty years later it would be used to ban ordinary books in general circulation.^[68]

This editorial reveals the leader-writer to have been unaware of the extent to which it was the legislature which, by means of amendments to the original Act, gave rise to the banning of "ordinary" books in general circulation. An editorial from 1953 returned to the same theme:

Dr. Dönges derives his ferocious powers from an innocent Customs Act passed by innocent and well meaning legislators a generation or so ago. ... Under the impression that they were keeping out cheap and nasty pornography the legislators of the day slipped into the hazard list the phrase 'and goods which are indecent obscene or on any ground whatsoever objectionable'. What is objectionable on any ground whatsoever is entirely a matter for Dr. Dönges - "the decision of the Minister of the Interior shall be final...^[69]

In 1953 two incidents contributed to a dramatic escalation in criticism of the censorship of publications. In June a Johannesburg magistrate interpreted the provision of the Customs Act which held that the knowing possession of goods (including publications) imported contrary to the Customs Act to include publications which were imported prior to their listing.^[70] In other words the possession of any imported book which was listed in the government gazette became an offence, regardless of when it was acquired. Coupled to this the penalties under the Publications Act were increased five-fold. The Cape Times reported:

Booklovers throughout the Union now live in dread lest they have banned books in their private collections, thus making themselves liable to a fine of 1 000 pounds or imprisonment for five years. Their predicament is made worse because there is no consolidated list of books declared by the Minister as indecent, objectionable or obscene. Attempts were made to get a complete list of banned books from the Department of Customs and Excise, the South African Booksellers Association and the State library. Nobody had one.^[71]

The increase in the penalty, from 200 pounds or 12 months to 1 000 pounds or five years was achieved, virtually unnoticed, by substituting the penalties from section 133 of the Customs Act No 35 of 1944, which refers to objectionable literature, to Section 124, read with section 122, which refers to goods irregularly dealt with and liable to forfeiture.

On 8 December 1953 a Cape Town reporter became the first member of the public to inspect a full list of the publications which had been banned since 1939. Quite simply, despite the excessive penalties under the Customs Act, the fourteen-year old list - belonging to the Board of Censors - had never been made available to the public and was believed to be the only consolidated list of banned publications in existence. Hence besides contacting the Board of Censors directly the only way in which a member of the public could have ascertained whether the importation, sale, display, possession etc of a publication was prohibited would have been to consult the numerous Government Gazettes which contained notifications of bannings.

The Chairman of the Board of Censors, Mr. P.F. Kincaid, told the reporter that between 1936, when banned books were first recorded, and 1939, the records were in such a form that they could not be publicly inspected. Aside from the banning of Stuart Cloete's novel of the great trek, Turning Wheels, few publications had been banned during those three years, Mr. Kincaid stated. Mr. Kincaid appears to have been mistaken. According to the Official Yearbook No 20 of the Union of South Africa - 1939 the Board of Censors recommended that 88 publications be considered objectionable in 1934, 130 in 1935, 89 in 1936, 235 in 1937 and a staggering 1059 in 1938. While the Minister of the Interior may have exercised his discretion on a number of occasions it

would appear that a considerable number of publications were banned for importation during these years. A more plausible explanation for the commencement date of 1939 for entries in the register would be that this register contained only such publications as were listed in the Government Gazette, with all that this implied.

The reporter's observations on the 1939-53 register, the examination of which was only permitted after a direct appeal to the Minister of the Interior, were recorded by the Cape Times. These observations provide a unique snapshot of the activities of the Board of Censors at that time.

The register is of foolscap size with its ruled pages contained in a brown cover with the inscriptions, 'Publications Prohibited from importation into the Union' and 'Banned and objectionable literature'. The register is in alphabetical order and records in blue ink, underlined in red, the name of the publication (with author in the case of a book), and the date of the banning announcement in the Government Gazette. In some cases there is the date where the ban has been lifted.

An analysis of the register shows that between 1939 and the change of government in 1948, the number of publications was comparatively small and fell into a clearly defined class. After the change of government in 1948, the trickle became a flood and the definition given to objectionable was much widened. Most of the banned matter, before and after, is made up of such titles as Confidential Detective Cases, Special Detective Cases, A Dame is Snatched, Bedtime at Eleven, Curves in colour, Candid Art Poses, Carnival of Love, Call Girl, Dakota lil', Leg Artist, Bachelor fun, A Soul for Sale, Big Top Dame, I'm a Big Girl Now and many other sexy stories and 'horribles'. There are also a fair number of the 'body beautiful' and nature type magazines.

Hoppalong Cassidy, Roy Rogers and the rest of the cowboy fraternity make occasional appearances, as well as 'penny dreadfuls' such as 'Atom comics' and 'Dead-eye Westerns'. ... Life magazine features in the list and there is one appearance each of the Sunday Pictorial and Picture Post. In the alphabetical list behind Bedtime at Eleven is a strange literary bed-fellow - Behind the Colour Bar, by Dr. Kenneth Little.

In the political and sociological group, where some, but not all, have a communist taint, the following are examples: A Guide to New China, The Agrarian Reform Law of the People's Republic of China, Bulletin on the International Affairs Department - Central Committee of the Polish United Workers' Party, The British Road to Socialism, Bulletin of Information of the Working Youth of the Rumanian People's Republic, Bulgaria Today, Background to New China by Neil Stewart, Culture and Education in New China, Ceylon News and Views, Champion the Voice of Young Canada 11 September 1952, Constitution of the Hungarian Trade Unions, Documents and Decisions of the 7th Annual Council Meeting of the World Federation of Democratic Youth, For a Pan-African Trade Union Conference - World Federation of Trade Unions. ... Lenin by Alan Falconer, Protocols of the Elders of Zion, Polish Facts and Figures and Seretse Khama and the Bamanqwato People (published by the Seretse Khama Campaign Committee).

Among the newspapers which seem to be utterly banned are The Daily Worker, Pravda, Elelmezsi Dolgoyo (a Hungarian newspaper) and Ehntoe (Finnish). There are many others with incomprehensible names. Four issues of the Canadian Tribune in 1952 are also banned.

Among the banned novels of writers with familiar names are The First Lady Chatterley by D.H. Lawrence, The Barbary Coast by Herbert Asbury, A Man of Parts and The Chinese Room by Vivian Connell, Casanovas Memoirs - The Love Episodes (J. Monet), Continental Touch by Joseph Wechsberg, Vengeance is Mine and I, the Jury by Mickey Spillane, The World of Sex by Henry Miller, The Streets of Paris by André la Tour. ...

After the Malan government came into power in 1948 the list becomes more catholic and the register is aimed at a much wider cross-section of the public and at a variety of

books that have found their way into thousands of South African homes. Government and political documents of an astonishing variety from all corners of the world begin to appear after 1948, with much greater regularity.^[72]

In the years following 1953 the appetite of the Board of Censors showed no signs of being sated. A manager of a book importing firm stated in September 1955:

Lately they seem to have passed almost nothing in the paper back line except for books on religion, baseball and growing flowers. It is not worth our while ordering any of these..^[73]

In the wake of such criticism the Department of the Interior attempted to justify its policy in banning objectionable literature. This statement was issued in September 1955:

Literature with a suggestive sex theme or which is bloodthirsty is banned because the authorities are convinced that it is harmful to the Union, with its heterogeneous population, as it would lead to sex crimes and other crimes of violence. ... Not only the contents of a book but also its cover are taken into consideration in banning it. It happens at times that generally known books - in some cases classics - are banned, not because the Minister of the Interior objects to the contents but because he takes exception to the 'indecent' cover or 'objectionable' advertisements of other books which are advertised in them.^[74]

At a time when there were reports of public libraries disposing of banned books by means of burning^[75] and, when members of the public could be convicted for possessing banned books, despite the absence of an official list of such books, this statement and others like it, did little to stem the tide of criticism.

It was only in 1956 that the Kafkaan mist showed any sign of abating. In July 1956 a consolidated list of some 2300 publications which had been banned by means of notices in the Government Gazette during the period 8 September 1939 to 3 February 1956 was finally published in the Government Gazette.^[76] Henceforth a person would at least have been able to ascertain, with some degree of certainty, whether or not he had banned books in his possession. This would have been provided he had access to the appropriate Government Gazette; was prepared to check his entire library against a seemingly endless, close-typed list; and none of the books in his possession was listed after 3 February 1956.

Fortunately further relief was at hand. A report in the Cape Times, 1956, overstated the case:

While the Department of the Interior was compiling its enormous list of banned books, the Transvaal Supreme Court in Pretoria gave a decision which wrecked the whole legal basis of the official censorship.^[77]

The decision referred to above did not wreck the "whole legal basis of the official censorship"; rather it rendered the restrictions on the possession of specified publications in terms of Customs legislation virtually unenforcable. This stunted the growth of censorship under the Customs Act away from import control but did not uproot it since the restrictions on the sale, distribution and exhibition of listed publications were unaffected.

Edmund Morrison and David Anthony Oldham were convicted of possessing publications banned by the Minister. In May 1956 both cases were taken to appeal in the Supreme Court, Pretoria, before Kuper J and Ludorf J. While the documents carried the words "published in Great Britain" in one case, and "in Germany" in the other, the Supreme Court held that this was not sufficient proof that the publications had been imported into the country. According to the Court, the documents might have been reprinted in South Africa, where it was not uncommon for overseas publications to be reprinted.^[78] On 18 February 1957 the Supreme Court, Natal, concurred with this decision when it upheld the appeal of James Clark. Clark, a Durban building contractor had been found guilty of having in his possession goods which were prohibited from importation and liable to forfeiture - the first four volumes of the works of J.V. Stalin. Mr. Justice Selke said: "The case breaks down on the ground that the Crown has not proved beyond reasonable doubt that they were imported. On that ground the appeal succeeds".^[79] The books, which had been confiscated, were returned to Clark.

The much publicised trial of Harold Ruben in the Johannesburg Magistrate Court several years later offers further evidence of the Court's attitude with regard to the activities of the censors. While Ruben was not charged under the censorship legislation, but with blasphemy, the Board of Censors, acting under the

Entertainments (Censorship) Act,^[80] was strongly implicated in the prosecution. Indeed the Ruben episode and its prologue, the censorship of paintings by Ronald Harrison, are among the most conspicuously absurd achievements of the censorship authority.

In July 1962 the Minister of the Interior, Senator Jan de Klerk, acting on behalf of the Board of Censors, ordered that a picture of the crucifixion depicting Albert Luthuli as Christ should not be exhibited by the artist, Mr. Ronald Harrison, until passed by the Board of Censors. The painting - which portrayed the Prime Minister, Dr. Verwoerd, and the Minister of Justice, Mr. Vorster, as Roman centurions; Dr. Verwoerd holding a spear and Mr. Vorster carrying a sponge of vinegar - had been hung in St Lukes Anglican Church, Cape Town, on July 14, with the approval of the rector, Father Percy Clough. Mr. Harrison had planned to hang the painting in a few more churches, with permission, but had no intention of exhibiting to the general public. Anglican priests who saw the painting did not regard it as being blasphemous.^[81]

On 1 August 1962 Mr. Harrison delivered the painting to the Board of Censors for examination. He reported that three women and two men scrutinized it before asking him to leave the room. "The secretary of the Board told me that they had never before encountered such a case", he

said.^[82] Mr. Harrison was later handed the following letter:

With reference to the painting Hic Est Rex Judaeorum, submitted by you to the Board on the order of the Minister, I have to inform you that the Board of Censors finds this painting is calculated to give offence to the religious convictions or feelings of a section of the public. The Board's decision will be conveyed to the Honourable the Minister.^[83]

Mr. Harrison was advised by his attorneys to roll up the painting and put it away.

Less than two weeks later the Cape Times reported that Mr. Harold Ruben of Johannesburg had received a letter from the Board of Censors in Cape Town asking him for his interpretation of his two naked Christ paintings.^[84] The works ["One showed a distorted figure with the head thrown back and a blackened tongue, the other a naked man on a cross. Beneath the figure was a man firing a light machine-gun and another man stabbing at the machine-gunner with a spear"^[85]] had been removed by the CID from a Johannesburg art gallery in July 1962. The case eventually came to Court in January 1963, Ruben pleading not guilty to having committed blasphemy

[by] exhibiting in public a painting entitled My Jesus professing to portray Jesus Christ on the cross in which Jesus is depicted as a naked being with a human body and with the head of an animal or some monster and/or by the words 'I forgive you, O Lord, You know not what you do' which are written on this painting.^[86]

During the course of an extraordinary trial, prosecution

witness Prof. A.D. du Preez, Professor of Theology, Christian Ethics, Christian Dogma and the Philosophy of Religion at the University of Pretoria, informed the Court that Michaelangelo would be considered a sinner by a Calvinist because of his painting of Christ in the Vatican.^[87] As a defence witness, Brother Roger of the Community of the Resurrection, who had opened the exhibition at which "My Jesus" was exhibited, said, "My Jesus is a protest against blasphemy and the sad behaviour of mankind and the oppression still practised on earth."^[88] Mr. Uys Krige, Mr. Richard Daneel, Mr. Cecil Skotnes, and Prof. Heather Martienssen, head of the University of Witwatersrand's Fine Art Department, also gave evidence for the defence. Five days after the Publications and Entertainments Act^[89] - which repealed the Entertainments (Censorship) Act^[90] - was passed by Parliament, judgement was given. In a two hour judgement, the Court crowded with members of Johannesburg's cultural glitterati, Mr. P.J. Nel said he was struck by the fact that no expert on art had appeared for the prosecution.^[91] Harold Ruben was acquitted.

By implication the Ruben decision was a very public, if belated, slap on the wrist for the censorship apparatus. Not that this apparatus was unaccustomed to bad publicity - besides the factors which have already been mentioned, too many of the contradictions and

anachronisms which were built into the censorship machinery became manifest in the period after 1953 for it to have worked unobtrusively. One such anachronism was the practice whereby the Department of Customs offered its opinion on the likelihood of a book being banned by the Board of Censors, which was an entirely separate body. This practice was abandoned following a newspaper report in May 1955.

The Cape Times reported that 5 200 copies of novels imported by a Cape Town bookseller had been impounded on arrival and were being held at the Queen's warehouse, Cape Town. Books valued at four hundred pounds belonging to the same book dealer had already been under embargo for five months in the bookseller's stores at the Queen's warehouse. After sample copies had been passed by the Customs Department - following inspection by one of its officials - the bookseller had placed an order for 250 000 books, involving fifty different titles, in the United States. Such inspection, at six shillings an hour reading time cost the company approximately three hundred pounds a year, the bookseller reported. On arrival in Cape Town the books were scrutinized by a different official and submitted to the Board of Censors as potentially objectionable.^[92] Within days of the appearance of this article Dr. Dönges stopped the arrangement whereby the Department of Customs undertook to read certain books for booksellers and give an opinion on whether

they were likely to be banned by the censors. Further, an official of the Board of Censors, acquainted with the general principles applied by the Board, was placed at each port.^[93]

Dr. Dönges's decision simultaneously reduced the potential for controversy and provided urgent relief for the Customs authorities. Between 1944 and 1948 a hundred books were banned, between 1948 and 1950, four hundred; between 1950 and 1952 eight hundred; and from 1952 to June 1955 one thousand four hundred.^[94] Yet as early as June 1947 it had been regarded as, in the words of a Customs Official, "impracticable and unfair" to expect comprehensive policing of indecent and obscene publications by Customs officers. With self-deprecating humour the official elucidated the problem facing his department:

'We stop any books, magazines and other material that are found and considered objectionable', a Customs Official told the Cape Times, 'But with all our other duties it is a formidable task. For instance, it is a tricky business to decide from the title alone whether or not a book falls into the obscene category. We came across one recently called The Garden of Experience. It turned out to be a perfectly harmless book on horticulture'.^[95]

Five years later, in December 1953, Dr. Dönges announced that a new system of censorship of imported publications would be introduced as soon as it was administratively possible. Under the new system censorship would be

carried out entirely by the Department of the Interior and the Board of Censors, he said. He stated further that the main reason for the change was that the Customs department was "not altogether happy with the job". [96]

The Cape Times takes up the story:

Dr. Dönges said that details of the plan had not been worked out, but it might be in one or two forms;

1. The Board of Censors might be 'spread', so that there were representatives at all the main importing centres in the Union who would deal directly with censorship; or
2. Members of the Department of the Interior would be stationed at these centres.

The introduction of the system now was a question of waiting for a suitable administrative opportunity.

The Burger, the local Afrikaans daily newspaper, said yesterday that this step was being taken to avoid the tremendous publicity given by the English Press to publications which were held up for inspection by the Customs.

Dr. Dönges, asked if this were the reason for changing the system, said 'Some people may have had different reasons for wanting the change, but our main consideration was to take this duty out of the hands of the Customs Department, which felt that it did not fit in with their work'. [97]

A month later the retiring Collector of Customs, Mr. A.J. Murray, said that one of his department's biggest difficulties would be removed once the Department of the Interior had taken over those aspects of the censorship of imported publications which remained the responsibility of the Customs Department:

This work does not really belong here and we are just administering it for the Department

of the Interior, which is responsible for passing the publications. It has taken up a lot of our time and we have to use offices which can otherwise be used for Customs duties.^[98]

Dr. Dönges's reduction of the Customs Department's role in the censorship process, however slight it may have been, was thus long overdue. Even so, it was to be several years, several long years, before the Customs authorities were finally relieved of their share of the responsibility for the precocious charge. Censorship had outgrown import restrictions yet remained entangled in the Customs legislation under which it had incubated. In the meantime the contradictions and anachronisms continued - and were reported in the press. The importation of gramophone records, for instance, further revealed the inadequacy of the distinction between the roles of the Board of Censors and the Customs Department.

When it was discovered, early in 1960, that records featuring readings of all the passages which had been expurgated from Lady Chatterley's Lover were being imported into the Union, the Chairman of the Board of Censors, Mr. W. Coetzee, revealed that the Board had no jurisdiction over gramophone records.^[99] The much-amended Customs Act, which had no clause dealing with records, specified that the Board of Censors should be consulted on printed, engraved, lithographic and photographic matter. Gramophone records did, however,

fall within the domain of the Department of Customs and Excise since goods which were indecent, obscene or objectionable were prohibited imports. A senior Customs official admitted that a strict check on records was difficult. For one thing, he said, there was no special equipment at the Department's Cape Town offices for monitoring records.

Of course the Cape Town branch of the Department would not set itself up as a final judge of what records are objectionable. Those which we think need further consideration will be sent to the Commissioner of Customs and Excise, Pretoria, and if necessary, on appeal to the Minister of the Interior. [100]

From recordings of D.H. Lawrence, it was but a short step to popular music. One of the first reported instances of the examination of such recordings involved the album We Insist - Freedom Now Suite by the acclaimed jazz drummer Max Roach. By this time the Board of Censors, under Chairman Mr. F.E. de Villiers, had apparently overcome its reluctance to scrutinise records. In April 1962 Mr. R.R. Moskovitz, a director of the company responsible for the distribution of the Max Roach LP, reported that the company's head office had been approached by a government official who had demanded a copy of the record for the Board of Censors. A box in which approximately 50 copies of the record were stored was sealed. According to Mr. Moskovitz the record was not distributed in its original cover in South Africa:

We took out references to Sharpeville and other contentious items which we thought might cause trouble in this country. The material left on the cover deals with the emancipation of slaves in America. This is a top-rate jazz record. It has received fantastic ratings overseas, and I cannot see that there is anything wrong with its musical content. [101]

Early in May the Board of Censors released the album. [102]

Strangely, considering the expressed desire of the Customs authorities to be relieved of most of their censorship duties, at times the Customs Department and the Board of Censors even appeared to be in competition with each other. In August 1960 the Director of Imports instituted a form of censorship outside the control of the Board of Censors when he placed a prohibition on three magazines for teenage girls. Prior to the ban the magazines Princess, Date and Mirabelle could be freely imported. The action was taken under a war measure which provided for the listing of publications embracing science-fiction, fantastic, screen, detective, sex, western, love and "true or confession" stories. Publications thus listed could not be imported without a permit. A book distributor commented that the measure had existed for years but had only recently been interpreted so strictly as to include harmless and popular publications. [103] Following widespread public indignation the Commissioner of Customs lifted the prohibition on 7 September. [104]

A further instance of the Customs Department exceeding its bounds occurred a year later. In September 1961, a Customs official ordered a book firm to return all copies of Mr. Bernard Sach's book The Road to Sharpeville. On being informed, Mr. Sach's immediately protested to a higher official in the Customs department. He said that no possibility of banning by the Customs had arisen as the book was not imported, but printed in Johannesburg. The banning order was withdrawn the same day.^[105]

It is clear that the censorship provisions of the Customs Act were in urgent need of legislative attention. Why was the censorship legislation not immediately revised? The answer is that any comprehensive revision of the censorship laws would have necessitated the cutting of the umbilical cord which joined censorship to the Customs Act. This raised the problem of internal censorship since in the absence of the link to the Customs Act there would have been no basis for the exclusion of locally produced publications from the jurisdiction of the Board of Censors. Internal censorship was a highly emotive issue which the Minister of the Interior seemed unable, or at least extremely reluctant, to resolve.

REFERENCES AND NOTES**CHAPTER ONE**

- 1 Ondaatje, M. Running in the Family. Page 26.
- 2 Marques, G.G. One Hundred Years of Solitude.
Page 46.
- 3 Gordimer, N. "Censorship and the Artist".
Staffrider. Vol. 7, No. 2, 1988, Page 12.
- 4 Kahn, E. "When the Lion Feeds - and the Censor
Pounces". South African Law Journal.
February 1966.
- 5 For Instance, Drukker, K. The Administration of
Censorship in South Africa with Particular
Reference to the Cinema.
- 6 Switzer, D. Legal Censorship in South Africa.
Page X.
- 7 Ibid. Page 50.
- 8 Ibid. Page 528.
- 9 Ibid. Page 68.
- 10 Stewart, P. "Beyond the Mythology of Censorship
in South Africa". Reality. 1990.
- 11 Dugard, J. Human Rights and the South African
Legal Order. Page 193.
- 12 Hatcheson, W. and Giffard, C. Total Onslaught.
Page 159.
- 13 Ibid.
- 14 Gordimer, N. "Censorship and the Artist".
Staffrider. Vol. 7, No. 2, 1988, Page 11.
- 15 Paraphrase of Foucault, M. The History of
Sexuality. Page 5.
- 16 Brink, A. "Censorship and Literature". Coggin,
T. (ed.). Censorship. Page 40.
- 17 Acts No. 9 of 1913 and No. 28 of 1931 respectively.
- 18 This was by means of Act No. 40 of 1934.
- 19 Geldenhuys, P. Pornografie, Sensuur en Req.
Page 26.
- 20 Carson, E. The Ancient and Rightful Customs.
Page 16.
- 21 Ibid. Page 40.
- 22 Act No. 9 of 1913.
- 23 Kahn, E. "When the Lion Feed - and the Censor
Pounces". South African Law Journal.
February, 1966, Page 281.
- 24 1934 W.L.D. 8.
- 25 Kahn. Op cit. Page 281.
- 26 Act No. 40 of 1934.
- 27 Act No. 28 of 1931.
- 28 Act No. 40 of 1934.
- 29 See Parliamentary Debates 23, 25, 26 May, 1934.
- 30 Act No. 28 of 1931.
- 31 Gutsche, T. The history and Social Significance
of Motion Pictures in South Africa. Page
108.
- 32 Ibid. Page 283.
- 33 Ibid.
- 34 Ibid.
- 35 Ibid. Page 290.

- 36 Ibid. Page 291.
 37 No. 9 of 1916. Cape Provincial Council.
 38 Gutsche. Op cit. Page 292.
 39 Ibid.
 40 No. 21 of 1917. Cape Provincial Council.
 41 Act No. 28 of 1931.
 42 Report of the Select Committee on the
Entertainments (Censorship) Bill. SC 6 - 1931.
 Page 37.
 43 The Star. 22 June 1923.
 44 Gutsche. Op cit. Page 294.
 45 Ibid.
 46 SC 6 - 1931.
 47 Ibid. Page 27.
 48 Hansard. 25 March, 1931.
 49 Act No. 28 of 1931.
 50 Hepple, A. Censorship and Press Control in South
Africa. Page 13. 51 Act No. 28 of 1931
 52 The Star. 8 March, 1920.
 53 Act No. 40 of 1934.
 54 Cape Times. 2 September, 1947.
 55 Ibid.
 56 Act No. 40 of 1934.
 57 Customs Tariff Amendment Act No. 39 of 1939.
 58 Kahn. Op cit. Footnote 36 and 44.
 59 Act No. 35 of 1944.
 60 Act No. 28 of 1931.
 61 Gutsche. Op cit. Page 302.
 62 Footnote to Gutsche. Op cit. Page 302.
 63 Cape Times. 20 June, 1956.
 64 Hepple. Op cit. Page 14.
 65 Cape Times. 7 January, 1956.
 66 Cape Times. 1 May, 1958.
 67 Landstem. 30 August, 1958.
 68 Cape Times. March 14 1946.
 69 Cape Times. 26 November, 1953.
 70 Switzer. Op cit. Page 69.
 71 Cape Times. 2 December, 1953.
 72 Cape Times. 9 December, 1953.
 73 Cape Times. 27 September, 1955.
 74 Cape Times. 24 September, 1955.
 75 Cape Argus. 6 October, 1955.
 76 Government Gazette. No. 1510 of 1956.
 77 Cape Times. 28 August, 1956.
 78 Ibid.
 79 Cape Times. 19 February, 1957.
 80 Act No. 28 of 1931.
 81 Cape Times. 1 August, 1962.
 82 Cape Times. 2 August, 1962.
 83 Cape Times. 2 August, 1962.
 84 Cape Times. 14 August, 1962.
 85 Ibid.
 86 Cape Times. 8 January, 1963.
 87 Ibid.
 88 Cape Times. 11 January, 1963.
 89 Act No. 26 of 1963.
 90 Act No. 28 of 1931.

- 91 Cape Times. 28 March, 1963.
92 Cape Times. 7 May, 1955.
93 Cape Times. 10 May, 1955.
94 Cape Times. 20 June, 1957.
95 Cape Times. 7 June, 1947.
96 Cape Times. 23 December, 1953.
97 Cape Times. 23 December, 1953.
98 Cape Times. 28 January, 1954.
99 Cape Argus. 15 February, 1960.
100 Ibid.
101 Cape Times. 13 April, 1962.
102 Cape Times. 4 May, 1962.
103 Cape Times. 13 August, 1960.
104 Cape Times. 8 September, 1960.
105 Cape Times. 23 September, 1960.

CHAPTER TWO : DR. DÖNGES'S DILEMMA

To comprehend the perpetrators of Auschwitz as fellow human beings is a step towards Auschwitz's not being repeated. Devil theories do no good, in politics or in psychiatry.

John Updike, writing in The New Yorker^[1]

An amusing episode - which reads like a Herman Charles Bosman story - cuts to the heart of the problems which confronting the Minister of the Interior, Dr. T.R. Dönges with regard to censorship.

It is common knowledge (Oom Schalk Lourens said, squinting at each one of us in turn through the pipe-smoke in the voorkamer) that in 1937 an exhibition of "degenerate art", "Entartete Kunst", was organised in Germany. This exhibition - seen by 2 009 899 people in Munich alone, before travelling to Berlin, Leipzig, Düsseldorf, Hamburg and elsewhere^[2] - was "designed to revile the insanity of modern art".^[3] Paul Ortwin Rave, a visitor to "Entartete Kunst", wrote:

Day after day people would come in droves to visit the exhibition, and it is no use trying to console oneself with the thought that a few of them may have come to take their final leave of works that they loved. There can be no doubt that at the time the aim of the propaganda, which was to deal a death blow to genuine modern art, was in large measure achieved.^[4]

("Well", said Oom Schalk Lourens, staring purposefully at the Koffie-pot so as not to accidentally catch our

eyes, "Dr. Dönges thought that if Adolf can do that in Germany, I can do the same thing right here in South Africa". We all knew that Oom Schalk was embellishing just a little - the most that could be said was that Dr. Dönges was probably aware of "Entartete Kunst" - but then Oom Schalk was like that).

In November 1955 the Minister of the Interior announced in Pretoria: "I propose next year to hold an exhibition of pornographic pictures and indecent publications in Cape Town".^[5] Dr. Dönges explained that the purpose of the exhibition would be to show a cross-section of responsible public opinion, with the press as the jury, the type of pornography being inflicted on South Africa. In April 1956 an official of the Department of the Interior indicated that the exhibition would take place in May. The time, place and people who would be invited would be decided once the material had been collected.^[6]

On 28 May 1956 an official revealed that the exhibition had been postponed indefinitely. In the House of Assembly Dr. Dönges explained that he had been under the impression that there was a special "chamber of horrors" where banned books were stored. All that was available, however, were books which had been banned during the previous six months.^[7] In January 1957 an official said the Department of the Interior was still collecting material for the exhibition, which he

expected to be held before the end of the session of Parliament. A year later the Cape Times discovered that the Department of Customs usually had confiscated reading matter reduced to pulp for making cardboard.^[8] ("And so", Oom Schalk said, triumphantly stomping the twak in his pipe with his squat thumb, "South Africa never had its exhibition of pornography after all").

Dr. Dönges's proposal to stage the ill-starred exhibition of "pornographic" pictures and "indecent" publications - made in response to a statement by the Bishop of Johannesburg, the Right Reverend Ambrose Reeves - was an attempt to illustrate and justify the need for censorship, in the eyes of what he termed "responsible public opinion",^[9] by demonstrating the severity of the onslaught of obscenity. The Bishop had said that censorship by the state "cuts at the roots of moral life because it destroys the essential foundations of all morality - the sense of, and respect for, the truth".^[10]

That Dr. Dönges should have responded to Bishop Reeves's statement with a proposal to host an exhibition of "pornography" is a clear indication that censorship was both a priority for the Minister and an issue on which he found it necessary to marshal support before acting. Dr. Dönges and his Nationalist colleagues were not noted for their concern for "responsible public opinion",

particularly when such opinion was not in accordance with their own priorities. In order to explain Dr. Dönges' behaviour one must investigate the matter of an internal censorship.

a. The censorship of publications produced in South Africa.

The first recorded case under legislation which provided for the censorship of internally produced publications was R. v De Jong in 1894.^[11] De Jong was charged in accordance with the Obscene Publications Act, 1892, of the Cape Colony which made it an offence to sell, distribute, offer for sale or distribution or wilfully expose to public view any indecent or obscene publication. Following the precedent of the Obscene Publications Act, 1857, of England, the Act provided that a magistrate could order the destruction of a publication found to be obscene. In stating that the occupier of the premises, the owner of the publication and the printer, photographer, maker, publisher, distributor and exhibitor were guilty of an offence the Act went further than the English legislation.

De Jong, the proprietor of the Worcester Advertiser, was charged with publishing a poem entitled "Tekenen Des Tyds". While overburdened with innuendo this doggerel verse was hardly obscene, as is indicated by the following extract :

Waarde vriend, heer Editeur

Hoor toch wat daar zal gebeur
 Daar was voor een tyd een skool geweest
 Ik hoor het was te Hex River East.
 De gouvernant was eene Israeliet,
 Ek heb haar gezien maar ken haar niet.
 Zij was een meizje blank van kleur,
 Met blonde haren en goed gehumeur
 Haar vriendelijke lach en praat
 Houdt meer dan één des avonds laat,
 En door't gepraat en die gelacht
 Heeft meer dan een ook daar vernacht! [12]

In any case the prosecution proceeded. On Saturday 29 September 1894 the Worcester Advertiser reported the trial of its proprietor, De Jong:

Although it was not a regular court day, the spacious Court room was filled on Wednesday last with people, anxious to hear the proceedings in a case, wherein the accused was the proprietor of the Worcester Advertiser, the charge being that he had in his issue of 11th August last published a certain piece of poetry and this was considered as to be obscene language and obscene publication under the provisions of Act 31 of 1892. [13]

The accused was found guilty by J.N.P. de Villiers C.J., and fined ten pounds with the alternative of two months imprisonment. In giving judgement De Villiers C.J. based his decision on the grounds that "men of position in this town [Worcester] had shown their discontent at the publications and had found fault with it". [14]

In 1910 the Cape Provincial Division sat on a case under the same Act, which remained on the statute book until 1963. In R. v Shaw the Cape Town Manager of the Central News Agency had been convicted of keeping for sale and exposing to public view a book called The Grip by an individual called Flameuse, the plot of which was

said to be indecent. The presiding judge, Buchanan J., acquitted the accused in what Kahn describes as a "rather confused judgement".^[15] Buchanan's judgement is notable for his comments with regard to Mr. Ross an agent of the Social Reform Association - the organisation which played a significant role in the establishment of a censorship for films. Mr. Ross, speaking for the prosecution, contended that The Grip was "a revolting work, and its tendency was to corrupt".^[16] Buchanan J. concluded that Mr. Ross, "from his calling was likely to take a biased view".^[17] Kahn observes that if Ross was the Cape counterpart of Antony Comstock, he received little sympathy from the Court.^[18]

The Criminal Law Amendment Act, 1909, of the Transvaal^[19] and the Police Offences Ordinance, 1902, of the Orange Free State^[20] provided for the control of obscene or indecent publications in these provinces until 1963. There is no reported decision under the crucial subsections 2(4), (7), 7 of the Transvaal Act and no reported decision on the Free State Ordinance.^[21] In Natal the only pertinent enactments were local Government ordinances which regulated the exhibition or sale in a public place or in the public view of any book, postcard or thing considered by the authority to be indecent, offensive, unseemly or objectionable.^[22] The Post Office Act of 1911^[23] and the consolidating Post Office Act of 1958^[24] rendered it an offence to

post an article on which or in which there was any indecent or obscene matter. Any such article received in the post office was presumed to have been unlawfully posted, subject to rebuttal.

Writing of censorship in South Africa prior to 1963 Dugard correctly notes that "little attempt was made to suppress locally produced publications".^[25] The explanation which he offers is that such censorship involved judicial proceedings. In many respects this is a compelling reason. Judicial proceedings - which require argument in an open Court - are well known for restraining the zealotry of civil servants.

Conversely the Customs Act did not involve judicial proceedings and extensive use was made of the censorship provisions of that Act. Nonetheless the censorship legislation of Britain and the United States, for example, require judicial action yet much use was made of this legislation during the first half of this century.

A more convincing explanation for the lack of censorship activity against publications produced in the Union is that local publishing was in its infancy. English-language publications tended to be published overseas - and subject to the Customs Act - while the fledgling Afrikaans publishing venture was preoccupied with the themes of "Volk, kerk en die kombuis". An internal

censorship was thus a matter of little consequence. It was only after World War Two that local publishing started to find its feet. The increase in the publication of popular novels and magazines was immediately noted by the Dutch Reformed Churches - this is a measure of the extent to which these institutions were sheltered from the popular culture of the twentieth century.

In July 1947 the United Party Government's Minister of the Interior, Senator C.F. Clarkson, sympathetically received a deputation from the Dutch Reformed Churches. This deputation requested that the law be amended to bring South African publications under the jurisdiction of the Board of Censors. Die Burger, 26 July 1947, reports:

Die moontlikheid dat boeke en tydskrifte wat in Suid-Afrika uitgegee word, ook onderwerp kan word aan 'n sensorraad, is in die vooruitsig gestel toe 'n afvaardiging die Minister van Binnelandse Sake, sen. C.F. Clarkson, in die voege gespreek het.

Die afvaardiging het gestaan onder leiding van dr. Wm. Nichol, verteenwoordiger van die Raad van die Kerke; ds. A.M. Meiring, voorsitter van die Federale Raad vir die Bestryding van Maatskaplike Euwels; ds. D.F.B. de Beer, scribe van die Federale Raad, en ds. A.C. Stegmann, verteenwoordiger van die Gefedereerde Sondagskoolkommissie.

Die afvaardiging het aan die Minister eksemplare voorgelê van boeke en tydskrifte in Engels en veral Afrikaans wat na die mening van die Kerk, 'n onsedelike strekking het. Die Minister is daarop om wetgewing gevra wat 'n sensorraad in die lewe sal roep met die doel om dergelike geskifte wat in Suid-Afrika uitgegee word, te verbied.

So 'n raad moet ook oor die mag beskik om buitelandse geskrifte, indien nodig, te verbied, is verklaar. Die Minister is ook daarop gewys dat baie boeke wat in die buiteland verbied is, later vertaal en in Afrikaans uitgegee is. ...

Die afvaardiging het voorts versoek dat, indien so 'n sensorraad in die lewe geroep word, die volgende liggame en groepe verteenwoordiging daarin moet hê; die Kerke vroueliggame, jeugliggame, uitgewersvereniginge en letterkundiges.

Die Minister het, na ds. De Beer meegedeel het, die afvaardiging simpatiek ontvang. As eerste stap is hy ten gunste daarvan dat die wet so gewysig moet word dat binnelandse publikasies verbied kan word. [26]

With one major exception the proposal by the Dutch Reformed Churches went virtually unnoticed. In that exception - an article by N.P. van Wyk Louw in the influential cultural journal Standpunte - Van Wyk Louw wrote:

Dat 'n voorstel van so 'n ver-reikende aard as die sensuur op die drukpers by ons byna sonder kommentaar uitgespreek is, is 'n bedenklike verskynsel van die geestelike lewe in Suid-Afrika vandag. Net 'n paar stukke oor hierdie onderwerp het onder my aandag gekom: die Afrikaanse pers het, soos dit lyk, oor die algemeen die berig as nuusberig opgevat en dit daarby gelaat met uitsondering van Die Huisgenoot wat 'n kort artikel geplaas het; en die Engelse pers het ook geen besondere belangstelling getoon nie. ...

Geen skrywer in Suid-Afrika, geen Afrikaner of Engelsman, en geen party wat meen dat hy werk binne 'n tradisie wat later nog sal bestaan, 'n tradisie wat van hom rekenskap sal vra van sy houding ten opsigte van so 'n vraagstuk, kan aan 'n beslissing ontkom nie. [27]

The significance of Van Wyk Louw's article is not merely due to his having been almost alone in reacting to the threat of an internal censorship. When

superimposed onto the mythology of censorship in South Africa this article appears as a rip in the fabric: in this first critical examination of an internal censorship we have the leading Afrikaans poet and man of letters, a committed and vocal Afrikaner Nationalist, disagreeing with both the Dutch Reformed Churches and the United Party Minister of the Interior on the issue of an internal censorship. This triad sits uncomfortably with the refrain that censorship is self-evidently in the interest of "apartheid".

Van Wyk Louw's article was an unusual enterprise. His first priority was to define the parameters of a conflict which was yet to occur and which he saw as inevitable. This conflict, he believed, would be a manifestation of the incompatibility of two fundamental principles - each with its own value ("Meer waarde as elke praktiese beslissing wat deur stemkrag afgedwing kan word"): [28]

- 1) die taak van die godsdiens om te stry teen die sondige in die mens, en
- 2) die taak van die kuns om die lewe so volledig en so waar as hy kan, uit te druk. [29]

He noted that it is an accident of an imperfect world that such principles should come into conflict and suggested that it is the task of intellectuals on both sides of the conflict to ensure the integrity of both positions is respected. In this regard he proposed:

- 1) dat dit nie 'n teenstelling van kerklike pressie-groep en liberale pressie-groep word nie;

2) dat waar dit gaan om sensuur oor die hele letterkunde, dit nie voorgestel word as 'n teenstelling van suiwer godsdienst en 'vuil' literatuur nie;

3) dat dit nie bloot 'n teenstelling word van 'n vrye literatuur teenoor gepoogde kerklike dwingelandy nie.

Die onmiddellike taak is dus om te sorg dat dit geen stryd tussen twee halwe waarhede word nie - of voorgestel word as 'n stryd van 'n hele waarheid bloot teen 'n halwe waarheid nie.^[30]

It is evident that Van Wyk Louw was asserting that it is legitimate for Afrikaner intellectuals to oppose an internal censorship and that such opposition did not imply disloyalty to either the Afrikaans churches or Afrikaner Nationalism.

Having prepared the ground for a dispute within Afrikanerdom he articulated his argument against censorship. On the one hand he addressed the practical problems of implementing a censorship:

Ek ontken dus nie dat die pornografie bestaan nie of dat dit iets aparts van die kuns is nie; ek beweer alleen dat 'n logge, praktiese liggaam soos 'n sensoraad die twee nie helder kan onderskei nie. En ek sal probeer aantoon dat 'n poging om op 'n amptelike manier 'n onderskeid te maak, tot onnoemlike skade vir die hele kuns en die hoëre geestelike lewe moet lei.^[31]

He concluded his argument as follows:

Dit moet duidelik wees dat dit feitlik onmoontlik is om literatuur volkome van pornografie te skei. Wie dit wil doen, moet met sekerheid weet dat hy 'n oordeel besit wat bokant tyd en mode staan, en bokant elke moontlike skrywer van sy eie tyd; 'n oordeel waarin estetiese en morele insig verbind is met 'n intellek wat in elke kunswerk nie alleen die aparte woord, die aparte gebeurtenis raaksiens nie, maar wat ook in staat is om elke onderdeel in verband met die

geheel, dus die hele intensie van die werk te deurskou.

'n Mens kan dus hier 'n groot woord gewysig aanhaal en aan persone wat kans sien om in 'n sensorraad sitting te neem, die uitdaging stel: 'Laat hom wat so kan oordeel die eerste klip gooi!' Ek glo nie dat 'n enkele letterkundige wat werklik insig het, gewillig sal wees om in 'n sensorraad so 'n oordeel oor sy medeskrywers te vel nie.^[32]

As a postscript he suggested that if the primary object of censorship is to shelter children from a particular type of literature then a combination of parental control of the books to which a child has access ("kinders is uit die aard van die saak geen groot kopers van boeke nie")^[33] and administrative control of libraries would be sufficient.

On the other hand - parallel to his discussion of the practical difficulties of censorship - he passionately maintained that the art and culture of a "Volk" are the measure of its greatness and that an internal censorship would destroy the possibility of a great Afrikaans literature.

Ons land met sy kort kunstradisie van 'n hele intellektuele lewe het van Europa in hierdie opsig nog baie te leer - en gou te leer aangesien sulke groot dele van Europe reeds al daardie kostelike erfenisse begin verwaarloos. En twee beginsels wat ons op hierdie soektog na insigte dadelik kan bloot lê twee waarhede wat Europa in vyf-en-twintig eeue ontdek het, is die volgende:

1) die duursame glorie van 'n volk lê nie in sy miljoenemassas of die rykdomme van sy bodem nie, maar in die rykdom aan menslike ervaring wat hy in sy kuns kan vaslê. "By nothing is England greater than by her poetry" - of, aangesien ons as klein land hewer na klein lande behoort te kyk: Athene se seemag en

handel het lank verdwyn maar wat hy oor die mens en oor die wêreld te sê gehad het, bly bestaan; en

2) die persoonlike vryheid, hoé gevaarlik hy ook al mag wees, is die enigste bodem waarin 'n ryk geestelike lewe kan groei.^[34]

As an alternative to censorship Van Wyk Louw suggested that the churches exercise their influence over their members:

Laat die godsdiens hom verweer deur eie skeppende werk, deur openbare kritiek, deur aanval, deur waarskuwing en deur afraaiing. As 'n kerk vertrou dat hy 'n houvas op sy mense het, laat hom selfs 'n lys van boeke opstel wat hy sy lede verbied om te lees; laat hom toneelstukke eerlik vanuit godsdienstige standpunt kritiseer en dié dinge aantoon wat na sy mening nie met die godsdiens strook nie; laat hom selfs daarvoor ywer om die lasterwet te verander as dié hom miskien verbied om die bywoning van 'n bepaalde stuk of die lees van 'n bepaalde boek al te raai; laat hom sy oortuiging en krag met alle middels van die gees toon; maar laat hom nooit meen dat 'n sonde wat nie begaan word, bloot omdat daar geen geleentheid toe is nie, die karakter versterk nie.^[34]

If there must be legal restrictions on art and literature, he wrote, then they ought to be under the jurisdiction of an open Court where the artist can state his case, ["Dan] kan die geskiedenis ook later saampraat".^[35] His concluding emotive sentence confirms Van Wyk Louw's desire to locate his argument within Afrikaner Nationalist discourse:

En as dit net om die geluk van die individuele skrywer gegaan het, sou die leiers van 'n volk nog daaraan verby kon geskuur het; maar die vernietiging van die moontlikheid dat groot kuns kan ontstaan, is ook die vernietiging van die hoogste bestaansreg van 'n volk.^[36]

In August 1948, soon after the National Party came to

power, Dr. Dönges stated that he was going into the question of whether a form of censorship should be established to prevent the distribution and display of pornographic and other objectionable matter that originated in the Union. He also said that the Chairman of the Board of Censors, Mr. P.F. Kincaid, was preparing a report on tightening up the control of imported publications.^[37]

In July 1949 the Dutch Reformed Churches again raised the issue of an internal censorship. In this month these churches convened a Congress on Social Evils which urged that all South African publications be censored while in manuscript form and that all overseas publications be censored before being allowed into the Union. The congress was of the opinion that a ban after publication would only lead to "advertisement".^[38] Thereafter Rev. D.F.B. de Beer, the Secretary of the Public Morals Commission established by the Dutch Reformed Churches to manage their campaign against social evils, was to evangelise on behalf of a more extensive censorship at regular intervals. As he understood it, the question was:

[Should] the state, in the interests of good morals, protect its people from vice and suppress immoral literature or should it, in the interests of spurious liberalism let the exploitation of the baser instincts of man continue unchecked and hope for the best?^[39]

This statement, and others like it, demonstrates that the Afrikaans churches had not paid heed to N.P. van Wyk

Louw's request that the integrity of Afrikaans opponents of censorship be recognised: for Rev. De Beer opposition to censorship was in the interests of "spurious liberalism".

To further complicate matters, the call for an internal censorship was (inevitably) picked up by institutions other than the Dutch Reformed Churches. When, in September 1952, Dr. Dönges warned that the Government might have to consider instituting some form of internal censorship unless more responsibility was shown by certain advertisers and publishers,^[40] he was supported by a leading article in the Southern Cross, the newspaper of the Roman Catholic Church in South Africa:

The Catholic Church has never been afraid to exercise some form of censorship, as she has always felt it her duty to protect her members from publications that would endanger their faith or morals. The state has also the duty to safeguard public morals, and consequently it too has the right to institute a censorship when such is necessary.^[41]

In June 1953 a deputation of four N.G.K., one methodist, one Baptist and five Presbyterian churchmen asked Dr. Dönges to set up a censorship board to deal with domestic and imported publications containing immoral or pornographic matter. The deputation showed the Minister "numerous shocking examples, in Afrikaans and English, of such periodicals, books and pictures".^[42] Die Vaderland reports:

Volgens die verklaring het Dr. Dönges die afvaardiging simpatiek ontvang en gesê dat hy daarvan bewus is dat geskifte verskyn wat sedelik nadelig is. Verlede jaar het hy uitgewers gewaarsku dat indien daar nie groter selfbeheer toegepas word nie, hy tussenbeide sou tree. Hy verwelkom die geleentheid om hierdie aangeleentheid met so 'n verteenwoordigende liggaam van kerkmanne te bespreek en hy is bereid om, in die lig van feite wat onder sy aandag gebring is, die hele kwessie voor die Kabinet te lê.^[43]

This time the appeal from a deputation of churchmen proposing an internal censorship did not go unnoticed. The response of the Afrikaans press is particularly noteworthy. Virtually without exception the Afrikaans press agreed with the churchmen that the problem of undesirable literature required urgent attention yet advised against censorship as being the appropriate remedy. Here is Die Vaderland:

Male sonder tal het ons in hierdie kolomme al besorgdheid uitgespreek oor die skadelike uitwerking van 'n sekere klas goedkoop lektuur wat die afgelope jare van die Suid-Afrikaanse pers rol, en ons het gepleit dat drasties huis skoongemaak moet word. Daarom kan ons die bedenkings begryp wat gelug is deur die invloedryke afvaardiging van die Afrikaanse en Engelse kerke wat die Minister van Binnelandse Sake oor hierdie saak gaan spreek het.

Maar ons kan kwalik glo dat 'n sensuurraad, soos deur die afvaardiging aan die hand gedoen, die redmiddel sal wees, omdat dit in die eerste instansie 'n skier bomenslike taak sal wees vir enige raad om vooraf elke manuskrip en artikel wat deesdae vir die boeke en tydskrifmark bedoel is, onder die vergrootglas te plaas. Daarnaas het ondervinding in sekere oorsese lande uitgewys dat hierdie soort sensuur 'n kwaadaardige uitgroei kan word met die neiging om na die ander dele van die persliggaam te versprei.

Soos ons in die verlede al aangevoer het, moet

die lesende publiek self 'n ernstige poging aanwend om sy huis in orde te bring, en waar volhard word met die aanbieding van verliedelikende lektuur, moet ons wette teen die ondermyning van die publieke sedes drasties toegepas word. En as gevind word dat die bestaande wette nie toereikend is om hierdie kankergewas doelmatig te bestry nie, moet die sonder versuim opgeknop word sodat die sondaars aan die nek gepak kan word. Langs hierdie weg, skyn dit vir ons, sal veel meer bereik kan word as met sensuur.^[44]

Dagbreek editorialized as follows:

Ons dink dus dat die afvaardiging 'n openbare diens bewys het deur die kwessie aldus pertinent onder die aandag van die owerheid en die land te bring. En ons vertrou dat goed daaruit sal voortvloei, al is dit dan net om diegne wat in die eerste instansie betrokke is, te laat verstaan dat misbruik nie kan voortgaan en toeneem sonder dat daar opstand sal kom nie.

Terselfdertyd moet ons versigtig wees om nie die kind saam met die badwater uit te gooi nie. Dit sal nie help om misbruik van vryheid te probeer voorkom deur die vryheid self te vernietig nie. Wat dit betref, beskou ons dit as 'n groot vraag of die middel wat aan die hand gedoen word, nie gevaarliker moontlikhede inhou (in omstandighede wat vandag nie te voorsien is nie) as die ewel wat beoog word om daarmee te bekamp nie.^[45]

Die Transvaler stated:

Sensuur op sigself is 'n moeilike werktuig. In die praktyk is daar onder die mense maar min wat esteties én eties voldoende toegerus is - en boonop die Salomo's wysheid besit - om die fyn lem van onderskeiding sonder skade te hanteer. Inkwisiteurs is van oudster onpopulêr, al is hul kennis nog so grondig en hul gewete nog so rein. Hul ywer stuit teen tallose gevoelighede. Sensuur op leesstof bly bowendien alles behalwe 'n kompliment vir die sede en die smaak van die volk wat genoodsaak word om dit toe te pas.^[46]

On 7 August 1953, in his opening address at the Afrikaans Eisteddfod, Dr. C.F. Albertyn, the Managing

Director of Nationale Pers, expressed his concern at the volume of "escapist literature" that had appeared in Afrikaans. Die Burger, a member of the Nationale Pers group, responded with a strong rejection of censorship as a remedy to this problem:

Die mense wat so maklik van binnelandse sensuur praat, dink nie daaraan dat hulle 'n middel bepleit wat veel erger kan word as die euwel wat dit moet bestry nie. Teen hierdie soort sensuur is die besware tweërlei. As 'n land eers die beginsel aanvaar dat administratief besluit mag word wat gelees en nie gelees mag word nie, soos tans met lektuur uit die buiteland geskied, is die weg oop vir misbruike wat veel groter skade as prikkellektuur kan aanrig. Dan kan die grondslae van ons vryheid ondermyn word.

.Op beginselgrond het ons die grootste besware teen perssensuur, maar ons moet beken dat ook die praktiese moeilikhede vir ons onoorkomelik is. [47]

The Cape Times, reflecting the opposition of the English-language press to an official censorship, expressed its delight at the stand taken by Die Burger. [48]

The issue eventually surfaced in the House of Assembly. On 8 September 1953 Dr. Dönges announced that he was considering appointing a commission to investigate ways of stopping the spread of pornographic and morally undermining literature produced in South Africa. [49] He complained that the number of disturbing periodicals had increased since he had asked publishers to exercise self control. The Cape Times reported on the ensuing events:

Nationalist members demonstrated this by mounting an attack on improper reading matter, waving lurid magazines, pictures of ladies in

undies and others in less discernible garments. They asked excitedly that the Minister do something to save 'the soul of the nation' from this 'dreadful literature'. The only Nationalist exception was Mr. DJJ Mostert of Witbank, who broke a lance for freedom of thought. 'The artist, whether he is writer, musician, painter, can, shall and must portray what he likes', he declared amid the disapproval of his colleagues.^[50]

Dr. Abraham Jonker (United Party, Gardens), Afrikaans scholar and author, pointed out that even the great classical writers had known and described life in all its fullness. He referred to Sophocles, Euripedes, Boccaccio, Shakespeare, Balzac, Tolstoy's Anna Karenin and Flaubert's Madame Bovary. "Rabelais would make the reader's hair stand on end today", he said.^[51] Dr. Dönges responded by saying that two authors could deal with the same subject, both being equally realistic, but in the one there would be the approach of an artist and in the other the approach of a sensationalist. The business of controlling undesirable literature was nonetheless a most tricky one and had to be taken without endangering cherished freedoms, he remarked.

Thereafter various groups requested that the Minister implement a more extensive censorship. A mass meeting of Potchstroom University students, during September 1953, passed the following motion:

Die studentegemeenskap van die Potchefstroomse Universiteit spreek hom as 'n Calvinistiese gemeenskap beslis uit teen alle vorms van pornografie waar dit bots met die Christelike-etiese beginsels. Ons bied hiermee ons heelhartige steun aan die Minis-ter van

Binnelandse Sake in sy optrede in hierdie verband.

Dit is ons innige wens dat hy hiermee sal voortgaan want deur 'n strenge sensuur kan gewaak word teen die sedelike verlagings van ons volk en kom die Staat sy plig na in die beskermin van ons Christelike vryheid, die vryheid om te lewe volgens Godse woord.^[52]

In November 1953 the South African Women's Agricultural Union Congress urged the Minister to impose a stricter censorship that included South African publications.^[53]

In the same month the Cape Dutch Reformed Church Synod adopted a motion which requested that the Minister of the Interior establish a statutory censorship board for local and imported "pornographic" matter.^[54]

Simultaneously many groups and individuals expressed reservations with regard to the proposed censorship. The Afrikaans press tended to welcome Dr. Dönges proposal to appoint a Commission of Inquiry on the grounds that the issue was extremely complex and that censorship should not be taken lightly. In the words of Die Burger:

Ons verwelkom die aankondiging nie alleen omdat die vraagstuk aktueel is nie, maar ook omdat hy veel ingewikkelder is as wat die meeste mense sou dink. Dit is nodig dat diegene wat daarop aandring, en nie sonder rede nie, dat die staat moet optree, volkome helderheid sal kry oor die dorings wat op die pad van sensuur gestrooi lê.^[55]

In November 1953, in a debate under the auspices of the Afrikaans Letterkundige Vereeniging, the proposed censorship was rejected on various grounds. Die Vaderland reported:

In 'n debat wat gisteraand onder beskerming van die Afrikaanse Letterkundige Vereeniging in die A.T.K.V.-saal gebou is oor wat gedoen moet word om die sg. 'geelpers' aan bande te lê, is die idee van 'n sensorraad, soos deur die Kerk voorgestaan, bewig op verskillende gronde betwis.

Ds. D.F.B. de Beer, sekretaris vir Openbare Sedelikheid van die Ned. Herv. of Geref. Kerk, en ds. G. Geyer, van die Herv. Kerk, het die kerklike standpunt gestel en beweer dat die pers nie nodig het om aan eise van die lesers toe te gee nie.

Verskeie sprekers, van wie die meeste skrywers, persmense en digters was, het aan die besprekings deelgeneem en daarop gewys dat die sensorraad idee die werk van die kunstenaar sal benadeel en die plig van die pers sal dwarsboom. Almal was dit eens dat pornografie beveg moet word, maar oor die middel kon die vergadering nie uitsluitel gee nie en die idee van 'n sensorraad het geen byval gevind nie.

Die meeste sprekers het klem op die regte opvoeding gelê, terwyl daarop gewys is dat dit tog maar net 'n klein deel van die publiek is wat hulle in onsedelike leesstof verlustig, en dat positiewe stappe baie beter as negatiewe optrede is, soos wette en sensorrade.

Een spreker het verklaar dat die kerk moet weggom van die gewoonte om altyd na die Regering te gaan as hulle sekere dinge reggemaak wil hê.^[56]

In December 1953 - prefaced with the statement "Omdat die instelling van binneland sensuur op die oomlik ernstig te sprake is, het die redaksie van Standpunte besluit om verskillende vooraanstande persone te nader om hulle oordeel oor die vraagstuk in ons blad uit te spreek"^[57] - the journal Standpunte published replies to a questionnaire on censorship. Standpunte, with an editorial board consisting of such prominent Union intellectuals as N.P. van Wyk Louw, D.J. Opperman, J.

Gresshoff, Karel Jonckheere and A.R. Delius, was a journal of considerable standing. This is reflected in the Cape Times's characterization of the Standpunte censorship survey as being a poll of the "Union's leading thinkers".^[58]

The thirty-five respondents - ranging from the Chief Rabbi Prof. I. Abrahams, Cape Town, to Dr. M.J. van der Westhuizen, Redakteur, Die Kerkbode - included religious leaders, educationalists, authors, academics, publishers and politicians, both English and Afrikaans. While most of the respondents either stated their objection to obscenity or mentioned it as a motivating factor for censorship, only eleven supported censorship, several with strong reservations. Dr. C.F. Albertyn, Managing Director of Nasionale Pers, who listed ten reservations including "Geen sensuur moet ware kuns doodmaak nie";^[59] Prof. Dr. G. Dekker, an esteemed Afrikaans literary critic and later Chairman of the Publications Control Board; and Prof. Dr. T.J. Haarhof were particularly concerned that censorship, which they regarded as necessary, should not interfere with "genuine" art or literature. Their position is perhaps best stated by Prof. Dr. G.S. Nienaber, who wrote, "Ek voel nie gelukkig oor die moontlikheid van die aanstelling van 'n sensuurraad nie".^[60] The other respondents in favour of censorship were less reserved. Miss Mary Morrison Webster, the only English-speaking respondent well disposed towards censorship, replied:

I must tell you that I am broad-minded about nearly everything except about free love, dirty books and the apotheosis of perversion. I never read the Well of Loneliness when it came out, because I heard from so many immoral or amoral people how 'beautiful' it was, and I similarly bypassed Lady Chatterler's Lover, which the same set of dirty intellectuals were grappling to themselves with hooks of steel. Where filth and immorality are concerned, I am a stern Calvinist, and will remain one. By all means let Malan stamp out the bad and erotic literature that is coming from America. It is just a pity that the Americans don't drop a few atom bombs on themselves, and so make civilization safe for the rest of us. [61]

The reasons advanced by the majority that opposed censorship included the damage it would do to literature in general, or Afrikaans literature in particular; a preference for the common law as administered by the Courts as a means to combat obscenity; and the dangers inherent in a small group of officials determining what the population may read. Several respondents including Miss Nadine Gordimer, Dr. A.P. Grôve, Prof. Dr. F.E.J. Malherbe, Mr. Leo Marquard, Mr. Alan Paton and Dr. F. Carey Slater were explicitly concerned that censorship could be used to achieve political ends: "Vandag heet dit 'Ontaarde Kuns', mōre geld net politieke ideologie en ons het die diktatuur van die al-magtige Nul", [62] wrote Prof. Dr. F.E.J. Malherbe. Others such as Prof. Dr. J.G. Meiring, Mev. M.E. Rothman and Mnr. Jan J. van Schaik regarded censorship as an inefficient means to achieve the desirable end of combating pornography and inferior literature.

While it is significant that a clear majority of the respondents opposed an internal censorship, it is yet more striking that of the twenty-four respondents who replied in Afrikaans, only ten supported the proposed internal censorship, some with grave reservations. Aside from the Afrikaans-speakers already mentioned, the Afrikaans-speaking opponents of an comprehensive internal censorship, the majority of them Afrikaner Nationalists, included Prof. M. Bokhorst; the poet Ernst van Heerden; W.A. de Klerk, writer and scholar; Prof. M.S.B. Kritzinger; Prof. E.G. Malherbe; Mr. Sarel Marais, the manager of Afrikaanse Pers; Mr. Dirk Mostert, Nationalist MP; Mr. S.V. Petersen; Dr. P.C. Schoonees and Dr. C.F. Visser, the leader-in-chief of Die Voortrekkers.

In May 1954, in an address to the Rapportryersklub of Johannesburg, Professor C.M. van den Heever, poet and Chairman of the Action Committee for Propagating Good Literature, added his voice to the opposition to censorship. As with N.P. van Wyk Louw, his arguments were entrenched within Afrikaner Nationalist discourse. After proposing that the position of whites in South Africa was dependent on the superior quality of their culture he stated:

Daar word vandag 'n ophef gemaak van die behoud van persoonlike vryheid. Daarmee hang nou saam die opkoms van die massa: Die smaak van die meerderheid moet nou dikteer, en dis nie die beste nie. Die uitgewers is al meer

geneig om toe te gee aan die swakste
smaak. [63]

Nonetheless he concluded that censorship would be a motion of no confidence in the "Volk". He also warned that censorship could intimidate good Afrikaans writers. He proposed instead that the "Volk" address the problem without recourse to censorship. Van Den Heever was thanked by Mr. J.J. Kruger, later Chairman of the Publications Control Board.

Clearly there were deep divisions within Afrikaner Nationalism on the issue of an internal censorship. The issue of internal censorship thus posed a dilemma for Dr. Dönges. He was confronted with a choice between, on the one hand, the position advocated by those Afrikaner Nationalists that favoured censorship as a means to shelter the family, the young and the church from subversion by "undesirable" developments in the modern world and, on the other, the restraint urged by a substantial number of important Afrikaans writers, newspaper editors and intellectuals. Despite his manifest inclination towards censorship Dr. Dönges chose circumspection. Such circumspection entailed the tempering of the perpetual quest for advantage with large doses of procrastination in the hope that, in the meantime, the cause of dissent would disappear.

After much delay, on 11 November 1954, Dr. Dönges appointed a commission of enquiry with Professor

Geoffrey Cronjé as Chairman. The Cronjé Commission was to investigate:

The evil of indecent, offensive or harmful literature, lithographic, photographic or other similar material of whatever nature, printed or manufactured, published and/or distributed in the Union of South Africa and the Territory of South West Africa. [64]

The Commission was requested to report on the most effective means to combat this evil and the desirability of coordinating the control of local and imported publications. It is a truism that when a Government wishes to avoid taking a delicate decision it appoints a commission of inquiry.

A year after the appointment of the Cronjé Commission Dr. Dönges attempted to gain the co-operation of "leading members of the community" by proposing (as has been narrated) an exhibition to illustrate the necessity for censorship. In an interview with Die Burger Dr. Dönges stressed that the proposed exhibition was not intended to legitimise the existing censorship Board or the Minister. He said:

Die doel is om daardeur die mense se oë oop te maak vir die gevare waaraan hul kinders deur die verspreiding van sulke publikasies blootgestel sou word. [65]

In the context of the divisions within Afrikanerdom it is likely that the exhibition was an attempt to undermine the opposition of Afrikaans intellectuals to censorship by emphasising the dangers of "undesirable" literature. If leading influences on the opinions of English-speakers could have been swayed in favour of

ensorship well and good; but it is difficult to imagine Dr. Dönges referring to the English-language press, for example, as "responsible public opinion". The Prime Minister at the time, Mr. J.G. Strydom, is on record as describing, in the House of Assembly, the English-language press as South Africa's greatest enemy.^[66]

It is further likely that the exhibition was intended to pre-empt adverse reactions from Afrikaans intellectuals and artists to the Commission of Inquiry. Had Dr. Dönges been concerned with the opinion of non-Nationalists in this regard he would not have appointed Geoffrey Cronjé Chairman of the Commission. Under Cronjé's Chairmanship it was a foregone conclusion that the Report of the Commission of Inquiry into Undesirable Publications would be rooted in Afrikaner Nationalist discourse.

Professor Cronjé was a leading Afrikaans academic. A year after he gained his doctorate in sociology at Amsterdam University, in 1933, Geoffrey Cronjé was appointed head of the Department of Sociology at Pretoria University. A professor at the age of 28, he had already served three times as Chairman and once as Vice-Chairman of commissions of inquiry before the constitution of the inquiry into "undesirable" publications.^[67] In addition, he was a former Chairman of the Ossewa-Brandwag's relief fund and had raised funds on behalf of men who had been convicted of

sabotage during the Second World War.^[68]

W.A. de Klerk credits Cronjé, along with Dr. N. Diederichs and Dr. P.J. Meyer, as being particularly important to the new politics which emerged amongst Afrikaner Nationalists during the early 1940s. He writes that Dr. G. Cronjé provided,

[much] food for thought for the many groups among the Nationalist-minded Afrikaners discussing the past, present and especially the future in terms of the new nationalism. For a number of years he had been developing his own total view of things. He finally published it in 1945. He called the book 'n Tuiste vir die Nageslag (A Home for Posterity). It was closely aligned to what Diederichs, Meyer and some others had also written. But it was more than that. In its own way it was a remarkable piece of preliminary draughtmanship for the coming system. Essentially, everything which was to be part of an 'unfolding' of the redemptive idea of 'Apartheid' or 'Separate Development' was contained in these pages.^[69]

In 'n Tuiste vir die Nageslag Cronjé argued that Afrikaners should promote a racial policy directed at the preservation of racial and cultural variety. Not only was this according to the Will of God, but it was also justified on practical grounds.

The more consistently the policy of apartheid could be applied, the greater would be the security for the purity of our blood and the surer our unadulterated European racial survival... total racial separation is the most consistent application of the Afrikaner idea of racial apartheid.^[70]

As Leonard Thompson has observed, "Here was a dramatic intensification of the racial element that had always been part of the Afrikaner world view".^[71]

In 1945 "Apartheid" was declared the official policy of the Herenigde National Party. Two years later the Sauer Commission was appointed by the HNP to formulate policy based on this concept. De Klerk suggested that Cronjé's book, which had been thoroughly dissected within the Broederbond,

[was] immensely important in the translation into political terms of the concept of the nation with its full implications for the multi-national situation in South Africa and also in the formulation of the new socio-political ideal as practical politics.^[72]

While Posel has argued against De Klerk's contention that the Sauer Report provided a single policy blueprint which "equipped the newly elected Nationalist Government with a 'grand plan' which informed the substance of apartheid policies from 1948 onwards",^[73] the point remains that Cronjé was a particularly influential figure within Afrikaner Nationalism.

b. The Cronjé Commission

Ellison Kahn has noted that, once constituted, the Commission of Enquiry into Undesirable Publications worked with "remarkable celerity (in marked contrast to the Commission of Enquiry into the Press, which sat for thirteen years and then failed to deal with one of its major terms of reference)".^[74] On 24 March 1955 the Cape Times reported that South African educationalists, universities, churches, libraries and other

organisations and individuals were receiving 13 000 word questionnaires, in the form of forty-page documents containing 280 questions, from the newly appointed commission. "The questionnaires must reach the Commission by April 16", the newspaper reported.

Eight copies of the replies must be submitted and the answer to each question must be on a separate page.^[75]

On 28 September the Commission issued a statement noting that the hearing of verbal evidence in Cape Town had ended and that all verbal evidence would end the following month after sessions in Bloemfontein and Pretoria. The Commission would begin to formulate its findings during November, the statement continued, and hoped to complete its Report not later than June 1956.^[76] On 19 October 1956 Professor Cronjé announced that the final Report had been submitted to the Minister of the Interior.^[77]

The Report of the Commission of Inquiry into Undesirable Publications, published only in September 1957, echoed Cronjé's belief, expressed in 'n Tuiste vir die Nageslag, that the "responsible guardian" should have the courage to decide what was in the highest interests of the whites as well as the non-whites.^[78]

Commenting on 'n Tuiste vir die Nagerslag, in an article titled "The mind of Apartheid: Geoffrey Cronjé",^[79] J.M. Coetzee dissects a passage in the book which illuminates this recurring theme in Cronje's thought:

[... Cronjé] addresses, in one of the most

extraordinary paragraphs in the book, a covert word to his readers.

Whenever an Afrikaner expresses himself on South Africa's racial problems, says Cronjé, there are those who 'read [him] with a magnifying glass' for proof to present to the 'Natives and Coloureds' that the Afrikaner is their greatest enemy. Such readers are 'dangerous', and account should be taken of them. ... What his countrymen are about to read, they are warned, will therefore be self-censored; by the same token, however, they are alerted to read between the lines, to put back what has been censored out, and what has been censored out is clearly signalled too: formulations that will make the Afrikaner sound like the enemy of the Natives and the Coloureds: that is to say, expressions of hostility.^[80]

In the penultimate paragraph of his article Coetzee writes:

I believe I have done enough to show that, for at least the phase 1945-48, Geoffrey Cronjé, or the 'Geoffrey Cronjé' who matters, was crazy.^[81]

Coetzee's conclusion is based on Cronjé's obsessions with race and blood-contagion.

The Commission stressed that "the special circumstances prevailing in, and furthermore, the racial composition of, the Union" were of great importance in determining the nature of undesirability in publications. "It is essential that the Europeans in the Union should set the example and take the lead, but this is possible only if they continually guard and uphold the best values which Western civilization and the Western outlook on life with its strong Christian tenor can offer", the Report stated.

[The] Europeans will be able to remain the

leaders in this country only if they give guidance in the cultural, moral and religious sphere, i.e. if their cultural, moral and religious standard is high. This must be accepted as an indisputable postulate and an inescapable truth. Disturbing signs of decadence are, however, already discernible; and there are also disquieting symptoms of inner decay. And the extent and nature of the undesirability of some of the publications which are produced, distributed and tolerated in the Union, constitute one of these danger signals of decadence - one of the ominous symptoms of inner corruption. The Europeans will have to search their own hearts and ask themselves how matters stand in regard to the example which they are setting the non-Europeans in this country in the field of reading matter. [82]

In common with the various social groups that emphasized "morality" in their demand for censorship, the Commission adopted a wide ranging conception of the "undesirable" which was not limited to what is normally understood to be pornographic or obscene. At the same time the Commission claimed to value "artistic merit", accepted that artists should be able to deal with the failings and foibles of the community in an "artistic manner" and sought ways to propagate "good literature". To this extent the Commission reflected the concerns of Afrikaans writers. The Commission's conception of "artistic merit" was such, however, that it merely reinforced the broad scope of the "undesirable". In stark contrast to the elusive modernist reality - where all that is solid is said to melt into air - the Cronjé Commission compared the "artistic" process to the casting of metal alloy.

In the successful work of art the raw material

is subjected to purification just as crude ore is heated in the furnace and fused with other ores and metals to form an alloy, a completely new entity with its own composition. [83]

Such a successful work of art was, by definition, compatible with the morality of the community.

Where anything is permissible, all tensions are also destroyed. If therefore, the author handles what is 'evil' as though it were quite conventional or even 'good', his work is doomed in advance in so far as its 'artistic' merit is concerned because he is really making use of material which he has falsified. [84]

A publication which contravened the "norms and values" of the community was thus twice condemned: by "artistic merit" and by "undesirability". Thus armed, Cronjé declared war on any manifestations of "modern decadence" which chanced to stray across his narrow vision.

Despite the double-barrelled, large-gauge approach, the Commission bagged remarkably unimpressive, rather lame specimens. Comics were abhorred but it was reluctantly accepted that some comics were, if not harmless, at least not "undesirable". Comics which presented crime, cruelty, horror, lust or sexual degeneracy were not spared:

In so far as undesirable comics are concerned, it is obvious that the appalling moral dangers with which they are fraught, must, without mincing matters, be squarely opposed. Such publications frequently typify undesirability in its worst, its most dangerous and its most shameless form. No community can afford to tolerate this trash if it cherishes the hope of preserving its moral foundations inviolate and unimpaired or of safeguarding them for the future. [85]

Similarly the Commission denounced sensationalism and

the introduction of details, in books and magazines, with the deliberate object of exciting the emotions of the reader. Here it was not deceived by devious appeals to "honour and justice":

An unmarried girl, for example, is murdered in the cabin of a ship. An article is then published in which it is pointed out that the reputation of the girl has been unjustly besmirched since she was respectable. For the sake of 'honour and justice' her good name must now be vindicated and, to do so, it is stated that the fact that a married man with whom she had associated, had paid for her passage and, furthermore, that contraceptives were found in the wardrobe of her cabin must not be regarded as proof that she was not a respectable girl. What influence is such an article likely to have on the reader with an impressionable mind? [86]

The Commission was particularly outraged by the portrayal of women. This outrage emanated from an archaic conception of "women" - a conception which has been consistently refuted this century. "In every civilized community and among all cultured nations it is a characteristic feature that women are held in esteem and treated with respect. Women are pre-eminently the guardians of morals and the upholders of moral values", the Commission argued.

They are the embodiment not only of motherhood but also of what is good and noble in the community. As a silent and unobtrusive force, women have a strong saving influence and significance in all cultures and civilizations. The question now arises whether the honour of women is still regarded as sacred and inviolate or whether it is not perhaps being injured to a grave and dangerous extent at the present time through inter alia the various forms of undesirability as expressed in publications. [87]

Inevitably the Commission concluded that the honour and dignity of women was indeed being subverted - not only by illustrations of women ["In] scanty or inadequate attire and/or in suggestive or provocative poses",^[88] and the like, but also by advertisements for women's underwear and "sanitary requirements". Emphasising the sub-text of the Report the Commission also warned Europeans to pay due regard to the influence the tumbling of the European woman from her pedestal would have on "non-Europeans".

While the identification of the "undesirable" may illustrate a possible need for censorship it is not in itself a case for censorship. A number of respondents to the Standpunte survey, for instance, regarded certain trends in literature as "undesirable", yet did not regard this as sufficient reason for censorship. The justification for censorship advanced by the Commission was constructed on an internally contradictory conception of freedom. After criticizing the "exploiter" and the "parasite" for wanting freedom without responsibility, the Report stated:

The preposterous misconception of the freedom of publication referred to above must be regarded as one of the principal reasons, and perhaps the most important reason of all, for the aggravation of the problem under discussion because it frequently obstructs or thwarts effective and drastic action. Freedom of publication is undoubtedly something very precious, just as freedom in every sphere of life in a democratic community is a highly-prized privilege; but freedom also demands the acceptance of a certain measure of responsibility. As soon as this

responsibility is flouted, however, it means that such freedom is abused and that it is then presumptuous to lay claim to freedom. The free and responsible individual willingly respects the norms and interests of the community and then has a lawful claim to freedom as an inalienable right, the free and irresponsible person ignores the norms and interest of the community and thereby forfeits his claim to freedom. [89]

This paradoxical conception of freedom, whereby one always has freedom yet it is only of any consequence so long as one is too responsible to exercise it, enabled the Commission to dispense with the troublesome intricacies of individual rights and set aside the reservations expressed by numerous Afrikaner intellectuals. "Effective and drastic action" against any publication which transgressed the norms and interests of the community was thereby sanctioned.

The Commission proposed the co-ordination of control over local and imported publications through a Publications Board with an appeal to a special Publications Board of Appeal presided over by a Supreme Court judge. While the proposed legislation required the submission of publications to the Publications Board prior to distribution in the Union, the Commission estimated that approximately 90 per cent of the published titles would be eligible for exemption from this clause. Moreover, newspapers and private publications would be satisfactorily controlled by the Courts. With the exception of "communistic" matter, the Commission did not favour punishment for the

possession of "undesirable" matter. It proposed, however, that it should be an offence to exhibit or lend such material to any other person, or to stock it.

The categories that constituted the Committee's definition of "undesirable" extended even beyond the demands of groups such as the Dutch Reformed Churches's Public Morals Commission. In November 1952, for instance, Rev. D.F.B. de Beer, the secretary of the Commission, had chastised the Government for being overly concerned with stopping literature which preached dangerous ideologies or racial attitudes while pornographic books and pictures were streaming into South Africa.^[90] The Cronjé Commission - reflecting the practice of, if not the official justifications for, censorship under the Customs legislation - coupled exhaustive provisions to shelter the morality of "ordinary, civilized, decent, reasonable and responsible inhabitants of the Union"^[91] with clauses to suppress publications which deviated from the National Party's conception of "race relations" or which promoted, or tended to promote, the spread of "communism" or any of the aims of "communism". Provisions to prevent sensationalist reporting of Court proceedings and to regulate advertisements were also proposed.

The Report concluded with an extensive consideration of measures to promote "good literature". This section included chapters on the family, the school, the

university, adult education, the church and library services.

c. Responses to the Cronjé Commission

The first editorial comment in Britain on the publication of the Report poured scorn on the parochial obsessions of the Commission. "For many years the fanatically-religious Nationalist Party has been trying to ban displays of women's underwear from South African shop windows and advertisements", stated New Statesman and Nation.

If it succeeds in that, the only effect will be that South African men will suffer from the deprivation of one of the more innocent forms of sublimation. But the darker side of the Report of the Commission, which is now demanding legislation for this purpose, is that it links sex with race. It is asking for a legal prohibition on all publications which present in a favourable light miscegenation, inter-marriage or any other form of intimate social intercourse between Europeans and non-Europeans. It would extend this ban to anything which may be accused of engendering feelings of hostility between Europeans and non-Europeans. ... Once more the close connection between racialism and guilt-feelings on sex is revealed by this hand-picked Nationalist Commission.^[92]

Within South Africa, Mr. Gerald Gordon, Queens Councillor and author, expressed the opinion that if the test of indecency as laid down in the Report of the Commission was applied in full rigour, at least ninety per cent of the books in South Africa would not receive exemption.^[93] In a joint memorandum the Associated

Booksellers of Southern Africa Ltd, the South African Publishers's Association and the Overseas Publishers's Representatives Association of Southern Africa deplored "as gratuitous and potentially dangerous" the Commission's finding that an authority other than the Courts should be vested with the power to decide whether certain publications are undesirable. The book trade felt that the Commission's Report failed to divulge a due sense of proportion in its approach to the problem of undesirability but stated that it would willingly cooperate in suppressing seditious literature and publications unduly exploiting horror, cruelty and violence, given judicial definition as a basis for such action. [94]

The book trade further noted that, despite the Commission's finding that undesirability was located pre-eminently in the inferior imported paper-bound editions, a large volume of unexceptional imported paper-bound publications contributed to the community's cultural development, education and entertainment. Here the book trade was responding to the Commissions tirades against paper-backed books and its frequently expressed distaste for the "sheer money-making" which it tended to identify with such publications. [95]

Even more revealing is the evidence that the Cronjé Commission had failed to negotiate a compromise between supporters and opponents of censorship closer to the

"Volk". On the one hand, the Commission's Report was enthusiastically supported by the NGK, social welfare groups and other organisations. Die Burger reported in November 1957 that the combined northern and southern synods of the Transvaal NGK, for instance, decided in Pretoria to send a deputation to the Minister of Internal Affairs to request the implementation of the proposals of the Cronjé Commission. The Transvaal NGK further expressed its gratitude to the Commission for the thoroughness, objectivity and comprehensivity of its Report.^[96] In August 1958 a motion was passed at the Annual meeting of the South African National Council for Child Welfare asking for stricter censorship.^[97]

The Pretoria Technical College even based an adult education course on the Report of the Cronjé Commission. In August 1958 the college's new Principal, Dr. A.J. van Zyl, a member of the Cronjé Commission, introduced a number of new courses. The courses, which were to be held after working hours, included citizenship and South African history for immigrants, human relationships, marriage guidance, "geography as not taught at school" and "undesirable literature". The course on undesirable literature was a summary of the issues covered by the Cronjé Commission. According to Mr. V. Serfontein, head of the college's adult education bureau, the course was to deal with the question:

What is undesirable literature? Examples will be given, and the course will also cover

the distribution methods of paper-backed books and periodicals, and the role played by the parent, teacher, library and church in developing a taste for good literature.^[98]

On the other hand, despite the Commission's lip-service to artistic freedom, even the Afrikaans Press was of the opinion that the Commission had exacerbated the conflicting responses to censorship. "Die Kommissie het sy eie taak bemoeilik deur van die hoofsaak af te wyk na sekondêre velde, byvoorbeeld leesstof wat kommunisties van aard is of wat vyandskap tussen die rasse kan aanwakker", Die Burger argued.

Daar is wette wat reeds hiermee handel. Deur sulke sake saam te wil handel met kwessies van pornografie en gewelds leesstof word 'n saak wat buite die politiek staan, in die politiek gebring, en word oorwegings en beginsels in die spel gebring wat die hoofsaak nie bevoordeel nie, maar benadeel. Daardeur word nie vriende gewen nie, maar ontstaan die gevaar dat vriende vervreemd word.^[99]

Similarly Die Transvaler suggested that,

Daar is dus 'n kwaad binne die landpale aanwesig wat bekamp moet word. Maar hoe? Van die kommissie se voorgestelde wetsontwerp, met sy registrasie van publikasies, sy raad en sy appelraad, sy sware strawwe (ontneming van publikasiereg en beroepswerk) en sy verbod op die publikasie van elke hof verslag wat binne die kader van onwenslikheid ressorteer, het ons lesers reeds kennis geneem. Al wat ons in hierdie stadium daarvoor wil sê, is dat dit sonder twyfel menings verskil gaan uitlok en die Regering hoofbrekens gaan besorg. Dit is nie waarskynlik dat hierdie wetsvoorstel ongewysig aanvaar sal word nie. Terselfdertyd is dit duidelik dat iets gedoen sal moet word, miskien volgens 'n plan wat minder kras is sonder om die doeltreffende uitwerking te mis.^[100]

In an stirring letter to Die Burger the Afrikaans writer

Jan Rabie expressed his strong rejection of the recommendations of the Cronjé Commission. He argued that the proposed censorship would destroy not only literature but also the soul of the Afrikaaner.

Die geskrewe woord is nie slegs daar om die meerderheid te stig of aan die slaap te sus nie. As boeke nie meer die taak het om die mense sy diepste en eerlikste en moedigste waarnemings van sy aardse bestaan te karteer nie, moet hulle maar afgeskaf word met nog 'n negatiewe wet. As die mens dan nie meer kan leer uit wat hy sien nie, maar slegs uit waarvoor hy sy oë" gesluit hou kan ons maar die volstruis tot nasionale simbool uitroep. Maar as 'n volk te bang is om sy oë na alle kante toe oop te hou, pleeg hy selfmoord. Die hond waarvoor 'n mens bang is, sal jou byt.

Rabie concluded that:

[Een] ding is seker, as 'n volk se beste geestesprodukte deur geheime komitees verbied kan word, en dit buite die gereg en die howe om, en daardie volk laat dit toe, dan het daardie volk geen selfrespek, geen vryheidsbegeerte en moed, en geen toekoms meer oor nie. Dan teken hy se eie geestelike doodvonnis, en verdien dit. En - as ons volk geestelik dood-fossieleer, sal ons Afrikaners dan eendag net daarop moet roem dat ons materieel welvarend is? Ons? [101]

While the divisions within the "Volk" had become, if anything, more pronounced, Dr. Dönges' policy of circumspection with regard to censorship was not entirely unsuccessful. In September 1958 Dr. Dönges's ten-year term as Minister of the Interior came to an end. At least he had managed to evade making the crucial decision between, broadly speaking, the interests of the Dutch Reformed Churches and those of the Afrikaans writers, editors and intellectuals who

opposed censorship. Dr. Dönges's successor, Mr. J.F. Naudé, revealed in February 1959 - almost two and a half years after the submission of the Cronjé Commission Report and ten years after Dr. Dönges had first stated that he was looking into the censorship issue - that the Government had not yet decided if it was going to carry out the recommendations of the Commission.^[102] The censorship issue remained unresolved: given the divisions within the "Volk", the malfunctions in the machinery to censor imported publications and the Department of the Interior's appetite for censorship, something had to give!

REFERENCES AND NOTES**CHAPTER TWO**

- 1 Updike, J. The New Yorker. May 25 1992.
- 2 Kuspit, D. "Diagnostic Malpractice". Artforum.
25 November, 1986. Page 91.
- 3 Holterhoff, M. "Art of the 3rd Reich".
Artforum. 25 November, 1986. Page 60.
- 4 Kuspit. Op cit. Page 94.
- 5 Cape Times. 10 November, 1955.
- 6 Cape Times. 19 April, 1956.
- 7 Cape Times. 29 May, 1956.
- 8 Cape Times. 22 January, 1958.
- 9 Cape Times. 10 November, 1955.
- 10 Ibid.
- 11 (1894) 11 S.C. 326.
- 12 Worcester Advertiser. 11 August, 1894.
- 13 Worcester Advertiser. Sept. 29 1894.
- 14 Ibid.
- 15 Kahn, E. "When the Lion Feeds". South African
Law Journal. Page 284.
- 16 Ibid.
- 17 Ibid.
- 18 Ibid.
- 19 Act No. 38 of 1909 (T).
- 20 Ordinance No. 21 of 1902 (O).
- 21 Kahn. Op cit. Footnotes to Page 285.
- 22 Ibid. Page 285.
- 23 Act No. 10 of 1911.
- 24 Act No. 44 of 1958.
- 25 Dugard, J. Human Rights and the South African
Legal Order. Page 193.
- 26 Die Burger. 26 July, 1947.
- 27 Louw, N.P. van wyk. "Sensuur of Pornografie?"
Standpunte. No. 8 October, 1947. Page 10.
- 28 Ibid. Page 11.
- 29 Ibid. Page 12.
- 30 Ibid. Page 14.
- 31 Ibid. Page 15.
- 32 Ibid. Page 17.
- 33 Ibid.
- 34 Ibid. Page 18.
- 35 Ibid. Page 20.
- 36 Ibid. Page 21.
- 37 Cape Times. 20 August, 1948.
- 38 Cape Times. 7 July, 1949.
- 39 Cape Times. 15 August, 1953 (letter from D.F.B.
de Beer).
- 40 Cape Times. 30 September, 1952.
- 41 Cape Times. 17 October, 1952.
- 42 Cape Times. 16 June, 1953.
- 43 Die Vaderland. 16 June, 1953.
- 44 Die Vaderland. 17 June, 1953.
- 45 Daqbrek. 21 June, 1953.
- 46 Die Transvaler. 17 June, 1953.
- 47 Die Burger. 19 August, 1953.
- 48 Cape Times. 20 August, 1953.

- 49 Hansard. 8 September, 1953.
 50 Cape Times. 9 September, 1953.
 51 Hansard. 8 September, 1953.
 52 Die Transvaler. 14 September, 1953.
 53 Cape Times. 6 November, 1953.
 54 Cape Times. 3 November, 1953.
 55 Die Burger. 9 September, 1953.
 56 Die Transvaler. 8 May, 1954.
 57 Standpunte. December, 1953.
 58 Cape Times. 23 November, 1953.
 59 Standpunte. Op cit. Page 24.
 60 Ibid. Page 24.
 61 Ibid. Page 29.
 62 Ibid. Page 19.
 63 Die Transvaler. 8 May, 1954.
 64 Government Gazette Extraordinary. 17 November, 1954.
 65 Die Burger. 25 November, 1955.
 66 Hansard. 6 February, 1957.
 67 Personality. November 7 1957. Page 67.
 68 Cape Times. 24 September, 1957.
 69 De Klerk, W.A. Puritans in Africa. Page 215.
 70 Cronjé, G. 'n Tuiste vir die Nageslag. Page 79.
 71 Thompson, L. The Political Mythology of Apartheid. Page 44.
 72 Translated by De Klerk. Op cit. Page 221.
 73 Posel, D. "The Meaning of Apartheid before 1948". Journal of Southern African Studies. Vol. 14, No. 1, October 1987, Page 123.
 74 Kahn. Op cit. Page 287.
 75 Cape Times. 24 March, 1955.
 76 Cape Times. 29 September, 1955.
 77 Cape Argus. 20 October, 1957.
 78 see De Klerk. Op cit. Page 217.
 79 Coetzee, J.M. "The Mind of Apartheid : Geoffrey Cronjé". Social Dynamics. Vol. 17, No.1, 1991.
 80 Ibid. Page 8.
 81 Ibid. Page 30.
 82 Report of the Commission of Enquiry in Regard to Undesirable Publications. Page 53.
 83 Ibid. Page 31.
 84 Ibid. Page 30.
 85 Ibid. Page 12.
 86 Ibid. Page 47.
 87 Ibid. Page 52.
 88 Ibid. Page 51.
 89 Ibid. Page 17.
 90 Cape Times. 7 November, 1952.
 91 Report of the Commission of Inquiry in regard to Undesirable Publications. Page 148.
 92 Cape Times. 8 September, 1957.
 93 Cape Times. 9 January, 1958.
 94 Cape Times. 17 April, 1958.
 95 Report of the Commission of Inquiry in regard to Undesirable Publications. Page 8.

- 96 Die Burger. 27 November, 1957.
97 Cape Times. 11 August, 1958.
98 Cape Times. 30 August, 1958.
99 Die Burger. 25 September, 1957.
100 Die Transvaler. 25 September, 1957.
101 Die Burger. 9 October, 1957.
102 Cape Times. 14 February, 1959.

CHAPTER THREE : "A LOT OF STUPID NONSENSE"

My ouers het hul afgebreek van my dood die
wurms roer teen my moeder, my vader hou sy
hand wat los teen die lug veer

Ingrid Jonker^[1]

Mr. J.G. Strydom, the Prime Minister of the Union of South Africa, died in office on 24 August 1958. Nine days later the National Party convened a caucus to elect a new leader. At the first vote Dr. Verwoerd received 80 votes, Dr. Dönges 52 votes and Mr. Swart 41. The 41 who voted for Mr. Swart split 23-18 in favour of Dr. Dönges in the second vote, giving Dr. Verwoerd a majority of 98 to Dr. Dönges' 75. The new Prime Minister appointed Dr. Dönges to the position of Minister of Finance and Mr. J.F. Naudé, became the Minister of the Interior. Despite the authority vested in him by the Customs and the Entertainments (Censorship) Acts, Mr. Naudé was content to delegate most of his censorship duties to his Deputy Minister, Mr. P.W. Botha.

Dr. Verwoerd's election as Prime Minister coincided with a period in which censorship was rubbed raw by incessant prodding at its peccant incoherence. Two of the most publicized incidents in which the confusion surrounding censorship was seen to be manifest transpired soon after Dr. Verwoerd took office. In January 1959 the books

Caste and Class in a Southern Town by John Dollard, Professor of Psychology at Yale, and Studs Lonigan, a trilogy documenting the life of Chicago's south-side Irish community, appeared on the list of banned books. These two books formed part of a set of 350 books which had been selected to represent life in the United States by the Carnegie Corporation. This organisation had already presented complete sets to approximately 200 libraries throughout the world. Thirty-three sets donated to South Africa had already been installed in the library of Parliament, every large public library, and the library of every university including the Universities of Fort Hare in the Cape and Roma in Basutoland.^[2] Under the heading "The Peak of Ineptitude", The Star editorialized as follows:

It might have been thought that the Government, while refusing to admit publicly that it had gone too far, would have seen to it that in the future censorship operated with more intelligence, imagination and erudition. But no. In the Union the peak of censorship absurdity is Himalayan, since what appears to be the highest possible is always followed by something higher still. The latest to tower above the South African horizon is the banning of two works carefully selected by the Carnegie Corporation of New York as examples of the best American writing and as reliable mirrors of American Life.^[3]

The second incident, in which the contradiction between the unrestrained censorship of imported publications and the absence of effective controls over local publications was made explicit, precipitated the drafting of a Publications and Entertainments Bill. In April 1959

the Deputy-Minister of the Interior signed a notice banning Why I am not a Christian by Bertrand Russell, the British philosopher and Nobel Prize winner. The book was a collection of Earl Russell's writings on religion and related subjects between 1899 and 1954. Such was the Cape Times's disenchantment with the Deputy-Minister that it expressed nostalgia for the years when Dr. Dönges had managed censorship:

The hash which has been made by Mr. P.W. Botha of his first essay in censorship - the banning of Bertrand Russell - will give a good deal of malicious pleasure to many. We include among the many all those who with us are revolted by the idea that the reading matter of adult South Africans should be vetted by minor politicians in co-operation with Committees of old women of both sexes. But fully to appreciate this latest absurdity, Mr. Botha's part must be sharply distinguished from that of the Censor Board.

While the members of the Censor Board are no doubt worthy and well-meaning persons, they have shown themselves to be monumentally incompetent ... But the Board's function is advisory and the final link in the censorship chain is the politician, and he is responsible. Dr. Dönges used to carry this responsibility with skill. When something stupid was done, like the banning of Dostoevski and the others, he kept entirely silent and as unobtrusively as possible saw to it that they were unbanned. ...

Not so Mr. P.W. Botha MP. At the drop of a word of criticism he rushed into print to indicate that he, anyhow, did not ban books without knowing all about them. And he told the world what a professional organiser of the National Party knows about Bertrand Russell. 'The book violated the principles of Christianity upheld in South Africa, it was anti-Christian and godless in content'. ... The Burger summed up bluntly by saying that a blunder had been made and urged that the blunder should be admitted.^[4]

In response to a question from Dr. Boris Wilson (U.P.)

Hospital) in the House of Assembly, on 1 May 1959, Mr. P.W. Botha, refused to accept that the banning of Russell's book was a grave inroad into civil liberties and freedom of conscience in South Africa. He said he would not consider reviewing the ban "until he had consulted more fully with leading members of the public".^[5]

Mr. Botha's deliberations were short-circuited when stencilled copies of the essay Why I am not a Christian were sold at a lunch-time meeting of the Rationalist Association at the University of the Witwatersrand on 22 May 1959.^[6] The meeting, organised by the Student's Political Forum, was addressed by the Right Rev. Ambrose Reeves who condemned the banning of the book.^[7] A week later, on 29 May, Mr. Botha announced in the House of Assembly that a Ministerial instruction had been given that the question of book censorship should be re-examined in light of the recommendations of the Cronjé report. He appealed to members not to make a political matter of book censorship. Mr. Botha said that an investigation was being conducted and he expected proposals soon. He agreed that it was not a good thing that the final say on a book should be left with the Minister.^[8] On 26 January 1960, again in reply to a question from Dr. Wilson (P.P. Hospital), Mr. Botha revealed that legislation regarding the censorship of books and periodicals would be introduced during the session of Parliament which was sitting at that time.^[9]

After years of procrastination the Government had finally made a decision.

a. Mr. P.W. Botha's brief and unsuccessful career in censorship.

On 30 March 1960, a week after the Sharpeville massacre, a State of Emergency was declared in 80 of the Magisterial districts in South Africa. The emergency provided for the closing down of newspapers which published "subversive" statements, the prohibition of gatherings, the arbitrary arrest and detention of any person and the closing down of associations deemed "subversive". Less than a week later, on 5 April 1960, Mr. P.W. Botha introduced a Publications and Entertainments Bill into Parliament, prompting the Cape Times to comment:

One of the most astonishing actions of an astonishing Government is the announcement by the Deputy Minister of the Interior that he is going to introduce a censorship bill. This bill is based on the report of the Cronjé Commission of 1957, which examined the need to coddle the morals of South Africa by a system of internal censorship. ... Within the framework of Nationalist thought and prejudice he may have a magnificent case for internal censorship of material thought to endanger the morals of this bastion of Western Civilization. But if Mr. Botha proceeds with this bill in present circumstances nothing he can say will convince the world outside that he is not trying to impose a political censorship strictly relevant to the present emergency.

After that, nothing that goes out from the Union will be believed any more. Does Mr. Botha really want that?^[10]

In introducing the Publications and Entertainments Bill Mr. Botha appears to have been unperturbed by the sensitivity of the censorship issue. The Bill, which went even further in its control measures than the Cronjé Commission Report on which it was based, applied a modified form of the advance censorship provisions governing films, under the Entertainments (Censorship) Act 1931, to books and periodicals.^[11] The administration of the censorship of both local and imported books, periodicals, cinematograph films and other entertainments was to be by a Publications Board with appeal to an Appeal Board, both ministerially appointed. The Bill contained a special provision dealing with newspapers wherein the offence of printing publishing or selling an "undesirable" newspaper was created. The proposed prosecution of newspapers was to be on the authority of the Attorney-General with the Courts having jurisdiction. In brief then, the Bill simultaneously contained proposals for the extension of the domain of the Board of Censors to include local publications and newspapers and attempted to untangle the regulation of imported publications from its bondage to customs control.

Before the Bill was published the Deputy Minister announced that the Bill would be referred to a Select Committee before the second reading.^[12] Parliamentary practice and procedure permits a Select Committee, in dealing with a bill before the second reading, not only

to amend it but to devise an entirely new bill. On 17 May 1960 it was reported in the House of Assembly that the Select Committee on the Publications and Entertainments Bill would not be able to complete its inquiry before the prorogation of Parliament. The Committee recommended that it be reappointed at an early stage during the following session.^[13]

The press and public reaction to Mr. P.W. Botha's censorship Bill was intense. In receiving the Hertzog prize for drama N.P. van Wyk Louw, by then undisputedly the foremost figure in Afrikaans literature, discussed the things that could, in his opinion, suffocate ("doodsmoor") Afrikaans drama. His third point addressed the problem of internal censorship:

Alleen in 'n dampkring van vryheid kan groot drama - of enige groot letterkunde - groei. Laat ons nie in 'n stryd teen 'vuil skrywery' 'n hele literatuur dwing om onder die juk van 'n preventiewe sensuur deur te gaan nie. Dit sou wees asof 'n mens jou drinkwater met 'n ontsmetmiddel ontsmet.

Dink net watter eerbare skrywer sal hom daartoe leen om in 'n 'publikasieraad' oor die verskyn of nie-verskyn van 'n hele volk se literatuur te besluit? Dus, alleen die ander tipe skrywer, diè met die waan van meerderheid oor almal, of met die koopbare gewete, sal hom vir hierdie werk laat vind. Moet ons voorstel dat 'n Afrikaanse boek nog eenmaal gedruk sal word met voorin hierdie woorde: 'Gepubliseer - met 'n gevoel van skaamte - na goedkeuring deur die Publikasieraad'?'^[14]

Numerous other writers including Mr. Gerald Gordon QC, Mr. W.A. de Klerk, Mr. Uys Krige and Mr. Leo Marquard publicly stated their opposition to the Bill.^[15]

In the August 1960 edition of Standpunte Mr. Justice J.F. Marais, a member of the Transvaal Bench and a prominent Broederbond, pleaded that an attempt be made to apply the law as it existed properly before the serious step of by-passing the Courts was taken. On 27 September Professor D.V. Cowen, Dean of the Faculty of Law at the University of Cape Town, addressed a crowded meeting at Cape Town University. Prof. Cowen attacked Mr. Botha's Bill and expressed alarm at the provisions requiring that books and periodicals be approved prior to publication in the Union. "Our history is not lacking in examples of legislative assaults on liberty, but I cannot recall any more sinister and dangerous threat than is contained in this Bill", he said.

We shall be subjected to the cursory eyes of a temporizing and extemporizing licenser. It is difficult to resist the conclusion that this Bill is either designed or calculated to suppress everything which the Government does not like....^[16]

In a subsequent address Professor Cowen referred to the Publications and Entertainments Bill as being "utterly bad, ill-conceived, ill-drafted and ill arranged".^[17]

Early in February 1961 the Government decided to abandon Mr. P.W. Botha's censorship Bill. The leader of the Opposition, Sir De Villiers Graaf, welcomed the decision not to proceed with the Publications and Entertainments Bill in the face of almost universal opposition. Mr. John Cope, the Progressive Party representative on the

Select Committee on the Bill, warned that the Government might not have dropped the question of censorship for good. He added that he had been in close contact with bodies representing special interests affected by the Bill such as the book trade, the press, authors, cultural organisations, churches, the Black Sash, cine clubs, and the Institute of Race Relations and without exception these bodies condemned the Bill.^[18] Die Burger, 8 February 1961, welcomed the withdrawal of the Bill and emphasized that it had opposed the measure.

On 17 February Mr. H.A. Fagan, a former Chief Justice and Cabinet Minister, stated that he believed that the Government still intended to legislate on censorship. He said he hoped the public would retain its watchful mood when fresh measures were proposed. "I consider it to be no duty of the state, and a wrongful use of their power by those who control the Government, to try to mould people's thoughts and opinions by shutting out factual information or stopping the circulation of views and ideas", he stated. Commenting on the spate of statutes, ordinances, proclamations and regulations which various law-making bodies "keep on showering on us, year after year", he said:

They are often conceived in haste, even in panic, under the stress of passing conditions or emotions. I admit that fresh situations often require new laws, but law-making in restraint of people's liberties is a serious consideration and should be sparingly resorted to.^[19]

b. Senator De Klerk has a go.

Senator Fagan was not mistaken. A month after Mr. Botha's Bill was dropped the new Minister of the Interior, Senator Jan de Klerk, told the House of Assembly that he was considering the introduction of similar measures and hoped to make a statement soon.^[20] According to the Cape Argus the Senator was under pressure from "some churches".^[21]

The Dutch Reformed Churches appear to have concluded that Mr. P.W. Botha's Bill had become untenable as a result of the perception that it facilitated political censorship. Two days after Senator De Klerk's announcement Rev. D.F.B. de Beer stated that the Federal Council of the Dutch Reformed Church was not interested in political censorship - "except perhaps in the censorship of books and propaganda that promoted communism, which should be handled under the Suppression of Communism Act". Nonetheless the Church felt overwhelmingly that the state should suppress immoral or blasphemous publications. "This type of salacious literature is definitely on the increase and is polluting the minds of teenagers and the coming generation", he said.^[22] Die Burger responded to Senator de Klerk's hint of censorship by advising that the Publications and Entertainments Bill remain withdrawn.^[23]

On 8 June Senator De Klerk's Undesirable Publications Bill was read for the first time. This Bill attempted to appease the critics of the Botha Bill by including an appeal to the Courts against decisions by the Board of Censors and by reducing pre-publication censorship. The Bill was immediately referred to a Select Committee.

On being asked to comment on the Bill Mr. Jan van Schaik, President of the Association of Booksellers, said that booksellers were "very worried about the Bill, even in its present form".^[24] In the opinion of the Cape Times the new Bill was a significant advance on the "monstrous creature hatched by the Cronjé Committee". It warned, however, that some of the definitions in the Bill were so wide "that almost anything could happen".^[25] Conversely in an article in Die Kerkbode, Rev. D.F.B. de Beer stated that it was a weakness of the Undesirable Publications Bill that the final decision on "undesirability" was in the hands of the Courts and then only in those cases which were referred to them by the Board of Censors and the Attorney-General. It was not even possible to appeal to the Courts if the Board of Censors found a publication not undesirable, he stated.^[26]

Dr. Abraham H. Jonker, the Nationalist member for Fort Beaufort, was appointed Chairman of the Select Committee

on the Undesirable Publications Bill. That Dr. Jonker should have become a leading sponsor of censorship was somewhat out of the ordinary. In 1953, when the issue of internal censorship first erupted in the House of Assembly, Dr. Jonker, then the United Party member for Gardens, had rejected the demand for internal censorship. Arguing against Mr. Abraham's (N.P., Groblersdal) contention that after the great works and writers of past centuries we had arrived at a period of sensationalism, he had said:

One cannot say that there is a period in which there were great works and that we now have a period of sensationalism. In those days the people were clear-headed people who knew life in all its fullness and also described it in all its fullness. Where today are we going to find the genius who can fix a standard and say that this may be written and that not? Where is the Hon. the Minister of the Interior going to find a board of controllers, a legion of them who must be attached to the staff of every newspaper and every publishing firm, to say that this may be printed and that not? To try and say that it is wrong after a thing has already appeared in print is of no use. That will really make that type of literature flourish, because we know that when a book has been banned, then it really is read.^[27]

Dr. Jonker was himself a writer of fiction and an Afrikaans scholar of some repute. In 1941, at a time when a significant number of Afrikaner Nationalists had been sympathetic to the Nazi cause, Dr. Jonker published The Scapegoat of History, an outspoken exposure of anti-semitism. Anti-Semitism in South Africa, he wrote,

[is] wholly due to the influence of the foreign, unnational, anti-South African and anti-Christian principles of the Nazi-doctrine of modern Germany, imported and foisted on a

section of the people by the Grey Shirts, the Black Shirts, the South African Fascists, etc. - organisations fashioned after the foreign Nazi-model.^[28]

The selection of Dr. Jonker to head the select Committee appears to indicate that Senator De Klerk was seeking to placate those Afrikaans writers and intellectuals that opposed censorship.

This was not to be. Not only did the tensions within the "Volk" persist, but they came to be played out within Dr. Jonker's own family. Abraham Jonker was the father, by his first marriage, of the poet Ingrid Jonker. In his book The Adversary Within Jack Cope has written that although Ingrid Jonker signed, and collected signatures for, a petition against censorship she painstakingly tried to avoid a personal confrontation with her father. Her efforts were in vain:

By chance, she was asked by a newspaperman to comment on Government statements supporting censorship, including the views of Dr. Jonker. She refused, adding with a laugh that she thought it all 'a lot of stupid nonsense'. 'But don't quote me', she said. Under bold-letter headlines the newspaper reported that Ingrid Jonker had described her father's opinions as stupid nonsense. The Chairman of the Parliamentary Select Committee was incensed and let it be known that he had severed contact with his daughter.^[29]

When Ingrid Jonker attempted to present her father with an inscribed copy of Rook en Oker, her collection of poems published in 1963, he would not see her. She was given, instead, a letter advising her of Dr. Jonker's address where the book might be sent.^[30] In the

winter of 1965 Ingrid Jonker committed suicide.

Dr. Jonker did succeed in gaining the support of the Afrikaans press. On 22 February 1962, acting in his capacity as Chairman of the Select Committee, Dr. Jonker submitted a special report recommending that in view of the proposed self-imposed disciplinary code of the South African Newspaper Press Union (NPU), the proposed legislation should not be applicable to members of the NPU. The Minister of the Interior said the Government approved of the decision and would give effect to it.^[31]

In April 1962 the NPU formally accepted the code of conduct and constituted a Press Council, despite the opposition of the South African Society of Journalists (SASJ) and certain members of the NPU. Hachen and Giffard state that the Argus group and Afrikaans newspapers supported the code while most of the South African Associated Newspapers opposed it.^[32] The Press Council, under the Chairmanship of a retired judge, was to adjudicate any complaints that newspapers had contravened the code of conduct. The code of conduct was comparable to those in other countries with the exceptions that journalists were not required to observe professional secrecy to protect sources of information and there was a specific injunction that "comment should take cognisance of the complex racial

problems of South Africa and the general good and safety of the country and its peoples".^[33] In January 1963 Mr. G.D. Oliver, president of the SASJ, stated his organisation's antipathy to the code:

Senator De Klerk was wrong when he asserted in the House of Assembly that the South African Press had, of its own accord, drawn up a code of conduct for journalists. The Society is totally opposed to the code of conduct drawn up by the NPU of South Africa, the body that represents newspaper managements. Senator De Klerk would have been accurate if he had said that the code of conduct was adopted by the NPU in the face of strenuous opposition from journalists and in response to threats by the Government against the free press of South Africa.^[34]

Ironically, it was the SASJ and not the Government that was to be satisfied with the performance of the Press Council. In 1971, at the SASJ congress, Roy Rudden, the Society's president, said that he had at first opposed the Council as a result of the political threat that had precipitated its establishment. "But the Press Council, in its actions and decisions, has done a first-class job. We are very impressed by it". The delegates voted to recognise the Council.^[35] In 1977, as a consequence of persistent threats and harassment from the Government, the NPU reorganised the Press Council and adopted a code of conduct with more "teeth".

The adoption of the code of conduct in 1962 marked a major watershed. Up until this point the press, including the Afrikaans press, had been threatened by internal censorship. Under these circumstances the

Afrikaans press could not have been expected to moderate its opposition to censorship. The exclusion of NPU newspapers from the provisions of the Bill, in conjunction with the proposed appeal to the Courts, facilitated a return to the fold by the Afrikaans press. Moreover, as Mrs. Helen Suzman (P.P. Houghton) stated in the House of Assembly, on 30 January 1963, the acceptance of the code was a concession by the Press that censorship might have been necessary:

I was extremely distressed that the NPU should have accepted a voluntary code, because by so doing they conceded the basic principle that some sort of censorship of newspapers was necessary... They accepted that principle and undermined freedom of expression in this country by accepting that voluntary code. My only thought was that South Africa badly needs the men we had in this country 130 years ago, the Pringles and Fairbairns, the men who established a great principle, freedom of the Press, in the Old Cape Colony, and those men are sadly lacking in South Africa today. [36]

c. Dr. Jonker's Publications and Entertainments Bill.

Dr. Jonker presented a new censorship Bill on behalf of the Select Committee on 26 April 1962. With minor amendments the Publications and Entertainments Bill was published in January 1963. Both drafts explicitly excluded NPU newspapers. The Publications and Entertainments Bill was a more rigorous version of the Undesirable Publications Bill, which was withdrawn on a motion by the Minister of the Interior. The Bill, as placed before Parliament in January 1963, provided for

the establishment of a Publications Control Board to control films, public entertainments and publications, defined so as to include every conceivable type of reproduced matter.

The Board was to consist of not less than nine members, appointed by the Minister of the Interior, of whom at least six were required to be persons having special knowledge of art, language, literature or the administration of justice. The Chairman and vice-Chairman would be required to form part of the six specially qualified members. Once constituted the Board would reach its decisions in private and would not be obliged to hear evidence. It would be able to appoint "expert Committees" to report on a particular publication, however. Such Committees, under the Chairmanship of a Board member, would be selected from a panel of persons designated by the Minister.

Following the precedent of the Cronjé Commission, the Bill employed a wide ranging conception of "undesirable" which included restrictions on matters political and religious. Contrary to the recommendations of the Cronjé report, the Bill did not provide that the Board should consider artistic or literary merit when evaluating a publication. Further, the Bill did not require that a work should be judged "as a whole":

A publication... shall be deemed to be undesirable if it or any part of it:-

a) is indecent or obscene or is offensive or

- b) harmful to public morals;
is blasphemous or is offensive to the religious convictions or feelings of any section of the inhabitants of the republic;
- c) brings any section of the inhabitants of the Republic into ridicule or contempt;
- d) is harmful to the relations between any sections of the inhabitants of the Republic;
- e) is prejudicial to the safety of the state, the general welfare or the peace and good order;
- f) discloses, with reference to any judicial proceedings-
 - i) any matter which is indecent or obscene or is offensive or harmful to public morals or any indecent or obscene medical, surgical or physiological details the disclosure of which is likely to be offensive or harmful to public morals;
 - ii) [for divorce, annulment or separation, particulars other than the names, addresses and occupations of the parties and witnesses; a concise statement of the allegations and defences on which evidence has been given; legal submissions and rulings thereon, and the judgement and observations made by the judge therein: all without prejudice to (i)]^[37]

The legal meaning of "indecent, obscene or... offensive to public morals", described by Rumpff J.A. as "the unhappily worded" phrase, was provided by what the learned judge referred to as a "long, dismal list of topics".^[38] This dismal list was, on the whole, inherited from the Cronjé Commission:

- Matter shall be deemed to be -
- a) indecent or obscene if, in the opinion of the Court, it has the tendency to deprave or to corrupt the minds of persons who are likely to be exposed to the effect or influence thereof; or
 - b) offensive to public morals if in the opinion of the Court it is likely to be outrageous or disgusting to persons who are likely to read or see it; or
 - c) harmful to public morals if in the

categories constituting the "undesirable" with regard to films - including offensive depictions of the President, armed forces, public characters, crime, lust, international politics, scenes of violence involving white and non-white persons, or the intermingling of white and non-white persons - were more extensive than those for publications. Public entertainments would be liable to prohibition on the grounds of giving offence to religious convictions or bringing any section of the population into ridicule or being contrary to the public interest or harmful to morals.

Pre-publication censorship, which applied to all films, could be imposed, by notice in the Gazette, on imported publications by a specified publisher or dealing with any specified subject, if in the opinion of the Board these were likely to be undesirable. The Bill also proposed that it should be an offence, except under permit, to import a publication with a paperback with a net selling price to the importer of 50 cents or less. These provisions for pre-publication censorship of publications emanated from an admission by the Customs authorities that it was "an absolutely impossible task for the Department to scrutinize most of the books imported into South Africa".^[42]

With the exception of films, the Bill provided for appeal against decisions of the Board to any provincial

or local division of the Supreme Court with further appeal to the Appellate Division. Appeal, within thirty days, would be by anyone aggrieved by a decision of the Board on a reference for a ruling as to undesirability. The author, publisher or importer would be able to appeal regardless of whether or not they had requested the ruling. In the case of films, appeal was to be to the Minister of the Interior. Prosecutions relating to undesirability would be only on the definite instruction of the Attorney-General. The Bill provided for extensive penalties, ranging from a fine of not less than R300 or imprisonment not exceeding six months, for first offences, to a fine of not less than R2000 or imprisonment not less than six months or both.

d. Despite opposition, the Bill becomes an Act.

The most striking protest against the Bill was a declaration of principles signed by 130 South African writers and 55 painters and sculptors, Afrikaans and English, and presented to the Minister of the Interior. The petition stressed that the legislation did not take the nature and intent of a literary work into consideration:

Nowhere does this law provide that the nature and intent of a literary work should be considered as a criterion of judgement. We consider this law to be in conflict with the most fundamental principle of art - that each work should be judged as a whole. We are deeply alarmed for the future of creative effort in this country. Above all, writers

who must publish inside the country are liable to be forced either into silence or superficiality - with fatal consequences especially for Afrikaans literature. [43]

In January 1963, concurrent with the second reading of the Bill in the Assembly, the Book Trade Association of South Africa - representing English and Afrikaans publishers, booksellers and overseas publisher's representatives throughout the Republic - disclosed that the Minister of the Interior had refused to receive a deputation to discuss the Bill after the association had submitted a memorandum to him the previous July. "The form of the new Bill shows that the Minister has not seen fit to adopt any of our suggestions", the Book Trade stated. "Under the circumstances, we are left with no alternative but to bring these matters to the public notice". [44]

The Book Trade appealed to the Minister to reconsider the terms of the Bill, in total and in detail, and warned that the measure could lead to the strangulation of South African literature, particularly Afrikaans literature. The Trade was of the opinion that the Bill should have been confined to the form of a consolidating measure dealing solely with obscene and indecent publications and publications harmful to young persons. Particularly odious to the Association were the pre-publication censorship provisions. With regard to what the Member of Parliament for Kensington, Mr. Moore,

described as the "50 cents morality"^[45] the Trade pointed out that the proposal was not necessary:

Those paperbacks against which it is desired to discriminate, can be dealt with by a restriction limited to two categories of paperback novels: "remainders" (that part of a publisher's edition that he feels can no longer command the published price but which can find a market at a lower price) and paperbacks not previously published in hard-cover editions.^[46]

Within Parliament, both the United Party and the Progressive Party opposed the Bill. When the Bill was introduced into the Assembly the United Party moved, without success, that it be read that day six months - that is the Parliamentary formula for a total rejection of any bill.^[47] Mr. R.B. Durrant (U.P. Turfontein), Mr. E.G. Malan (U.P. Orange Grove) and Mrs. Helen Suzman (P.P. Houghton), in particular, put up a determined fight against the Bill, but time after time their proposed amendments were defeated by the Nationalist block-vote. All three objected to the features of religious and political censorship and opposed the extensive definition of "undesirable". In reply the Minister argued that undesirability is a relative concept, hence the definition in the Bill should reflect this. He denied that this could lead to difficulties and said that the Courts would soon establish a simple set of rules and penalties.^[48]

Mrs. Suzman asserted that Blacks over 18 should be able to see any film for whites. In response Dr. Jonker

explained that most films containing scenes of scantily-clad white woman were for white audiences only. This was essential, he said, as a non-white man could be sentenced to death for criminally assaulting a white woman. If non-white men were allowed to view scenes of scantily clad white women it could incite them to commit such a crime and thereby expose themselves to the death penalty.^[49] Mrs. Suzman's amendment was rejected.

On reading over these debates precipitated by Dr. Jonker's Bill, one is struck by the disjuncture between the stridency of the Nationalist members of Parliament and the apprehension of numerous Afrikaans intellectuals. While feigning ignorance of any sinister political implications the Nationalist members appear to have taken delight in projecting relentless narrow-mindedness. On 14 March 1963 the Publications and Entertainments Bill was adopted by the House of Assembly.

Four days later, on 18 March while the Senate was sitting on the Bill, a letter from N.P. van Wyk Louw, in which he criticized Dr. Jonker's Bill, was published in Die Burger. Prof. Van Wyk Louw stated that while he trusted the honesty and judicial competence of the judicial benches, caution and honesty prevented him from trusting them in matters which involved the taking into account of literary value. He also emphatically

rejected Dr. Jonker's claim that the Censor Board would be qualified to evaluate literature. Dr. Jonker, he wrote, has the typical optimism of the law-maker; he believes that words on paper, approved by the Government, will really solve the problem. Commenting on the English-language writers' access to overseas publishers, he stated:

Ek twyfel of selfs Lord Milner 'n meer doeltreffende middel sou kon bedink het om Afrikaans te kniehalter en aan Engels in Suid Afrika vrye teuels te gee. Vir die jong aspirant-skrywer (ook die Afrikaanse!) in Suid Afrika - is dit net asof vir hom hier gesê word: Boeta, as jy jou sê wil sê, skryf Engels! En as jy nie Engels goed genoeg ken nie, leer dit, soos Joseph Conrad, maar skryf in Engels en behou jou siel!

Werklik, ek as Afrikaner wat nog nooit (hier of in Europa) my Afrikaner Nasionalisme weggesteek of verdoesel het nie - ek kan nie begryp watter motief 'n Nasionale regering tot hierdie uiters twyfelagtig 'morele', maar wesenlik anti-Afrikaanse wetgewing kon verlei het. [50]

Van Wyk Louw was not the only Afrikaans writer to participate in what the Sunday Times termed "a remarkable revolt by Afrikaans writers ... conducted largely in the correspondence columns of Die Burger." [51] The other participants included W.E.G. Louw; Frans Venter, H.A. Fagan, Uys Krige, Etienne Leroux, Freda Linde, Jan Rabie, André Brink and WA de Klerk. The Sunday Times reported that some observers regarded the "revolt" as an historic event,

[the] first concerted action by Afrikaner men of letters since 1925 ... a revolt of Afrikaner literature against Afrikaner politicians. [52]

Significantly, Die Burger - now safely excluded from the province of the Bill as a NPU member - tried valiantly to allay the fears articulated by Afrikaans writers. In a bizarre editorial response to Professor Van Wyk Louw's letter Die Burger asked if the serious Afrikaans writers were "manne of muise". While arguing that the writers had exaggerated the debilitating effects of the Bill, it said that even if their worst fears were realized, Afrikaans writers should not meekly submit to spiritual tyranny.

Die energieke stryd wat sommige Afrikaanse skrywers teen die wetsontwep op publikasies en vermaaklikhede voer, hoofsaaklik in Die Burger se briewekolomme, het naas sy voorliggende waarde ook een ongelukkige neweproduk. Bewus of onbewus propageer dit 'n beeld van die ernstige Afrikaanse skrywe wat volgens ons mening vals is - of altans vals behoort te wees: die beeld van 'n tere skepsel en skepper wat deur 'n meedoënlose wet en 'n domme raad verhinder kan en sal word om te skrywer wat in Afrikaans geskrywe moet word. [53]

Up until this point Government representatives had attempted to placate Afrikaans writers. Within Parliament the Nationalist members had repeatedly insisted that the fears of the writers were groundless and that the Bill would not harm literature. As Senator De Klerk expressed it:

I say without any fear of contradiction that this Bill will bring about freedom of publication in this country as we have never had it before, a freedom which exists in few countries. It will serve only to combat - as is intended to do - indecency, blasphemy and

communistic propaganda which may be harmful to people. [54]

N.P. van Wyk Louw's passionate letter tipped the balance, thereby disturbing the delicate equilibrium.

On reading the letter Senator J.J. Boshoff, Nationalist and farmer, could restrain himself no longer. Taking it upon himself to defend the Bill from what he considered to be an unjustified attack, he stated:

Afrikaanse leesstof wat heeltemal vreemd is vir 'n volk wat gewoon is aan oop ruimtes en nie aan smerige agterstraatjies nie, moet verbied word. [55]

He then read from Zane Grey as an example of the healthy literature of the wide open spaces and stated that Van Wyk Louw, "Andries" Brink and other Afrikaans writers opposed the Bill because they had guilty consciences. Professor Van Wyk Louw should be the last person to criticize the Bill as he was an educationalist, not a literateur, the Senator said. [56] Die Burger reported that Van Wyk Louw roared with laughter when informed of the Senator's outburst:

Dit lyk my 'n mens kan net daaroor lag. Die Senator is seker 'n ouerige man... maar Sen. Fagan is self 'n man van oor die sewentig. Sen. Boshoff het wel reg ook - ek was vyftien jaar gelede 'n opvoedkundige, maar toe was ek ook al so tussendeur 'n skrywer. Eintlik dink ek die Senator se feite is 'n bietjie deurmekaar. Sy aanval vererg my nie meer nie. Ek is van jongs af gewoon aan literere twiste. Ek voel dit nou net grappig. Ek weet nou nie of 'n mens vir 'n Senator durf lag nie. [57]

While Prof. Van Wyk Louw was not overly perturbed, such

was the impact of the Senator's remarks - even at that late stage - that the eminent Afrikaans poet D.J. Opperman was moved to publicly reject the censorship Bill for the first time. In a letter to Die Burger, published on 20 March 1963, he stated:

Ek het eerlik gereken dat ons Nasionale regering maar alte goed besef hoe diep ons volk by die Afrikaanse letterkunde in die skuld staan, en daarom nooit met die Wetsontwerp op Publikasies en Vermaaklikhede sonder wysiging sou voortgaan nie; veral nie nà die billike duidelike ontledings en versoeke van N.P. van Wyk Louw, Etienne le Roux, André Brink en ander nie. Nou sien ek tot my ontskeltenis dat die Regering nie slegs volhard nie, maar hom selfs die reg veroorloof om by monde van Sen. Boshoff ons grootse kunstenaar, N.P. van Wyk Louw en die Afrikaanse letterkunde te beledig, en ek moet as Afrikaanse skrywer en letterkundige my diepe teleurstelling uitspreek. Sen. Boshoff sê: Van Wyk Louw en die ander beswaarmakers 'is mense met 'n skuldige gewete'. Ek sal ook seker nou so afgemaak word; maar ek skaar my graag by hulle eerder as wat ek die skuld van die huidige wetgewing op my gewete moet dra. [58]

It was too late. Two days after the publication of Dr. Opperman's letter the Publications and Entertainments Bill was passed by the Senate, thereafter requiring only the State President's signature to become law.

In the course of the Senate's final sitting on the Bill Senator Boshoff withdrew his statement that Van Wyk Louw was not a literateur and expressed his regrets for any harm done to Van Wyk Louw or his friends. Senator Boshoff explained that Prof. Van Wyk Louw's statement that the Bill would hobble authors was an insult to the Minister of the Interior, to the cabinet and to every

member of the Senate and the Assembly.

Where verbal fisticuffs occur one can expect a possible blow below the belt can happen. If I did so, I express my regrets.^[59]

In his concluding remarks, Senator de Klerk rejected allegations that the members of the Censor Board would be appointed because they were Nationalists. He agreed, however, with the Minister of Agricultural Technical Services, Mr. S.P. le Roux, that Nationalists should be employed in the execution of Government policy.^[60] Mr. Le Roux was the father of the writer Etienne Leroux.

Fourteen and a half years after Dr. Dönges first stated that he was going into the issue, an internal censorship was finally established in South Africa. After more than a decade of uncertainty the Department of the Interior had finally mustered sufficient confidence to risk alienating Afrikaans intellectuals. In this regard the belated support of the Afrikaans-language press was crucial. In any case the alliance of the "moralists" within Afrikanerdom and the Nationalists within Parliament appeared to have triumphed, excepting of course that the demands of the "moralists" had been diluted by concessions to both the Afrikaans-language press and Afrikaner intellectuals and extended to incorporate "political" censorship as practised under the Customs Act. For their part, those Afrikaans-speaking writers and intellectuals who opposed an internal censorship had been backed into a corner.

They were left with but two options: repent or continue in opposition.

REFERENCES AND NOTES

CHAPTER THREE

- 1 Jonker, I. "Ek dryf in die wind". Kantelson.
Page 42.
- 2 Cape Argus. 10 January, 1959.
- 3 Star. 12 January, 1959. A similarly bizarre
banning occurred in August 1961 when the
Russian translation of The Fair House by Jack
Cope was listed. The English translation had
been freely available in South Africa since
1955. Baffled booksellers said no
bookseller "in his right mind would order
a Russian translation and try to sell it in
South Africa. This seems to suggest that
the government automatically bans everything
published in Russian". (Cape Times. 22
August, 1961).
- 4 Cape Times. 29 April, 1959.
- 5 Cape Times. 2 May, 1959.
- 6 The essay was later published as a pamphlet
containing an Afrikaans translation. Waarom
Ek Geen Christen is nie. As well as the
original English. 3000 copies were printed
with the author's consent.
- 7 Cape Times. 23 May, 1959.
- 8 Cape Times. 30 May, 1959.
- 9 Cape Times. 27 January, 1960.
- 10 Cape Times. 5 April, 1960.
- 11 Kahn. E. "When the Lion Feeds - And the Censor
Pounces". South African Law Journal. Vol.
83, 1966. Page 292.
- 12 Cape Times. 6 April, 1960.
- 13 Cape Times. 18 May, 1960.
- 14 Die Burger. 7 July, 1960.
- 15 Cape Times. 8 February, 1961 and 9 February, 1961.
- 16 Cape Times. 28 September, 1960.
- 17 Cape Times. 7 February, 1961.
- 18 Cape Times. 9 February, 1961.
- 19 Cape Times. 18 February, 1961.
- 20 Cape Argus. 7 March, 1961.
- 21 Cape Argus. 6 April, 1961.
- 22 Cape Times. 10 March, 1961.
- 23 Die Burger. 10 March 1961. An interesting
corollary to this manoeuvring around the
censorship issue illustrates the extent to
which discourse on censorship permeated South
African society at that time. In April 1961
the Transkeian Territorial authority voted in
favour of a resolution urging a law to restrain
the press from publishing "communistic,
scandalous and inciting propaganda". The
resolution, introduced by Chief G.H. Matanzima,
met considerable opposition. Headman Walter
Sinyati said that he was opposed to the
resolution because "The Government is much, much
better than we are. The Government is our

- father and just a little below God. We have our own father here who is Mr. Hans Abraham, Commissioner-General, and we could rather take this up with him". (Cape Times. 22 April, 1961).
- 24 Cape Times. 12 June, 1961.
 25 Cape Times. 15 June, 1961.
 26 Cape Times. 23 December, 1961.
 27 Hansard. 8 September, 1953.
 28 Jonker, A.H. The Scapegoat of History. Page 80.
 29 Cope, J. The Adversary Within. Page 74.
 30 Ibid.
 31 Cape Times. 23 February, 1962.
 32 Hachen, W. & Giffard, C. Total Onslaught.
 Page 61.
 33 Ibid. Page 62.
 34 Cape Times. 31 January, 1963.
 35 Hachen & Giffard. Op cit. Page 66.
 36 Hansard. 30 January 1963.
 37 See Publications and Entertainments Act No 26 of
 1963 Section 5(2).
 38 Publications control Board vs. William Heinemann
 Ltd. 1965 (4) SA 137 (AD) at 156.
 39 Publications and Entertainments Act, Section 6
 (1).
 40 Ibid. Section 6 (2).
 41 Under the Customs and Excise Act, 1964, it was an
 offence knowingly to have in one's possession
 any goods unlawfully imported at the time they
 were imported.
 42 Cape Times. 3 May, 1962.
 43 Rand Daily Mail. 26 April, 1963.
 44 Cape Times. 30 January, 1963.
 45 Hansard. 29 January, 1963.
 46 Cape Times. 30 January, 1963.
 47 Hansard. 29 January, 1963.
 48 Ibid.
 49 Cape Times. 15 February, 1963.
 50 Die Burger. 18 March, 1963.
 51 Sunday Times. 31 March, 1963.
 52 Ibid.
 53 Die Burger. 19 March, 1963.
 54 Assembly Debates. 31 January, 1963.
 55 Cape Times. 19 March, 1963.
 56 Ibid.
 57 Die Burger. 20 March, 1963.
 58 Die Burger. 20 March, 1963,
 59 Cape Times. 23 March, 1963.
 60 Ibid.

CHAPTER FOUR : THE PUBLICATIONS CONTROL BOARD

"It is Justice", said the painter at last. "Now I can recognise it", said K. "There's the bandage over the eyes, and here are the scales. But aren't there wings on the figure's heels, and isn't it flying?" "Yes", said the painter, "my instructions were to paint it like that; actually it is Justice and the goddess of Victory in one". "Not a very good combination, surely", said K., smiling.

Franz Kafka, The Trial.^[1]

The Publications Control Board established in accordance with the Publications and Entertainments Act, 1963, was the heir to 8629 publications banned under the Customs Act^[2]. These prohibited publications included Nabokov's Lolita; Orwell's Coming Up For Air; several works by Henry Miller; James Jones's From Here to Eternity; Sartre's The Age of Reason; Brendan Behan's Borstal Boy; Cocteau's The Miscreant; Kerouac's On the Road; Graves's I, Claudius; The Selected Writings of De Sade; as well as books by D.H. Lawrence, Erskine Caldwell, James T Farrel , John Steinbeck, Alberto Moravio, Norman Mailer, Mary McCarthy, Alan Sillitoe, Raymond Chandler, Bernard Malamud, Harry Bloom and John O'Hara. Some novels including Daniel Defoe's Roxanna, Tennessee William's A Street Car Named Desire, Saul Bellow's The Adventures of Angie March, John Dos Passos's Adventures of a Young Man, Sartre's Intimacy and Gordimer's A World of Strangers were restricted in the paperback format only.

Political and sociological works also featured prominently on the lists of "objectionable" literature. Anthony Richmond's The Colour Problem; Sachs and Forman's The South African Treason Trial; Bishop Reeves's The Shooting at Sharpeville; seven publications of speeches by Nikita Khrushchev; a speech delivered to the United Nations by Dr. Nkrumah, the President of Ghana; De Beauvoir's The Second Sex; Leo Kuper's study of passive resistance in South Africa, and many other such texts were excluded from South Africa.

In the five year period 1957-1962, 111 films were totally prohibited. These films included A Taste of Honey, which was voted the best foreign film in the English language of 1962 by the International Film Importers and Distributors' Association of the United States, as well as Battleship Potemkin, Lolita, Jules et Jim, I was a Teenage Frankenstein, Confessions of an Opium Eater, Machine-Gun Kelly, Riot in cell block 11, Too Late Blues and The Rise and Fall of Legs Diamond.^[3]

a. The Dekker Board

The first Chairman of the Publications Control Board, sixty-six year old Professor Gerrit Dekker, head of the Department of Afrikaans and Nederlands at the University of Potchestroom, was appointed to this post in May 1963. Dekker's Afrikaanse Literatuurgeskiedenis, published in 1935, was the first historical overview of Afrikaans

literature. Commenting on this work D.J. Opperman has written:

Although Dekker's critical method contains definite dangers, it wrought a deepening in Afrikaans literary criticism, since he was always in search of the personality of the artist. Among the older critics Dekker was most appreciated by the poets of the 1930s.^[4]

On 16 May 1963 Professor Dekker told reporters in Cape Town that his appointment "came as a complete surprise to me". He said that while further appointments to the Board were a matter for the Cabinet, he hoped that they would be guided by his recommendations. He elaborated:

The kind of people I have in mind are people who will be able to judge works of art and literature objectively.^[5]

He said that he hoped that the Board would be constituted by the beginning of September. It would then meet at a venue still to be decided on. He added that he "very sincerely" hoped that responsible authors and artists in South Africa would have "nothing whatsoever to fear from us". He personally had not seen examples of undesirable literature published in South Africa, he said,

[But] people have complained about it to me. That type of literature does not normally fall into my hands. Then, of course, you have a very subtle type of communist propaganda which is printed in this country.^[6]

Dekker's appointment as Chairman of the Board was viewed as a partial victory for the writers and artists, particularly those who were Afrikaans-speaking.

Originally it was thought that Dr. Abraham Jonker would take up the position but it had soon become apparent that if a politician had been appointed the Government would have had little chance of filling the other eight posts on the Publications Control Board with people of standing. Nonetheless amongst writers and artists the reaction to Dekker's appointment was mixed.

The Sunday Times reported that according to spokesmen for writers and artists, most writers and artists were as wholeheartedly against the Act as ever. The newspaper quoted Jan Rabie as saying:

I am not interested in a good man appointed by a bad law. My only concern is with writing and my fellow writers.^[7]

In a similar vein WA de Klerk said:

I have a great respect for Professor Dekker. He is a man of exceptional standards. I assume other members of the Board will also be people of integrity and good judgement. The position, however, is not materially affected. The Board itself is still bound by the Act. Circumstances may force the Board to restrict ideas which may be construed as being harmful to relations between sections of the inhabitants of the Republic or prejudicial to the safety of the State.^[8]

Uys Krige stated this position succinctly: "The fight goes on".^[9]

On the other hand, the Minister of the Interior, Senator Jan de Klerk, told Parliament that many artists and writers had agreed to co-operate with Professor Dekker. He did not disclose their names.^[10] Cope, however,

reports that N.P. van Wyk Louw welcomed Dekker's appointment and, with Dekker in control, no longer saw censorship as the danger he had feared.^[11] Citing Kannemeyer's Geskiedenis van die Afrikaanse Literatuur, F.I.J. van Rensburg goes so far as to suggest that Van Wyk Louw was responsible ("antwoordelik") for Dekker's appointment.^[12] Thus ended Van Wyk Louw's period of overt opposition to censorship in South Africa. In effect Senator De Klerk had achieved what had previously seemed impossible: a compromise between the competing positions within Afrikanerdom. The Government, represented by the Department of the Interior, had its political censorship, the Afrikaans churches had their moral censorship and Afrikaans literature, the primary concern of the Afrikaans literary establishment, appeared safe. Some Afrikaans writers, notably the "sestigers", continued to oppose censorship but these writers were, by this time, to a greater or lesser extent (André Brink refers to the "schizophrenia of the Afrikaans writer" in this regard), estranged from both Afrikaner nationalism and the Afrikaans literary establishment.

The additional persons who were appointed to the Publications Control Board were Mr. A.J. van Wyk, who was appointed vice-Chairman, Mr. N.J. le Roux, Mrs. Retha Theron, Mr. J.G. Sutton and Professors A.J. Murray, A. Donker, T.T. Cloete, T.H. Endesmann, C.J.D. Harvey, H. van der Merwe Scholtz and A.P. Grové.^[13] Professor

Grové, like Dr. Jonker, had opposed the introduction of an internal censorship during the early 1950s. In the Standpunte survey of 1953 he was one of the more outspoken critics of censorship:

Maar selfs al sou goed en sleg (literer gesproke) bo alle twyfel onderskeibaar wees, sou dit nog verkeerd wees om die slegte in die ban te doen. Tussen goed en sleg in die literatuur bestaan daar 'n voordurende wisselwerking, 'n soort osmotiese beweging waarsonder 'n lewende literatuur ondenkbaar is. Daarom, sonder om te ontken dat die literere vryheid, nes baie ander vryhede, dikwels op 'n skaamtelose wyse misbruik word, wil ek pleit: Laat ons die stad spaar, al is dit dan ter wille van die vyf regverdiges.^[14]

The Board met informally on the 31 October 1963 for the first time. The following day, on which the Publications and Entertainments Act came into operation, the Board conducted its first formal session. This session was opened at 10 am by Senator De Klerk in Cape Town. Simultaneously the Censorship Board, under Chairman Mr. N.J. le Roux who had served in this position since 1960, died a natural death.

Initially the application of the Publications and Entertainments Act was chaotic. Booksellers remained extremely agitated as large quantities of books imported from abroad continued to be held up by Customs, and sometimes banned, before they could be sold. The zeal of the Customs authorities was such that members of the Publications Control Board reported to the Minister of

the Interior that they could not handle the flood of material which was being submitted to them.^[15] Kahn has remarked:

Readers of modern literature will draw two inferences: that the enthusiasm of the Customs authorities is marked if not informed, and the enthusiasm of the Board is more restrained and somewhat more informed.^[16]

In 1964 the Customs Department announced that the prior submission of invoices by book dealers, with new titles listed separately, would minimize delays. Conspicuous labels to distinguish between hard-covered and paperback books were recommended. In addition booksellers were advised to obtain advance copies of books which they considered doubtful.^[17] Acting on this advice booksellers jointly submitted advance copies of books likely to be banned. This reduced the risk of booksellers and expedited the task of both the Customs authorities and the censors. Gradually the turmoil subsided, so much so that Mr. J. Douglas Duncan, president of the Book Trade Association of Southern Africa, told a Sunday Times reporter in January 1965:

I don't like the Publications and Entertainments Act any more today than I did previously, but within the terms of the Act, things now run much more smoothly.^[18]

Given the extent of the animosity which had been provoked by the events leading to the passing of the Publications and Entertainments Act, the remainder of the Dekker Board's five years as South Africa's superego

were to be, on the whole, remarkably uncontentious. Then again, that many South Africans became reconciled to the new censorship was not altogether extraordinary. Things could have been a lot worse. Very few local publications were restricted^[19] and the number of imported publications which were prohibited dropped from 635 in 1963 to 419 between 1 April 1966 and 22 February 1968.^[20] Political texts and the overseas published work of South Africans appear to have been scrutinized much as before. Conspicuous among the South African works banned by the new Board were books by Black writers - until the restriction of their books came to be superceded by the listing of the writers under section ten of the Suppression of Communism Act.^[21] In the Government Gazette Extraordinary of 1 April 1966, for instance, Todd Matshikiza, Ezekiel Mphahlele, Lewis Nkosi, Can Temba and others were listed in this way. Gordimer commented in 1968 that such restrictions had little impact on the reading public:

And South African writers? Few of those whose books have been banned are still living here. So neither they nor their books impinge upon our consciousness at all.^[22]

Even the right of appeal to the Courts appeared to have little influence on the policies adopted by the Dekker Board. The first appeal was in respect of Wilbur Smith's When the Lion Feeds, which appeared in the Government Gazette of 10 July 1964 as banned in terms of the Customs Act.^[23] One of the idiosyncrasies of the

new legislation was that the provisions relating to publications in the Customs Act were not repealed. This was not altered by the revised Customs and Excise Act of 1964.^[24] In practice, however, there was little difference between bannings under the Customs Act and Publications and Entertainments Act since the Customs Act was modified to incorporate the definitions of "undesirable" contained in Section 5 of the Publications and Entertainments Act, the Publications Control Board replaced the Minister and appeal to the Courts was permitted.^[25] Nonetheless, since the relevant sections of the Customs Act were not revised, a book banned before 1 November 1963 remained subject to the old (virtually unenforceable) laws regarding forfeiture and possession.^[26]

Following the prohibition of When the Lion Feeds, which was published in England, the publishers, William Heinemann Ltd, appealed to the Cape Supreme Court. The appeal came before Beyers J.P. and Diemont J., but since they disagreed on whether the appeal should succeed, the Court was reconstituted with Van Zyl J. added. The appeal was granted by a majority of two (Van Zyl J. and Beyers J.P.) to one (Diemont J.). The Publications Control Board appealed against this judgement and four months later, on 13 May 1965, the Appellate Division heard the appeal.^[27] By a majority of three (Steyn C.J., Holmes and Potgieter J.J.A.) to two (Rumpff and Williamson J.J.A.) the original decision of the Board

was restored. If the appeals are viewed as a whole, four judges upheld the decision of the Board and four rejected it. Reflecting on the implications of the courtroom adventure of When the Lion Feeds in Standpunte, Ellison Kahn, the co-editor of The South African Law Journal, wrote:

Bang went When the Lion Feeds. It is a pity that a work of greater literary merit did not provide the sacrificial lamb, for the public might have become more aware of what is happening. The three scenes in Lion that the majority - though not the minority - judges of appeal found undesirable in terms of the Act are no more worthy of stricture than scenes in numerous modern novels of high repute and wide circulation. Have not prevailing attitudes of mind been forgotten? If the judgement in Lion is carried into effect consistently and purposefully by the Publications Control Board, which operates by ex cathedra pronouncements without supporting reasoning, precious little of the output of many leading contemporary novelists will be legitimately in circulation.^[28]

When Mr. Smith's second novel was banned his publishers decided not to appeal on account of the mechanics being so slow and the costs so high.^[29] Wilbur Smith has since become an extremely popular novelist.

At the end of September 1965 two appeals were heard together before Snyman J. of the Transvaal Supreme Court.^[30] In accordance with the test laid down by the majority of the Appellate Division in When the Lion Feeds, in one matter the appeal was allowed and in the other the appeal was granted for five of the six publications at issue. In 1968 the Supreme Court again had cause to evaluate a decision of the Board. On the

grounds that certain passages were blasphemous or offensive to the religious convictions or feelings of a large number of inhabitants of the Republic and that certain passages were indecent an appeal against the prohibition of a recording of various folk songs, Folk on Trek, was dismissed by Ludorf J.^[31] No other appeals were heard between 1963 and November 1968, when Dekker's term of office expired.

In 1967 Parliament passed the Indecent or Obscene Photographic Matter Act which prohibited the possession of photographic matter depicting

[Sexual] intercourse, licentiousness, lust, homosexuality, lesbianism, masturbation, sexual assault, rape, sodomy, masochism, sadism, sexual bestiality or anything of a like nature.^[32]

Prosecution, on the insistence of the Attorney-General, was to be in the ordinary Courts of law and only in respect of photographic matter which had not been declared "not undesirable" by the Publications Control Board. While the Act reintroduced the crime of possession of specified "obscene" publications, it passed through Parliament without controversy. This was no doubt due to the Act requiring Supreme Court action and its having been applicable to "obscene" matter only.

In many ways, then, opposition to censorship was less intense than one might have expected given the depth of

feeling unearthed by the upheaval of the early 1960s. This impression was enhanced by Dekker's tactful avoidance of a confrontation with the Afrikaans writers and literateurs. André Brink's Lobola vir die Lewe was submitted to the Board, but the objection was not sustained.^[33] Brink subsequently expressed the opinion that the Censorship Board would not give any trouble to Afrikaans writers.^[34] Throughout the Dekker period, and for some time afterwards, this supposition remained valid.

b. Chill winds within the eye of the hurricane.

While the Dekker Board did not prohibit the work of Afrikaans writers and while in retrospect it may be said that censorship entered the eye of the hurricane, the conflicts within Afrikanerdom persisted, albeit in a muted and refracted form. That neither the Board nor the Minister were seriously implicated in these conflicts - despite some wild punches which were thrown at them - is a further indication of the extent to which the Dekker Board represented a compromise between the conflicting positions within Afrikanerdom. The catalyst for the re-emergence of the perennial dispute between those Afrikaans-speakers who emphasized morality and those who emphasized aesthetic considerations - "The Gods vs. the Shockers" as a newspaper expressed it^[35] - was the decision of the Akademie vir Wetenskap en Kuns to award the 1964 Hertzog prize for Afrikaans prose to

Etienne Leroux for his novel Sewe Dae by die Silbersteins. In contrast to the almost unanimous verdict of Afrikaans writers and professors of literature that Leroux deserved the Hertzog prize^[36] the "Gods" criticized the Akademie for their decision and the Publications Control Board for passing the work.

Rev. D.F.B. de Beer in his capacity as honorary secretary of the NGK's ad hoc Commission on Films and Culture, and supported by his own Public Morals Commission as well as the NGK's Organisation for Combating Social Evils, the Nederduits Hervormde Kerk's Council for Information on Social Problems, the Pretoria Afrikaanse Kultuurraad, the Bond van Dienaresse and the Suid Afrikaanse Vrouefederasie, sought an urgent interview with the Publications Control Board shortly before the presentation of the award on 27 June 1964.

The Sunday Times reported:

Mr. De Beer has made it clear that, when he gets to see the Publications Board, he will ask in the name of these thousands of religious-minded Afrikaners what it means by brushing aside their objections to Sewe Dae by die Silbersteins, André Brink's Lobola vir die lewe and the Italian film Bocaccio 70 which was first banned as undesirable and then passed by the Minister of the Interior, Senator De Klerk.^[37]

Speaking in support of Rev. De Beer, Rev. A.P.

Potgieter, Minister of the NGK in the Pretoria suburb of Capital Park, accused Leroux of making propaganda which was preparing the way and creating a breeding-ground for

communism. He also claimed that the award was a breach of trust on the part of the Akademie vir Wetenskap en Kuns since the constitution of the Akademie contained a clause providing that in the event of the Akademie being dissolved, the moderators of the three Dutch Reformed churches would become the adjudicators for the prize.

Rev. Potgieter asked:

Can you imagine these three moderators conferring the accolade on a book like Sewe Dae by die Silbersteins?^[38]

Mr. A.J. van Wyk, Vice-Chairman of the Publications Control Board responded to the accusations of the two clergymen by stating that the controversy over Sewe Dae by die Silbersteins was no concern of the Board. It was a controversy between certain Afrikaans cultural organisations and critics and no complaints against the book had been lodged with the Board, he said. He added that he was taking a purely personal interest in the discussion over the book, which he was reading.^[39]

All the while a "supporting bout" to the main fight over the Hertzog Prize was being conducted between Rev. Potgieter and Senator De Klerk in the correspondence pages of an Afrikaans newspaper. The first round commenced when Rev. Potgieter wrote to the newspaper to say how "bitterly disappointed" he was that, in Parliament, Senator De Klerk had stated his approval of the decisions of the Publications Board. In his letter Rev. Potgieter said that films like Bocaccio 70, Irma la

Doucé and The Balcony and a book like Lobola vir die Lewe, all of which had been passed by Dekker's Board, could "never stand up to the test of Christian ethics".^[40] In a brusque reply Senator De Klerk informed the dominee that if he and others did not agree with the decisions of the Board and felt strongly about it, they should take the matter to the Courts. Senator De Klerk stressed that he was in no way responsible for the decisions of the Board, and could only report to Parliament on what it was doing. Senator De Klerk added that if Rev. Potgieter was not happy with the Board's decision on Lobola vir die Lewe and did not want to fight it out in the Courts, he would be obliged if the dominee would criticise "the Board and not me in the Press".^[41]

On 13 June 1964, when the controversy over the Hertzog prize was at its summit, a further letter from Rev. Potgieter, together with a reply from Senator De Klerk, appeared in the same newspaper. Mr. Potgieter accused Senator De Klerk of trying to silence the campaigners for morality in books and films by leaving them with no redress against the Publications Board except through an appeal to the Courts, which might cost R20 000. Senator De Klerk replied that if a person took his complaint to the Courts and lost, he could hardly expect the defendant to pay for his miscalculation. The Senator added that the Board should not be expected to

subordinate its judgement to the wishes of some groups in the population. He concluded:

The Board serves the whole people and not only a section of it.^[42]

The Hertzog prize was awarded to Etienne Leroux as planned, but the "Gods" were not silenced. In October 1964 the literary journal Contrast assessed the situation as follows:

Since the application of censorship, regardless of the warnings and protests of those most sensitive and capable of wisdom in this matter, no Afrikaans book has yet been banned, though complaints have been laid against several publications. But the threat of censorship is already affecting publishers. A novel by André Brink, Orgie, has been withdrawn by a Johannesburg firm of publishers after it had been accepted and set in type. Stranger yet leading Afrikaans newspapers have handed over the editorship of their literary pages to members of the Censorship Board. Beyond these outward occurrences, leading writers have found it necessary to protest openly and to warn against the trends which they regard as inimical to their profession.^[43]

The André Brink novel referred to above was rejected for publication by the firm Afrikaanse Pers Beperk in August 1964 after it had been considered by the Board of Directors of which the Prime Minister, Dr. Verwoerd, was Chairman.^[44] Previously, in March 1963, Dr. Verwoerd had ordered an investigation into the publication by the same firm of Ingrid Jonker's prize-winning poetry collection Rook and Oker.^[45]

The open protest by "leading writers", mentioned in the above extract from Contrast, was against what the Sunday

Times termed a "major witch-hunt" of Afrikaaner intellectuals in the Transvaal.^[46] Prominent in the protest were Jan Rabie, W.A. de Klerk and Ingrid Jonker.

Jan Rabie said:

If the attempts to smother and discredit anything that is in any way critical of the blinkered ideologists and their 'yesmen' are not countered, they will cause great harm to the living growing soul of South Africa.^[47]

In his statement WA de Klerk made reference to an important appeal which had been made by the Chairman of the Publications Board:

I must deplore the increasing anxiety and consequent isolation of many of my people. It seems, indeed, that the more religious and church going we become the less faith we have. Professor Dekker has made an appeal to the public to understand the true function of the artist, of the writer, who is indeed the conscience of his time. Coming from the Chairman of the Publication Control Board this is good news, but do we fully realise the implications of this? Do we realise that it means allowing the poet, the novelist, the dramatist to break as many false gods as his words can reach?^[48]

Ingrid Jonker said:

Attempts to intimidate and victimise thinking people in all professions are being made, and have been made, especially in the last few months. Alarm and despondency particularly among writers, has been aroused...^[49]

This was the context in which Ingrid Jonker, poet, committed suicide.

Afrikaans writers were not alone in their insecurity. English-speaking South African writers became particularly perturbed after the banning of Wilbur Smith's When the Lion Feeds in July 1964 and the script of Lionel

Attwell's play Nothing But the Truth in August of the same year. In the words of Jack Cope, the impression was growing that South African English writers were "being harassed by censorship and pettyfogging charges and forced to squander money in expensive court action".^[50] These fears were not ungrounded. By May 1967 books by Nadine Gordimer (The Late Bourgeois World), Oliver Walker, Peter Abrahams, Kenneth Mackenzie, Brian Bunting, E.S. Sachs and Patrick van Rensburg (Guilty Land), all of whom were English-speaking South Africans, were banned by the Publications Control Board. At this time Senator De Klerk's successor as Minister of the Interior, Mr. P.M.K. le Roux erroneously stated in Parliament that no book by an English-speaking South African had been proscribed:

I want to tell the House that I have been informed that the Censorship Board has rejected not one English book from the pen of an English-speaking South African. In addition, not one English book written by an Afrikaans-speaking South African has been banned or disapproved by the Board.^[51]

During the period of the Dekker Board then, many writers, both English and Afrikaans-speaking, considered themselves to be under siege. Nonetheless, as the writer has suggested, in retrospect the Dekker period appears to have been a time of relative calm. Censorship in South Africa was going to get a lot "worse" before it would get any "better".

c. The Kruger Board.

In late 1968 Gerrit Dekker's five year term of office expired. He was replaced as Chairman of the Publications Control Board by Mr. J.J. Kruger on 16 January 1969. Jannie Kruger was a former assistant editor of Die Burger and had succeeded Verwoerd as editor of Die Transvaler, a position he held until he became cultural adviser to the SABC in 1960. From 1963 to 1967 he was the SABC's representative in Europe. In addition he was a founder member of the Rapportryers and a life-long member of the National Party.

As Chairman of the Publications Control Board, Kruger, a political bureaucrat, was caught between a fear of initiating a process that would stifle Afrikaans literature and the demand for stricter censorship from the Dutch Reformed Churches. In effect this meant that under Kruger's supervision the Board made more extensive use of its powers than had the previous Board, excepting that in respect of Afrikaans books Kruger preferred private maneuvers in the publishing industry.^[52] The question was: how long would he be able to walk the tightrope between the position of Afrikaans-speaking writers and that of the "Gods" at a time when contemporary themes were being explored in Afrikaans literature?

In an interview conducted during his term of office Mr.

Kruger said that the aim of his Publications Control Board was to enable South Africans to maintain their "rosy cheeks and sparkling eyes". Speaking on the SABC programme Top People in October 1971, he said:

We should like to see every boy and girl growing up in the full enjoyment of his and her senses. ... And go on growing up and keeping themselves capable of savouring the enjoyment of each stage right up to a ripe old age when they would still have rosy faces and sparkling eyes.^[53]

He said that he and his Board, which was composed of "completely wise and sophisticated persons", found it comforting that only a small minority of people were "exposed to the filth of the wide-open floodgates abroad". It was the essence of the Board's work, he said, that it should act without delay before "any damage can be caused by anything objectionable". He continued:

Nobody can or wants to stop the pace-making onset of inoffensive change and emancipation. We are not channeling anything to anybody, we are only warning of evil as envisaged by and provided for in the Act.^[54]

The hurricane was again in evidence. With censorship under Kruger's management the number of imported publications that were banned rose from 419 between 1 April 1966 and 22 February 1968 to 616 in 1969 while the number of prohibited local publications jumped from 12 in 1967 and 21 in 1968 to 63 in 1969.^[55] In July 1970, while addressing the topic "Censorship and Permission" at a leadership course organised by the

Afrikaanse Studentevereniging, Stellenbosch, Kruger warned that he foresaw more prohibitions on publications than ever before in South Africa over the following two or three years. He further predicted that the struggle against permissiveness and the undermining of moral values would become increasingly difficult.

Nonetheless, he said, South Africa stood a long way from having lost the battle against permissiveness and ostensibly, at least, was higher in its moral values than many fellow inheritors of Western civilization.

He continued:

Even if things became progressively worse in this country, our people could still carry the salvation, the direction and renewal of Western civilization in the purest form. The purer we, the older generation, and the younger people are, and the stronger our opposition to the evil, the better our chances will be to fulfill a call to the purity and reform of Western civilization, which now seems to be hesitating on its foundations. [56]

Mr. Kruger based his claim that the zealous pursuit of his duties could lead to the salvation of Western civilization on his belief that communism was behind "the undermining of morality and authority through sex, drugs, force, a racial integration and more", [57] all of which had Western humanity in their grip. He said:

The Communists know they have conquered their enemy when they have reached the marrow of his moral and orderly existence by this means and that the masses of the West will follow like clay on the wheel of the Communist potter. [58]

Four months later, in November 1970, Jannie Kruger directed his warnings at South African periodicals.

"We are living in such menacing times that there can be no question of indulgence", he said.^[59] He elaborated:

The Act provides that periodical publications can be banned in all future editions as soon as the edition has been found to be objectionable and the Board is of the opinion that subsequent editions are likely to be undesirable. This power has never been used by the Board. When involved in the case of a South African periodical it would be a harsh measure, meaning in fact the disappearance - or in the case of a successful appeal, at least a lengthy disappearance - of the periodical concerned. In some cases, one or several issues of a magazine have been banned. These periodicals therefore find themselves in the position where a ban of all future editions could be effected unless they comply with the provisions of the Act.

The purpose of my statement is to warn that the point of considering the banning of future editions is in sight. I sincerely trust that South African periodicals falling within the category mentioned will heed the tiny, but very real red light.^[60]

The power to deem "undesirable" every subsequent edition of a South African periodical, other than NPU newspapers, had been established by the Publications and Entertainments Amendment Act of 1969.^[61] Prior to this Act the Board's ability to ban subsequent editions of a periodical had been limited to imported publications.

At the same time that he addressed the publishers of local periodicals, Kruger warned that some producers of public entertainments had been "hovering on the brink of

what is passable".^[62] He continued:

They need to be warned that a telegraphic order can be served on them for the instantaneous closing of any show found by the Board to be objectionable in terms of the Act.^[63]

Perhaps the most spectacular instance of the Board exercising its power to terminate a public entertainment was the closure of Pact's production of Three Month's Gone in July 1972. The play had run for 35 performances and only five more were due. No reason was given.^[64]

As regards publications, Kruger was not mistaken in predicting that the number of prohibitions on publications would increase. In 1971 a relatively modest 528 publications were prohibited^[65] which led to speculation that the Publications Appeal Board might have been relaxing its control. Mr. J. Linton, a representative of Penguin and Pelican Books in Cape Town said:

There has definitely been a thaw in the Board's attitude. They seem to have realized that writing has changed over the past 20 years or so: We used to get quite a handful each week of additions to Jacobsen's Index of Objectionable Literature, lately this seems to have slowed to a trickle.^[66]

The "thaw" was not to last. During the following three years Mr. Linton would receive more additions to Jacobsen's Index of Objectionable Literature, a privately published list of proscribed books, than ever before. In 1972 910 publications were banned, in 1973 855 and in 1974 1059.^[67]

Cinematograph films were not exempt from this climate of extensive censorship. As will be discussed in the following chapter, in February 1971, at the request of Jannie Kruger, a bill which provided for the sheltering of the Publications Control Board from criticism in the censoring of films was introduced into Parliament. While the bill was abandoned it nonetheless indicates that with regard to the censorship of cinematograph films the Board sought to be unrestrained by public opinion. On this subject, in July 1972, Mr. Robert J. Howey, executive general manager of Kinekor, the leading distributing and exhibiting company of films in South Africa, said, "Dealing with the Publications Control Board over film censorship is like playing Russian roulette".^[68] He added:

At the moment you might feel that they were softening up, and proceed on that assumption, only to find that your next move was heavily tramped on by the Board. We have found their rulings to be inconsistent, arbitrary and bureaucratic.^[69]

The extent of film censorship was not so much evident in the number of outright prohibitions as in the number of films which were cut and/or restricted to certain audiences only. For instance, in the year in which Mr. Howey issued his statement, that is 1972, 79 full-length feature films were prohibited, 295 were approved subject to the excision of specified portions, 359 were approved for certain groups only and 233 were approved

unconditionally. In that year there were 55 appeals to the Minister against decisions of the Board (appeals against the bannings of a film were to the Minister). Of these, 15 of the decisions were altered by the Minister.^[70] By 1974 the statistics for full length feature films were as follows: prohibited 127, approved subject to excisions 383, approved for certain groups only 349, and approved unconditionally 207. 11 Appeals were upheld in 1974, one was partly upheld and 63 were rejected.^[71]

d. Appeals to the Court within the Kruger Period.

The wide ranging censorship of the Kruger Board was accompanied by an increase in the number of appeals to the Supreme Court against decisions of the Board. The first appeal during the Kruger period was that concerning Part IV of The Book of Life in 1969.^[72] Diemont J. and Tebbutt A.J. ruled that the publication of an article dealing with childbirth, sexual intercourse and similar sexual matters was permissible; it was only if the subject was dealt with in an offensive manner that the Act was contravened. Accordingly the ban was set aside.

Later in the same year the Publications Control Board declared that certain parts and all ensuing editions of the Book of Life were objectionable. On appeal to the Cape Provincial Division the Court ruled that, on the

audi alteram partem maxim, the Board was obliged to afford the applicant a fair hearing before coming to its decision.^[73] The Publications Control Board immediately lodged an appeal to the Appellate Division. In 1970 the higher Court (Rumpff JA, Steyn CJ, Botha JA, Trollip JA and Rabie AJA concurring) held that the Act disclosed a clear intention that the Board was not required to afford the respondent a hearing.^[74] The decision of the Board was therefore restored.

Also in 1970, the publishers of Scope, a sensationalist popular magazine, sought a Court ruling on account of a warning issued by the Board that certain passages in an edition of the publication were, in the opinion of the Board, undesirable and "could be banned".^[75] The publishers applied for an order declaring that the passages at issue were not undesirable but Van Wyk J held that as there had been no decision by the Board no such declaratory order could be issued.

Of the appeals to the Court during 1971 only one was dismissed. The unsuccessful application was in respect of the script of a musical play entitled It's a Colourful World which was a satirical condemnation of the Immorality Act.^[76] In dismissing the appeal Muller J held that it was the manner of criticism and not the fact of criticism which was harmful and undesirable. Of the successful applications all but

one were brought by the same applicant, Republican Publications. One of the Republican Publications appeals related to the first issue of Living and Loving^[77], the others to four issues of Scope^[78]. Time after time the Board declared editions of Scope to be "undesirable" and time after time the Courts reprieved them on the grounds that in determining "undesirability" regard should be had to contemporary standards of morality, current thought and prevailing attitudes of mind. One of these Scope appeals was confirmed by the Appellate Division after the Publications Control Board appealed against the decision of the Court of first instance.^[79]

The remaining appeal heard during 1971 revealed the Publication Control Board to be not only out of touch but also incompetent. In response to an application to the Natal Supreme Court to set aside a declaration of "undesirable" with regard to eight paintings by Professor Duckworth, the Professor of Fine Arts in the University of Natal, the Board admitted that the ban was invalid.^[80] As the paintings had been inspected by subcommittees of the Board and not by the Board itself, the Board purported to withdraw the prohibition. Fanin J held that the Board had no power under the Act to withdraw its decision and upheld the appeal.

As if it were intent on humiliating itself the Board prohibited a further issue of Scope and declared all

ensuing editions "undesirable" in 1972. Following an urgent application to the Supreme Court by Republican Publications, Leon J. ordered the Board to submit its reasons by the next day.^[81] In support of the prohibition of the particular issue the Board argued that a picture of a shirtless black male embracing a white female in a New York street was objectionable in that it portrayed intimacy between black and white persons. The Board also considered the picture to be contrary to the social and accepted standards in the Republic and offensive to those sections of the public opposed to integration.^[82] The cover photograph and certain other photographs in the particular issue were also cited as being calculated to stimulate sexual desire in the male youth with the likely effect of depraving or corrupting his mind. The banning of all ensuing editions was justified by the escalating exposure of female flesh in successive issues of the magazine. Pictures of topless girls clutching their breasts with both hands as if to shield them from view were considered particularly provocative. In short the magazine had departed on an increasingly objectionable course and was likely to have a tendency to deprave or corrupt the minds of a large number of its readers.^[83] On 12 May 1972 Leon J upheld the appeal. As will be seen in Chapter Five, both this appeal and the events leading to the Duckworth appeal of 1971 were to crystallise unprecedented criticism of the Publications

Control Board.

In 1973 an appeal against a banning of Scope again succeeded.^[84] In the same year two issues of Brandwag were reprieved while six other appeals were unsuccessful.^[85] In 1974 two appeals were upheld, one rejected and in five cases the prohibition was lifted before the appeal was decided. The one appeal which was rejected was in respect of the first novel by an Afrikaans-speaking writer to be banned by the Publications Control Board; André Brink's Kennis van die Aand.^[86] Jannie Kruger had been forced to decide between Afrikaans literature and the "Gods".

Nearly a year after publication and after the first edition had sold out André Brink's Kennis van die Aand was prohibited on 29 January 1974, by notice in a Government Gazette Extraordinary of one page, which was published solely for this purpose. Die Burger commented that this was probably the first time that a Government Gazette had been published only for the banning of a book.^[87] Kennis van die Aand had been submitted to the Board by Ds. J.J. Swart of the Parow NGK.^[88] Ds. Swart was supported in this act by Dr. J.D. (Koot) Vorster, Moderator of the General Synod of the NGK and brother of the Prime Minister, Mr. John Vorster. After the publication of the prohibition Dr. Vorster described the book as "septic art" and said that if Brink's novel was art, "then a whore-house is a

Sunday school".^[89] Ds. D.P.M. Beukes, Chairman of the FAK, also wholeheartedly agreed with the Board's decision:

Ons stem almal 'n hoë premie op vryheid, ook vryheid in die kuns. Maar daar is geen vorm van vryheid wat in 'n ordelike en veral 'n Christelike staat toegelaat kan word om met roekelose gebrek aan verantwoordelikeheid gepaard te gaan nie.^[90]

On the other hand Mr. John Miles, Chairman of the Johannesburg Afrikaanse Skrywerskring, said he was extremely distressed. He had hoped that the public protest from so many different quarters would have prompted the Board to reconsider, he told Die Burger.^[91] Similarly, at a public protest on 31 January 1974, Mr. Ampie Coetzee stated:

Ons moet besef dat ons nou die derde Afrikaanse taalstryd binnegaan. Die keer is die gevaar egter nie van buite nie maar van binne.^[92]

With the assistance of contributions from the public the matter was taken on appeal before the Cape Provincial division. In that it was a test case for Afrikaans literature this appeal was one of the most important to be taken before the Court. The proceedings commenced on 5 August 1974 and on 1 October judgement was given by the presiding judges, Van Wyk JP, Diemont J and Steyn J. The grounds upon which the book had been declared undesirable were that:

(1) parts of the book were blasphemous or offensive to the religious feelings of a section of the inhabitants of the Republic as contemplated by section 5(2)b of the Act, (2)

parts of the book were indecent or obscene or offensive or harmful to public morals as contemplated by section 5(2)a, read with section 6, (3) other parts of the book were outrageous or disgusting to many readers and (4) parts of the book were harmful to relations between sections of the inhabitants of the Republic and prejudicial to the safety of the State, the peace and good order and dealt in an indecent manner with the ill-treatment of non-Whites as contemplated by sections 5(2)(d) and (e) and 6. The story of the book concerned a Coloured actor who grew up on a farm and then made his way to the city. After he had been to university he went overseas as a drama student and returned to his own country after several years. He committed a murder and from the death cell relates the story of his life.^[93]

The judges concurred that as the book contained descriptions of sex scenes which were linked to religion, the book was offensive to the religious feelings of a section of the inhabitants of the Republic in terms of section 5(2)b of the Act. Van Wyk JP held further that

[The] book was also indecent, obscene and offensive and harmful, not only as these terms are defined in the Act, but also according to the ordinary meaning thereof. The book, further had the tendency to deprive or corrupt the minds of a substantial number of persons who were likely to read it and it was likely to be outrageous and disgusting to a substantial number of likely readers. In addition the book dealt in an indecent manner with horror, murder, drunkenness, lust passionate love scenes, sadism and similar phenomena. The book also brought a section of the inhabitants of the Republic, the Whites, into contempt.^[94]

In contrast Diemont J and Steyn J were more restrained. Diemont J held that due regard being given to the literary quality and complicated style of the book, the readership thereof would be limited to people with a

serious interest in the art of the novel. Moreover the book was not blasphemous in the legal sense and would not appear blasphemous to the "hardened" reader. Nonetheless the Board was entitled to declare the book undesirable in terms of Section 5(2)(b), but only on the grounds that it was offensive to the religious feelings of a section of the inhabitants of the Republic and not on the grounds that it would be harmful to relations between sections of the inhabitants, or affect the safety of the State, or the general welfare, peace and good order.^[95] Steyn's judgement paralleled that of Diemont.

The gulf between Diemont and Steyn, on the one hand, and Van Wyk on the other, indicates that a diversity of opinion was represented on the Bench. Even so, the law being what it was, the judges were in agreement that the appeal be dismissed. As a consequence of the financial loss incurred in the publishing of Kennis van die Aand Buren Publishers were put out of business.^[96]

On the same day that judgement was given in the Kennis van die Aand appeal, that is 1 October 1974, the State President gave his consent to the Afrikaans version of the Publications Act^[97] which thereby became law. The complex web of events which led to the passing of this Act - which replaced and repealed the Publications and Entertainments Act^[98] and, when it came into operation

on 1 April 1975, abolished the Publications Control Board - is the subject of Chapter Five.

After the enactment of the Publications Act two appeals against decisions of the Publications Control Board went to the Appellate division. In May 1975 Jesus Christ Superstar was deemed to be offensive to the religious feelings of a section of South Africa's population^[99] and Naked Yoga was found to be not objectionable and a publication of a scientific nature.^[100]

e. The legacy of the Publications Control Board.

During its decade of existence under the Publications and Entertainments Act the Publications Control Board prohibited over 8768 publications.^[101] The list of banned books for this period includes works by Kingsley Amis, Vladimir Nakobov, Norman Mailer, John O'Hara, James Baldwin, Bernard Malamud, Edna O'Brien, John Updike, Frederic Raphael, Joseph Heller, Robert Purdy, William Burroughs, Erica Jong, Langston Hughes, Doris Lessing, Paul Theroux, Truman Capote, William Faulkner, Alan Sillitoe, Sinclair Lewis, William Styron, Alison Laurie, Philip Roth, Jakov Lind, J.P. Donleavy, Kurt Vonnegut, Jack Kerouac, Joseph Kessel, Simone de Beauvoir, Jean-Paul Sartre, Romain Gary, Alberto Moravio, Carlos Fuentes, Roger Peyrefitte, Jean Genet, Françoise Mallet-Jorris, Junichiro Tanazaki, Alain

Robbe-Grillet, Colette, Nikos Kazantzakis, Jean Cocteau, Alfred Jarry, Italo Calvino, Vasco Pratolini, Vladimir Mayakovsky, Marguerite Duras and James Matthews.

The banned non-fiction books include works by Herbert Marcuse, Oscar Lewis, Salvador Allende, Willheim Reich, Louis Althusser, Leszek Kolakowski and Georg Lukàcs, as well as Mary Benson's The African Patriots, Colin and Margaret Legum's South Africa : Crisis for the West, Nelson Mandela's No Easy Walk to Freedom, Kenneth Kaunda's Zambia Shall Be Free, Tom Mboya's Freedom and After, HJ Simon's The Legal Status of African Women, Franz Fanon's The Wretched of the Earth, Leo Kuper's An African Bourgeoisie and Eddie Roux's Time Longer than Rope. 53 Publications which had been banned prior to 1963 were unbanned by the Board before 1972. These books include Francoise Sagan's Bonjour Tristesse, James Clavell's King Rat, Grave's I Claudius, Saul Bellow's The Adventures of Augie March, Zola's The Beast in Man, Raymond Chandler's The Long Goodbye, Sartre's The Age of Reason, Mailer's The Deer Park and Alberto Moravia's The Time of indifference.^[102] These 53 publications represent only 0,6% of the publications banned before 1963.

The 678 films totally prohibited by the Board include Bonnie and Clyde, Belle de Jour, Guess Who's Coming to Dinner, Sidney Poitier's In the Heat of the Night, Easy Rider and the political documentary Land Apart. The

3 440 films which were admitted only after the excision of specified portions include The Graduate, MASH, Love Story, Breekpunt and The Lady in the Car with Glasses and a Gun. 3 259 films were restricted to audiences of a specific race or class.^[103]

REFERENCES AND NOTES

CHAPTER FOUR

- 1 Kafka, F. The Trial. Page 162.
- 2 Hepple, A. (Ed.). Forward. September, 1964.
- 3 Natal Mercury. 14 February, 1963.
- 4 Opperman, D.J. "Afrikaans". Standard Encyclopaedia of Southern Africa. Page 148.
- 5 Daily News. 16 May, 1963.
- 6 Ibid.
- 7 Sunday Times. 19 May, 1963.
- 8 Ibid.
- 9 Ibid.
- 10 Ibid.
- 11 Cope, J. The Adversary Within. Page 76.
- 12 Van Rensburg, F. Sensuur. Page 132.
- 13 Daily News. 31 October, 1963.
- 14 Standpunte. December, 1953. Page 13.
- 15 Survey of Race Relations: 1964. Page 41.
- 16 Kahn, E. "When the Lion Feeds - And the Censor Pounces". South African Law Journal. Vol. 83, 1966. Page 309.
- 17 Survey of Race Relations: 1964. Page 42.
- 18 Sunday Times. 10 January, 1965.
- 19 The Minister of the Interior, House of Assembly, 8 April 1969 gave the following numbers of banned local publications: 12 in 1967 and 21 in 1968.
- 20 Minister of Finance. Hansard. 27 February. 1968.
- 21 Act No. 97 of 1965.
- 22 Gordimer, N. "South Africa: Towards a Desk Drawer Literature". The Classic. Vol. 2, No. 4, 1968. Page 66.
- 23 Act No. 9 of 1913 as amended.
- 24 Act No. 91 of 1964.
- 25 See Kahn. Op cit. Page 296.
- 26 Daily News. 31 October, 1963.
- 27 Publications Control Board v William Heinemann Ltd. 1965 (4) S.A. 137 (AD).
- 28 Kahn, E. "The Dirty Books we have Banned". Standpunte. Vol. 20, No. 4, page 39.
- 29 Survey of Race Relations: 1965. Page 42.
- 30 SA Magazine Co (Pty.) Ltd. v Publications Control Board. 1966 (2) S.A. 148 (T).
- 31 Lindberg v Publications Control Board. 1968 (4) S.A. 311 (W).
- 32 Act No. 37 of 1967.
- 33 Kahn, E. "When the Lion Feeds - And the Censor Pounces". Op cit. Page 312.
- 34 Gordimer. Op cit. Page 69.
- 35 Sunday Times. 14 June, 1964.
- 36 Ibid.
- 37 Ibid.
- 38 Ibid.
- 39 Sunday Times. 21 June, 1964.
- 40 Sunday Times. 14 June, 1964.

- 41 Ibid.
- 42 Ibid.
- 43 Contrast. Vol. 3, No. 2, 1964. Page 87.
- 44 Sunday Times. 16 August, 1964.
- 45 Sunday Times. 17 March, 1963.
- 46 Sunday Times. 23 August, 1964.
- 47 Ibid.
- 48 Ibid.
- 49 Ibid.
- 50 Sunday Times. 19 July, 1964.
- 51 Natal Witness. 2 May, 1967.
- 52 See Cope. Op cit. Page 77.
- 53 Sunday Tribune. 10 October, 1971.
- 54 Ibid.
- 55 Survey of Race Relations, 1969, page 38 and 1970, page 35.
- 56 Natal Mercury. 17 July, 1970.
- 57 Ibid.
- 58 Ibid.
- 59 Daily News. 24 November, 1970.
- 60 Natal Mercury. 25 November, 1970.
- 61 Act No. 85 of 1969.
- 62 Natal Mercury. 25 November, 1970.
- 63 Ibid.
- 64 Survey of Race Relations: 1973. Page 65;
- 65 Survey of Race Relations: 1972. Page 81.
- 66 Natal Mercury. 26 March, 1972.
- 67 Survey of Race Relations: 1973, page 65; 1974, page 72; 1975, page 47.
- 68 Daily News. 21 July, 1972.
- 69 Ibid.
- 70 Survey of Race Relations: 1973, page 65; 1974, page 72; 1975, page 47.
- 71 Survey of Race Relations: 1975. Page 47.
- 72 Marshal Cavendish v Publications Control Board 1969 (4) S.A. 1 (C).
- 73 Central News Agency v Publications Control Board 1970 (2) S.A. 290 (C).
- 74 Publications Control Board v Central News Agency Ltd. 1970 (3) S.A. 479 (AD).
- 75 Republican Publications (Pty.) Ltd. v Publications Control Board 1970 (1) S.A. 577 (C).
- 76 Pillay v Publications Control Board (3) 1971 (2) S.A. 243 (N).
- 77 Republican Publications (Pty.) Ltd. v Publications Control Board (4) 1971 (2) S.A. 529 (C)
- 78 Republican Publications (Pty.) Ltd. v Publications Control Board (2) 1971 (2) S.A. 162 (D) and Republican Publications (Pty.) Ltd. v Publications Control Board (3) 1971 (2) S.A. 243 (N).
- 79 Publication Control Board v Republican Publications (Pty.) Ltd. 1972 (1) S.A. 288 (AD).
- 80 Duckworth v Publications Control Board 1971 (4) S.A. 436 (N).
- 81 Republican Publications (Pty.) Ltd. v Publications Control Board 1972 (3) S.A. 562 (D).
- 82 See Suzman, A. "Censorship and the Courts".

- South African Law Journal. Vol. 89, 1972.
Page 206.
- 83 Ibid.
- 84 Republican Publications (Edms.) Bpk v Raad van
Beheer oor Publikasies 1973 (4) S.A. 549 (D).
- 85 Survey of Race Relations: 1975. Page 47.
- 86 Buren Uitgewers (edms) Bpk. en 'n ander v Raad van
Beheer oor Publikasies 1975 (1) S.A. 379 (C).
- 87 Die Burger. 31 January, 1974.
- 88 Ibid.
- 89 Natal Mercury. 31 January, 1974.
- 90 Die Burger. Op cit.
- 91 Die Burger. 1 February, 1974.
- 92 Ibid.
- 93 Buren Uitgewers. Op cit. Page 379.
- 94 Ibid. Page 380.
- 95 Ibid.
- 96 Cope. Op cit. Page 133.
- 97 Act No. 42 of 1974.
- 98 Act No. 26 of 1963.
- 99 Publications Control Board v Gallo (Africa) Ltd.
1975 (3) S.A. 665 (A.D.).
- 100 Publications Control Board v Central News Agency
Ltd. 1977 (1) S.A. 717 (A.D.).
- 101 This figure is up to August, 1974. Survey of
Race Relations: 1974. Page 72.
- 102 Hansard: Questions and Answers. 18 February,
1972.
- 103 These figures are deduced from Hansard: Questions
and Answers, 11 February, 1972; and Survey
of Race Relations: 1973, page 65; 1974, page 72;
1975, page 47 and 1976, page 147.

CHAPTER FIVE : THE PUBLICATIONS ACT

"It's most likely a plastic swan", said Jock Silberstein, uneasy with the knowledge that patterns repeat themselves, that each event tends to recur in its own image.

Etienne Leroux, To a Dubious Salvation.^[1]

The events which precipitated the enactment of the Publications Act^[2] can be read as a restaging of the tragicomedy which culminated in the ratification of the Publications and Entertainments Act.^[3] In both cases there was agitation from the "Gods" for a more strenuous censorship; there was widespread opposition, including open dissent within the ranks of Afrikaner Nationalism, to the specific proposals of the "Gods" as well as to any unrestrained censorship; censorship Bills were abandoned in the face of condemnation; and, despite this opposition, re-drafted Bills were given the assent of the State President. Nonetheless the first and second appearances of this pattern of events were not identical.

The "low budget" re-enactment was both more tragic and more comic. It was more tragic in that the Publications Act,^[4] which abolished the appeal to the Supreme Court, provided for more extensive censorship than had its predecessor despite evidence that, even with the constraining presence of the Court, the Publications Control Board had been inclined to abuse its powers. It was more comic in that the Bill which was withdrawn was so ill-conceived that it would have had

little chance of being enacted, condemnation or no condemnation. Moreover it was the investigations which preceded the drafting of the Publications Bill by the Kruger Commission which provided the most damning evidence against the Publications Control Board. The mere repetition of the cycle of events at a time when censorship was on the decline in the Western world, not to mention the farcical nature of the report submitted by the Kruger Commission, further emphasized both the tragic and comic dimensions.

a. Yet more Censorship?

The first indication that censorship might be made more extensive was in May 1969 when the Minister of the Interior, Mr. S.L. Muller, cast doubts on the ability of the judiciary to adjudicate in matters of censorship. The "Gods" had never favoured the right of appeal. Senator De Klerk's inclusion of this right into the Publications and Entertainments Bill had been part of an attempt to ameliorate largely "Gods" inspired proposals in order to render them more palatable to those who had reservations with regard to censorship. As was demonstrated in the previous chapter, in June 1964, barely seven months after the Publications and Entertainments Act^[5] came into operation, the hostility of the "Gods" to the appeal process reemerged. While Senator De Klerk brusquely dismissed their agitation in this regard, his successor as Minister of the Interior,

Mr. S.L. Muller, was more accommodating. Evidently the Department of the Interior either assumed that the supporters of Afrikaans literature had been brought into line or it was again prepared to risk alienating significant sectors of the Afrikaans literary establishment.

In May 1969, during the course of the second reading of the Publications and Entertainments Bill, Mr. Muller addressed the right of appeal to the Courts.

My modest opinion is that there is no one in South Africa, from the Chief Justice down - and I say this without detracting from anyone's good judgement - who is better able to decide on these matters than the Publications Board itself... But I must say in all honesty, and with all respect to our judiciary, that I do not believe that our judiciary is in a better position than the Publications Board to make a decision.^[6]

On 3 September of the same year, at the Cape Provincial Congress of the National Party held at Port Elizabeth, the Minister returned to the same theme when he said that he was considering abolishing the right of appeal to the Supreme Court:

I have the greatest respect for our Courts, but I think the Board is better equipped to decide on what is morally acceptable to the people. I feel the Board is better equipped to judge these matters than a judge sitting on his own.^[7]

The reason given by the Minister for the possible abolition of the appeal was not convincing. This has been succinctly argued by Arthur Suzman Q.C., the Chairman of the South African PEN centre:

If it is considered that our judges are not sufficiently skilled to decide what constitutes an 'undesirable publication', the Act should be amended so as to provide that in proceedings before the Courts evidence of the opinions of experts should be admissible.^[9]

The Natal Witness reported that even Cape and Transvaal Nationalist MPs who had been questioned by a staff reporter were "seriously sceptical" of the Minister's announcement:

One verligte MP warned that it could be one of the most drastic and far-reaching steps yet taken by the Government in this field.^[9]

The report continued:

If Mr. Muller's suggestion is finally accepted by Parliament it would, in effect, make the Publications Control Board the final and only arbiter of reading matter, other than newspapers, in South Africa. It would also negate public assurances given by Senator Jan de Klerk, when he piloted the Bill through Parliament, that the Courts would always be the final arbiter of Publications.

However I understand that Mr. Muller reluctantly mentioned the measure at the Cape Congress after 'great pressure' on him from some members of the Board. I learn these members were unhappy over recent Court decisions upsetting the Board's verdict on among others, the Book of Life series.^[10]

The same newspaper reported that André Brink, Jack Cope, W.A. de Klerk, F.A. Venter, Uys Krige, Etienne Leroux and others had all rejected the Minister's announcement in what was described as "clearly the sharpest reaction from the literary world" since the submission of the petition in protest against the Publications and Entertainments Act six years previously.^[11] Etienne

Leroux, who in 1964 had described himself as a churchman and a Nationalist^[12], is reported to have said:

I reject it completely. In the rest of the world writers are getting more and more freedom and it is strange that we are moving in the direction of more restrictions.^[13]

Nonetheless, for entirely different reasons to those of Mr. Muller and the "Gods", certain judges were not entirely comfortable with the appeal to the Supreme Court. Sitting in the Appellate Division in the When the Lion Feeds appeal, Rumpff J.A. pointed out that the appeal to the Supreme Court was not an appeal in a legal sense. Neither was it a review for illegality or irregularity.^[14] In effect the Court was required to adjudicate the publication on appeal and give the decision which, in the opinion of the Court, the Board, an administrative body, should have given. Rumpff J.A. stated that such a purely administrative role was fortunately seldom if ever entrusted to the Supreme Court:

The performance of such administrative work is the privilege of the Executive Government, and is intrinsically alien to the character of the Supreme Court.^[15]

Williamson J.A. concurred with this assessment of the function of the Court under the Act when he described the Court of first appeal "as a type of super censorship Board".^[16] It is important to note that these judges were not objecting to the Court's involvement in censorship matters, but to the nature of this involvement.

In reviewing the statements of those judges who were dissatisfied with their censorship duties, Kahn conceded that their position had a "certain attractiveness". Nonetheless, in his opinion, the removal of the appeal to the Supreme Court would have been, on balance, a retrograde step:

There are two great merits in an appeal to the judges, albeit they act in a sense administratively as a Board of censors. The first is that they bring to bear on any question minds trained to concentrate on relevant considerations and as far as possible - we are all in bondage to some degree to our beliefs, upbringing, experiences and psychological make-up, as Williamson J.A. pointed out - divorced from prejudices and preconceived notions. The second and possibly more important merit, is that judges give reasons for their decisions. Nothing is more calculated to give a person pause before making an order than the necessity to justify it on rational grounds. Nothing is more galling than to have out of the blue an administrative fiat slapped down before one that prescribes what one may or may not read. There is an unconscious and no doubt unintended affectation of superiority in the ex cathedra pronouncements of an administrative censor that promotes a disrespect for his conclusions among persons of cultivation, who refuse to consider themselves sheep to be led by any goat, however patriarchal and venerable. [17]

In the first week of February 1971, by which time Mr. Theo Gerdener had been appointed Minister of the Interior, a Publications and Entertainments Amendment Bill was published. While the Bill did not address the appeal to the Supreme Court it was manifestly an attempt to shelter the Publications Control Board from criticism

and to extend its jurisdiction at a time when Jannie Kruger had threatened that censorship would become stricter. The Bill, which was drawn up seven months before its first reading at the request of Jannie Kruger, [18] proposed that it be an offence to publish details of a film prior to the film being viewed and passed by the Board. Film studios would also be prohibited from screening a film prior to censorship to anyone not directly concerned with the making of the film. The Bill further proposed that it be an offence to publish details of any excisions imposed on a film by the Board.

Newspapers, including the Sunday Tribune[19] and the Natal Mercury[20] reported that these provisions were a response to criticism of the Publications Control Board:

It was understood today that the main reason for the new legislation was the fact that film producers, especially South African ones, had in the past released details of banned scenes and cuts made by the Board to newspapers. As a result of this the Board has, in the past, been sharply criticized by newspapers, including Nationalist ones. This happened especially in the case of films such as Katrina and Debbie. In the case of Die Kandidaat the Board was especially sharply criticized and eventually the film was released without cuts, which had previously been banned. [21]

Mr. L.G. (Lionel) Murray, Chairman of the United Party's Interior Group and a leading opposition spokesman on censorship, observed that in terms of the draft legislation anyone who wrote about a film would be liable to prosecution if the Board subsequently decided

to ban the film. Reviews of banned films in overseas magazines would also be a contravention he said.

Lionel Murray concluded that the measure was directed at avoiding criticism of the Board because no one would know what it was doing.^[22] Die Vaderland conceded that the proposed measure would muzzle the Press.^[23]

In addition to the above provisions the Bill proposed that the Publications Control Board be empowered to investigate possible contraventions of the Publications and Entertainments Act on its own initiative, without first waiting for a complaint. In this regard the Board would be empowered to appoint what newspapers were quick to dub a "snooper corps".^[24] The Sunday Tribune reported that the reading of the Bill precipitated "a deep and serious division" in National Party ranks.^[25] "One thing is clear", the newspaper stated,

[the] Bill is a major concession to right-wing elements within the National Party and strangely, to the Hersigte Nasionale Party and its ilk. The HNP, particularly, has put up a sustained and penetrating attack on what was alleged to be increasing permissiveness allowed in films by the Board. This Bill makes their wildest dreams come true.

In 1968 one of the first acts of recalcitrant Nationalists before the split was to protest against the film Million Dollar Brain in a pamphlet that alleged a communist conspiracy.^[26]

In the same report the The Sunday Tribune stated that a number of Nationalist MPs had privately approached the Deputy Minister of the Interior, Dr. S.W. van der Merwe, to suggest that the more controversial aspects of the Bill

be reconsidered.^[27]

In an interview in Cape Town on 2 February Dr. Van Der Merwè indicated that "the Government might soften some of the extremely tough provisions of the Bill". He added that the Government was "not totally committed to any legislation placed before Parliament". A final decision would be made only after the Members of Parliament had exercised their democratic right to discuss the legislation and its implications.^[28] It is not surprising that the Government was not totally committed to the Bill. From any perspective, except perhaps that of Mr. Jannie Kruger, the Bill was more trouble than it was worth.

In March the Bill came up for its second reading. In the course of this reading Dr. Van Der Merwe announced that there was no censorship in Southern Africa - prompting "laughter and gasps of disbelief" from opposition benches - only control. Censorship unlike control, he said, was final. There was no appeal against it and no machinery for appeal.^[29] He also gave notice of certain amendments to the Bill. No longer would the Bill prohibit comment on any film not yet approved by the Board: rather any person submitting a film to the Board for approval for public exhibition would be prohibited from doing anything to "influence" the Board or the Minister in their judgement. With regard to persons who had not submitted a film, the

Deputy-Minister warned:

If in future other people deliberately try to influence the Board while it is busy with its deliberations, then I want to make it clear, there will be no hesitation in extending this provision to include these people."^[30] In addition, in accordance with the revision of the Bill, the "snooper corps" would be appointed by the Minister and not the Board. The revised Bill stated:

Any person, including any member of the Board, authorised thereto in writing by the Minister, whether generally or specifically ... may seize any publication or object appearing to afford evidence of a contravention of any provision of this Act.^[31]

On 13 March the Bill passed its second reading.

On 1 July 1971 it was divulged at the annual meeting of the Suid Afrikaanse Akademie vir Wetenskap en Kuns that two private memoranda had been sent to Dr. Van Der Merwe on 11 and 25 March of that year. The second memorandum followed discussions between Dr. Van Der Merwe and an Akademie deputation consisting of Professor G. Naude, Professor W.E.G. Louw and Mr. D.J. van Niekerk. In the memoranda and discussions the Akademie had stressed that while the Akademie admitted the necessity of control, those exercising it should be authoritative people with a highly developed sense of judgement. If a censor was unable or not prepared to face censorship himself, the Akademie argued, he should not be one.^[32] This was clearly an attack on both the proposed amendment Bill and the Publications Control Board.

In September 1972, by which time it was evident that the Bill had been withdrawn, the General Manager of Ster, Mr. Sandro Pierotti disclosed that had the Bill been enacted two leading film distribution companies, Ster and Kinekor, would have been "quite prepared" to shift their Johannesburg headquarters to Swaziland or Lourenco Marquês.^[33]

b. Further Complications.

Starting almost concurrently with the second reading of the amendment Bill and peaking a year later the actions of the Publications Control Board prompted unprecedented criticism. Whether it was this criticism that caused the Bill to recede from the Parliamentary agenda is not clear. The Bill would probably have been withdrawn anyway. Dr. Van Der Merwe had stated that the Government was not totally committed to it and, besides, it was manifestly ill-conceived. Nonetheless such was the nature and extent of the opposition to the Board during this period that one might have expected the Government to abandon any further attempts to enact censorship legislation.

On 5 April 1971 Mr. Justice Kowie Marais of the Transvaal Bench announced his support for a campaign, organised by the South African Association of Arts, against the banning of eight paintings by Professor Aidran Duckworth. The banning order was, he said,

[a] serious infringement of the right of free artistic expression and cannot be allowed to stand as a precedent without a determined effort to have it set aside by the Supreme Court...

It is a privilege for me, and a duty, to make the first contribution to the fund for combating with every lawful means actions of this kind.^[34]

Mr. Marais also announced that he would recuse himself from censorship cases. Marais J.'s statement would not have been made lightly.

Mr. Marais's actions did not go unchallenged. On 14 April Dr. Koot Vorster announced that the General Synod of the NGK had already passed a resolution calling for the establishment of a special Court of Appeal presided over by authorities in various fields in the place of the appeal to the Supreme Court. He said that a church delegation had already discussed the matter with Dr. Van Der Merwe. He added that Mr. Justice Kowie Marais had merely proved the "wisdom" of the synod's stand.^[35]

In a letter to Die Burger Dr. Vorster expanded on this point:

Is this really true? Isn't the Bench a Court of Appeal in such (censorship) cases? Is it appropriate that a judge should become trustee of such a fund? And is this the way the work of the Publications Control Board is being looked upon by certain people who have to judge its decisions?

I am convinced that a storm of protest will come from the country. How can the Publications Board do its work in these circumstances?^[36]

Die Burger also received a letter protesting against Mr. Marais's actions from Mr. A.J. Lategan, the Cape Attorney

General's assistant.^[37] On 21 May 1971 Marais J. was attacked in Parliament by Mr. Louis le Grange (NP, Potchefstroom). Mr. Le Grange said:

We have here unfortunately the situation that one of the honourable judges of the Bench climbs down into the political arena. He goes further, among other things, to^[38]

At this point the Chairman of the House, Mr. J.H. Visse, called Mr. Le Grange to order.

At the same time that Mr. Justice Marais announced his support for the anti-censorship campaign and as part of the same campaign Professor Walter Battiss, head of the Department of Fine Art at Unisa, unveiled Miss South Africa of the Future, a doll which he had created "to symbolize the shattering effects of South African censorship on the human senses". He said:

She has no ears, no eyes, no mouth, no breasts and her fingers are turning into a pair of scissors. She doesn't think any more since the Publications Control Board does all her thinking for her.^[39]

Two months later a petition in protest against the "arbitrary and unrealistic" censorship of the Publications Control Board, signed by 40 000 South Africans, was presented to Dr. Schalk van der Merwe by Mr. Vause Raw (UP, Durban Point). Never before had the opposition to censorship in South Africa been rendered so manifest. The signatories included Dr. G. Bozzoli, vice-chancellor of the University of the Witwatersrand; Professor Ernst van Heerden, poet and head of the

Department of Nederlands/Afrikaans at the same University; Professors Battiss, Hugo and Lewa of Unisa; the Most Rev. D.E. Hurley, Roman Catholic Archbishop of Durban; Mr. A. Boraine, President-elect of the Methodist Church of South Africa; Mr. John Rees, General Secretary of the South African Council of Churches; the Rev. Beyers Naude, Head of the Christian Institute; Mr. F.G. van Wyk, Director of the South African Institute of Race Relations; Jan Rabie; Marjorie Wallace; Jean Welz; Uys Krige; Leon Rousseau; Koos Human, Etienne Leroux and Bokkie Basson.^[40] The petition, which Mr. Raw said reflected spontaneous and widespread resentment to an unrealistic and outmoded approach to art and literature",^[41] provoked controversy among both proponents and opponents of censorship.

On 20 February 1971, while the petition was in progress, Rev. J.S.W. Bond of the Assembly of God church warned that a vociferous, highly vocal and skillful minority was organising public opinion for their own ends and if they were to get their way all censorship of literature, films or the stage would cease. He said:

Communist propaganda attempts to break down cultural standards of morality by promoting obscenity, degeneracy; promiscuity and homosexuality and presenting such things as normal, natural and healthy.^[42]

In a letter circulated to newspapers Rev. Bond, Dr. Koot Vorster, Dr. J.S. Gericke, Vice-Chancellor of the University of Stellenbosch, and others alleged that the

petition was a propaganda campaign with a "liberalistic objective" which "chimes well with the aims of communism".^[43] The organiser of the petition, Mr. Jack Noble, a resident of Mr. Raw's constituency, challenged Dr. Vorster to prove

[any] of his smearing attempts to connect the National Petition for Realistic Censorship with communism or pornography. Communism is anathema to me for the simple reason that it attempts to control people's minds in the same fashion as Dr. Vorster and the official censors attempt to do here.^[44]

He added that the petition was for realistic censorship, not its absolute elimination.

Objections of the kind raised by Rev. Bond and his collaborators were to be expected. More surprising is the dissent with regard to the petition among opponents of censorship. In March newspapers reported that many prominent supporters of the petition, including NUSAS and Alan Paton, had withdrawn their support from the campaign as they rejected a "White signatures only" ruling.^[45] Mr. Noble explained that the Committee had

[decided] to have it this way because if it had racial or political overtones, the Government would have rejected it outright.^[46]

Had this ruling not been made 2 000 NUSAS students would have canvassed on behalf of the campaign. The Deputy President of NUSAS, Mr. Paul Pretorius, commented:

While I have no doubt that Mr. Noble's decision is a well meaning one, I feel he has let slip an opportunity for all South Africans to express their concern at something which affects them all.^[47]

The Publications Control Board was also subjected to criticism from an unexpected source. Speaking in Parliament in June 1971 Mr. J.T. (Jimmy) Kruger, the Nationalist MP who was to chair the Commission of Inquiry which would draft the Publications Bill, offered the Board some "constructive hints" on its approach to films. One of his hints was that the Board should not apply "excessive" age restrictions. Of seven drive-in cinemas around Cape Town, he said, four were unable to admit children at that time. There were times when only one or two of them could, yet drive-ins were ideal for family outings. He proposed that the Board might adopt only two categories - for adults or for general viewing. He also suggested that the Board make a short memorandum detailing the reasons for the cutting or banning of a film available to distributors. This would enable distributors to provide an adequate response in appeals to the Minister. Finally he said that the Board should not feel that public criticism hurt it. If criticism was well founded the Board should accept it. If not, it could ignore it.^[48] Mr. Japie Basson (UP Bezuidenhout) responded to Mr. Kruger's statement by saying that the country no longer had faith in the Publications Control Board.

There is mistrust among all levels of the population, both among United Party and Government supporters. I think it is time that the Minister looked at the composition of the Board to see if he could not make improvements there.^[49]

By May 1972 the criticism of the Publications Control Board had reached fever pitch. As was discussed in the previous chapter, on 12 May Mr. Justice Leon upheld the appeal against the banning of the May 5 issue and all subsequent issues of Scope. This was the sixth successful appeal by Scope against the Board.^[50] Responding to the decision Mr. Peter Mansfield, a representative of the Progressive Party, said:

What is depressing is that it should be necessary for the Supreme Court to spend its time and the public's money listening to such appeals. The quicker the Government has the courage to replace Mr. Jannie Kruger, the Chairman of the Board, and his mother grundies, with one more in touch with the twentieth century, the better.^[51]

Professor Eben Meiring of Stellenbosch University said that the Board should be replaced by men and women "qualified to distinguish between hard-core pornography and a frank, valid portrayal of the realities of life". The Board, he said, is making a travesty of public intelligence by applying a private dictatorship of virtue. He also stated that the chances of a change appeared remote.

The Government appears to be in no mood to make concessions. It is a matter of 'kragdadigheid' at present.^[52]

Mr. John van Zyl of the University of Witwatersrand made a plea for an end to the "unjust Church-state" rule which Mr. Kruger was imposing on the country,^[53] while Cindy Linder, the Rand Afrikaanse University Rag Queen and daughter of Mrs. Cynthia Linder, a regional

Committee member of the Board, went on record in Die Vaderland as saying:

It must have come as a great shock to the Board when they realized women have breasts. [54]

Within two weeks of the Scope appeal, what a newspaper termed "the revolt against Mr. Jannie Kruger and his censors" [55] reached Cabinet level. Mr. Jannie Kruger was reported to have been summoned to a two hour meeting with Dr. Van Der Merwe. According to reporters,

[Mr.] Kruger, obviously angry, refused to comment after his meeting with Dr. Van Der Merwe. He also declined to confirm or deny that his Board has asked the Government for more powers or to remove the right of appeal against Board decisions. [56]

At the same time, what was described as "the most damaging indictment ever made against the Publications Control Board" was delivered to the Minister of the Interior, Mr. Theo Gerdener, by Professor Geoffrey Cronjé. [57] Professor Cronjé, former Chairman of the Akademie vir Wetenskap en Kuns, former Chairman of the Commission of Inquiry into Undesirable Publications and a supporter of strenuous censorship, dispatched a letter to the Minister in which he sharply criticized the Board for its inconsistent application of the Publications and Entertainments Act of 1963. Prof. Cronjé declined to comment to the press. [58]

On 20 May 1972 Dr. Van Der Merwe announced that a special inter-departmental Committee had been appointed

to investigate the application of the Publications and Entertainments Act. Dr. Van Der Merwe stated that the Committee had been appointed in October 1971, but the composition and terms of reference had only recently been finalized. He added that the investigation had become necessary "as a result of problems which have for some time been experienced in regard to the provisions and applications of the Act" and because of "the changed circumstances since the Act was passed in 1963."^[59]

The Sunday Tribune commented:

Nationalist MPs feel that the censors have seriously embarrassed the Government, and a few privately hoped that Mr. Kruger will resign - or be sacked. Last night's announcement is clearly intended as a face-saving measure to protect Dr. Van Der Merwe, who is due for a hammering from the Opposition when his vote is discussed this week.^[60]

Following his Deputy-Minister's announcement Mr. Gerdener said that he was "not at all happy" with the way things stood. He said that he would personally investigate the issue when he received the inter-departmental Committee's report. He said:

My investigation will cover a much wider aspect than the investigation by the inter-departmental Committee and may lead to the setting up of a commission of inquiry into the whole question of control of publications and other matters.^[61]

With impeccable timing the NGK, in the Die Kerkbode, reiterated its request for the establishment of a special publications Appeal Board to replace the Supreme Court in censorship cases. In a leading article it was

suggested that such an Appeal Board should include representatives of welfare organisations, the judiciary and, of course, the church.^[62]

Before the submission of the inter-departmental Committee's Report, Mr. Gerdener was replaced by Dr. Connie Mulder as Minister of the Interior. One of Dr. Mulder's first actions was to reprimand the newspaper Rapport. In a headline Rapport had indicated that the new Minister believed in a lighter hand on censorship. In a statement issued through the Department of Information Dr. Mulder said that he wanted to state emphatically that he did not intend to apply a lighter hand on censorship. "I did not say this and I did not suggest this".^[63] In order to emphasize that he was going to take a strong stand on censorship he added:

If publication media publish things which are aimed at polluting the spirit of people and which try through conditioning to pull the nation down to lower moral values, then the State has a duty to protect the nation and especially the youth.^[64]

Dr. Mulder's statements on censorship were soon interpreted, even by the Nationalist press, as evidence that he intended to remove the right of appeal to the Supreme Court against decisions of the Board and replace it with a right of appeal to a specially created Appeal Board.^[65] Nonetheless, the inter-departmental Committee, in its report published on 22 December 1972, stated that if "existing legislation does not succeed,

the good judgement of the Courts should not be questioned".^[66] The Committee reported that it had heard evidence from 73 bodies and 118 members of the public and that it was generally felt that the right of appeal should stay.^[67] Despite a presumption in favour of censorship, the report was clearly designed to strike a balance between the demands of the proponents and opponents of censorship. As one commentator observed, it was "marked by a number of progressive suggestions countered by an equal number of verkrampte proposals".^[68] The report rejected pleas for more severe penalties, suggested that the Minister should "invite interested parties" to nominate certain members of the Publication Control Board, found that the Board ought to give the reasons for a banning and recommended that the possession of a banned publication or object be made a statutory offence.^[69]

Protests against the censorship envisaged by inter-departmental Committee included a mass symbolic funeral which was organised in Pretoria^[70] and a demonstration in which three members of the cast of Not in Front of the Kids appeared on stage completely naked with their backs to the audience and a strip of black paper across their buttocks.^[71] Both incidents occurred in January 1973. On 2 May a new draft Amendment Bill was tabled by Dr. Mulder. Against the recommendations of the inter-departmental Committee the Bill provided for the removal of the appeal to the

Supreme Court. The immediate and widespread opposition to this proposal indicates that the right of appeal was extensively valued.

The Chairman of the Suid-Afrikaanse Akademie vir Wetenskap en Kuns, Prof. H.C. de Waal expressed his sorrow that the amendment proposed the removal of the right of appeal to the Supreme Court. "I have absolute faith in our Courts", he said.^[72] Mr. Dirk Richards, editor of Vaderland criticized the implications of the proposed amendment while the Johannesburg Afrikaanse Skrywerskring expressed concern at the dictatorial nature of the amendment.^[73] Mr. Alexander Kennedy, a former Judge-President of Natal, said that the proposed amendment was designed to give the Publications Control Board absolute power even when it had shown itself wrong time and again. He therefore "whole heartedly condemned" the removal of the right of Appeal.^[74] Mr. Lionel Rhodes Caney, an ex-Judge, supported Mr. Justice Kennedy's statement. He said: "This move would be to erode the process and rule of law".^[75]

Although no Afrikaans book of any merit had as yet been restricted by the Board, Human and Rousseau Uitgewers, an established Afrikaans publishing concern, noted:

In our opinion this [the abolition of the appeal] will have a paralysing effect on Afrikaans literature in particular. Afrikaans literature is small, it is fed by a small number of writers who receive very little remuneration for their work because of

the limited market.^[76]

In a similar vein Jan Rabie, in a letter to Die Burger, wrote:

Laat Afrikaans toe om nie bang te wees vir die moeilike en gevaarlike wêreld waarin ons leef nie. Laat Afrikaans toe om nuwe voortrekkers en nuwe karoowortels te skep. Gee Afrikaans asseblief 'n kans; die laaste kans wat ons taal in hierdie eeu en in hierdie land gaan hê.^[77]

It was the early 1960s all over again.

c. Jimmy Kruger's Commission of Inquiry.

Dr. Mulder's Bill was not given a second reading. Instead it was referred to a Select Committee under Mr. J.T. Kruger, the Deputy Minister of the Interior, of Police and of Social Welfare and Pensions. The Committee contained eight other Nationalists, including Mr. F.W. de Klerk (son of Senator Jan de Klerk and later State President), Mr. L.A. Pienaar (later Administrator of South West Africa and Chairman of the Publications Appeal Board) and Dr. A.P. Treurnicht (later leader of the Conservative Party), as well as four members of the United Party. As a stop-gap measure, further provisions were incorporated into the Publications and Entertainments Act by Sections 26 to 28 of the General Laws Amendment Act in 1973.^[78] The Minister was empowered to direct the Board to review a decision it had made previously - provided that the matter had not been on appeal to the Courts or, in the case of films, to the Minister. When so instructed the Board was to

invite written representations from persons with direct financial interest in the publication, object or film.

On 13 July 1973, at the end of the Parliamentary session, the Select Committee was converted into a Commission of Inquiry as the Committee had been unable to complete its work. The evidence heard by the Committee up until its conversion was published by the Government Printer in September. This evidence consisted of interviews conducted by the Select Committee with members of the Publications Control Board and its Committees. These interviews provide valuable, and often astonishing, insights into the conduct and ethos of censorship under the Publications and Entertainments Act.

The first interview, on Thursday 24 May 1973, was with the Chairman of the Publications Control Board, Mr. J.J. Kruger. Mr. Kruger was asked, and answered, various questions relating to the composition of the Board and the nature of the publications which it examined. The thirty-sixth question, posed by Mr. J.D. du P. Basson (UP), addressed the issue of Russian books which arrived in South Africa. Given that very few South Africans read Russian, Mr. Basson asked, did these publications warrant the time which is spent on them? Mr. Kruger replied:

'n Boek in Russies kan gevaarliker wees as 'n boek in 'n ander taal omdat dit juis bedoel is vir mense in Suid-Afrika wat miskien spioene of skelms is en wat dit graag in Russies will hê. As hulle dit eers het, kan hulle dit in

een van die landstale dissemineer. Dit is waarom diegene wat met staatsveiligheid te doen het op hulle hoede moet wees.^[79]

Some time later Mr. Basson asked if the composition of the Board ought not to be such that a uniformity in the views of members is avoided. In response Mr. Kruger stated:

Ja, maar onderhewig daaraan dat mens nie 'n ultra-linkse liberale persoon as 'n sensor kan gebruik nie. Dit weerspreek die hele wese van sensuur.^[80]

When pressed, Mr. Kruger described a "links-liberale" person as someone "wat 'n bietjie pienk geklap is".^[81]

Mr. Basson then asked if censorship in the "pienk" countries was not stronger than that in South Africa.

Mr. Kruger responded:

Dit is 'n baie interessante onderwerp. Die kommunisme sit aan die wortel van die permissiwiteit. Hy wil hê die Weste moet homself ondergrawe deur die jeug aan dwelmmiddels en ander vorms van permissiwiteit gewoond te maak. Dan kan hy deur pasifistiese metodes alles oorneem. In sy eie land en in die lande waaroor hy beheer het, waak hy egter met 'n skerp swaard daarteen. Dit geld ook vir Rooi China. Hulle weet dit is nie goed vir die mense nie. Hulle weet dat 'n volk wie se moraal ondermyn is, maar afgeskrywe kan word. Uit die beskawingsgeskiedenis weet ons dat dit al sedert die tyd van die Romeine gebeur.^[82]

In reviewing this evidence given by Jannie Kruger, the political editor of the Sunday Times, Stanley Uys, was moved to comment:

Have you ever heard such twaddle? And Mr. Kruger is our chief censor. He decides what we read and see. Mama Mia!^[83]

Much of the remaining evidence heard by the Committee was contradictory. For instance, Board member Mrs. Theron (interviewed on Wednesday 6 June) insisted that the Board gave sufficient recognition to literary value. When asked by Mr. I.F.A. de Villiers (UP) if the complaints of writers that the Board did not take the value of a book into account were justified, she replied:

Nee, ek dink nie so nie. Ek het bv. die hele sestigerskursus aan die Universiteit van Kaapstad bygewoon en die grootste grief van daardie klomp sestigers was dat ons nog nooit een van hulle boeke verbied het nie. As ons dit sou verbied het, sou hulle 'n sweep gehad het om ons mee te slaan. Daar is aanmekeer gepraat van hoedat die Publikasieraad hulle aan bande lê, totdat daar later aan Breyten Breytenbach gevra is of die Publikasieraad al enige van sy boeke verbied het. Hy het gesê, 'Nee, maar ons maak die klimaat vir hom so moeilik dat hy nie presies kan skryf wat hy wil skryf nie'. Ons het al boeke van sommige van ons Engelse skrywers, soos Nadine Gordimer, Jack Cope, ens., verbied omdat hulle dikwels van die kleursituasie gebruik maak. Hulle het meer rede om met ons fout te vind. Daar word natuurlik fout gevind omdat groot letterkundige werke soms nie in ons land toegelaat word nie. Iemand soos Henry Miller word as 'n groot skrywer van hierdie eeu beskou, maar sy boeke is so deurspek met kwaai dinge dat ons baie van sy boeke weerhou. Ek kan die komitee egter verseker dat die goeie letterkundige werk baie aandag kry. Ek sê altyd aan die publiek dat hulle moet beseef dat die groot taak van die raad is om die goeie boek te beskerm. Dit is die swak boek, bv. die prenteboekies, wat ons afmaai. [84]

Mr. W.T. Webber (UP) then asked Mrs. Theron to inform the Committee about the processing of books which dealt with the racial situation in South Africa. Mrs. Theron elaborated:

Die ernstige boeke oor die kleursituasie word deur Prof. Murray gehanteer. Dan kry ons

skrywers soos Nadine Gordimer, Jack Cope en sekere Bantoeskrywers (daar is 'n hele paar van hulle in die land) wat natuurlik graag in die rigting skryf omdat dit vandag so 'n aktuele tema is. U hoef maar net na die balletopvoering in die Nico Malan-teater te gaan kyk en dan sal u self sien hoedat dit op alle vlakke 'n deurlopende tema is. Die wit-bruin-konfrontasie is vandag op die voorgrond. Op 'n kunstige vlak, soos dit in die Nico Malan-teater gehanteer word, word dit so mooi gehanteer dat mens nie die denke van die mense daarvoor wil sluit nie. Ons moet oor daardie vraagstuk dink en as dit letterkundig verantwoord word, gee ons nie om as ons Blankes gekritiseer word die wyse waarop ons die kleurvraagstuk hanteer nie. Maar as 'n boek opruiend van aard is, kan dit gevaarlik wees. [85]

Mr. Webber stated that he had the impression that such books were automatically banned. This was denied by Mrs. Theron:

Nee hoegenaamd nie, nie as dit letterkundig verantwoord kan word nie. So 'n boek geniet ook baie aandag. U besef natuurlik ons het te doen met ons eie land, ons eie probleme en met 'n regering wat 'n beleid het. Selfs al doen so 'n boek afbreuk aan ons eie beleid sou dit nog kon deurgaen. Dit hang net af. Sodra 'n mens met daardie onderwerp te doen kry, raak mense emosioneel en dan word dit 'n moeilike saak. Maar selfs daardie boeke kry besondere aandag. [86]

An entirely different picture emerged when the Committee interviewed Mrs. Beyers on Friday 15 June 1973.

Estelle Beyers, daughter of the former Prime Minister J.G. Strydom, holder of an MA in Linguistics and a panel member for both films and books described the process involved in vetting a book:

Ek lees die boek en skryf 'n opsomming van die verhaal. 'n Lys van die hoofpunte uit die Wet word aan my gegee; ek moet dan alle moontlike aanstootlike gedeeltes wat volgens die Wet daarin voorkom, met 'n potlood in die

kantlyn merk en die bladsynommer op die vorm invul. Ten slotte moet ek 'n algemene verslag skryf en dan 'n aanbeveling doen van wat met die boek gedoen moet word. Ek moet 'n aanduiding gee of die boek enige literêre waarde het en of dit net gemors is. Volgens die verslag wat ek opstel, besluit die raad wat met die boek moet gebeur. Die raad kyk egter net na die gedeeltes wat gemerk word. Daarvolgens word die boek dan afgekeur of goedgekeur. Hulle lees nie die hele boek deur nie. Dit gebeur soms dat as ons skryf dat 'n boek literêre waarde het, so 'n boek aan 'n literator gestuur word. Maar oor die algemeen word 'n boek sommer deur die raad afgekeur of goedgekeur.^[87]

After receiving reports from literary "experts" in the case of books with literary value, the Board - which in the opinion of Mrs. Beyers was not competent to decide on literature - proceeded in the same fashion.

Die boeke word volgens dieselfde stelsel weer deur die raad oorweeg. Ongelukkig, of gelukkig, hoor mens soms dat 'n hele reeks professore 'n boek deurgelaat het, en dat dit deur die raad afgekeur word. Na my mening is dit heeltemal verkeerd. Geeneen van die raadslede hier het enige literêre onderrig nie. Mev Theron is die enigste lid wat ten minste 'n liefde het vir boeke, maar sy het nie eintlik tegniese kennis nie. Om anders te besluit as 'n paneel van professore wat wel letterkundig onderleg is, is na my mening heeltemal verkeerd.^[88]

In the evidence offered by Mrs. Theron and Board member Prof. R.E. Lighton there was little to indicate that there might be severe problems with the conduct of film censorship. Prof. Lighton, for instance, spoke of the "very good spirit of camaraderie and good sense"^[92] among the panel members for films. Mrs. Beyers, however, told the Committee that of the five members of the film panel one was deaf and two others had

difficulty in understanding what was going on:

Wat die huidige stelsel betref, dink ek dat die oorvertel-stories heeltemal verkeerd is. 'n Raadslid tree as voorsitter van 'n filmpaneel op en vertel die storie oor aan die raad. Mense wat 'n prent glad nie gesien het nie, vel dan 'n finale oordeel oor wat met 'n prent moet gebeur. Ek dink dit is noodsaaklik dat u weet wat daar aangaan. Drie van die vyf huidige raadslede wat die sittings waarneem, is volkome afhanklik van hul panele wat betref die storie en die interpretasie van films. Die een is doof, terwyl die ander twee glad nie verstaan wat aangaan nie. Hulle kan die karakters nie van mekaar onderskei nie en kan die storie nie volg nie. Wanneer daar teen 'n prent geappelleer word, kan nie een van hulle onthou waarom die prent gegaan het nie en dan moet hulle die paneellede rond en bont bel om uit te vind of hulle miskien kan onthou of aantekeninge het. [89]

Mrs. Beyers's opinion was reinforced by the testimony of film-panel member Mr. Crafford (interviewed on Friday 15 June). Mr. Jimmy Kruger asked him if he thought that the existing system of film panels worked. Mr. Crafford relied: "Nee, ek dink dit is 'n gemors." [90] On being asked to expand Mr. Crafford stated:

In die eerste plek word die nuwe lede wat aangestel word, nie opgelei om boeke en films te sensureer nie. Daar word niks aan hulle gesê nie, hulle word aan hulself oorgelaat. Alhoewel die voorsitter al dikwels gevra is dat byeenkomste periodiek gehou word om sake in verband met beleid te bespreek, het hy eenvoudig botweg geweier. Hy is meer as een keer deur paneellede en ook deur lede van sy eie raad gevra om sulke byeenkomste te hou, maar ek weet nie waarom hy dit geweier het nie. Ek luister al 'n paar jaar na 'n sekere on dame wat al 22 jaar op die paneel is. As 'n 'gangster' - prent vertoon word, sê sy net, 'Too much violence'. Sy sê dit nou al 22 jaar lank. Hoe kan mens nou 'n 'gangster'-film sonder geweld hê? Daar moet tog in die eerste plek 'n motivering wees, die 'gangster' moet tog sekere dinge aanvang, daarna moet die

retribusie kom en mits daar 'n balans is en die reg uiteindelik seëvier, kan dit geen kwaad doen nie. Hoe kan mens dan sê, 'Too much violence'? [91]

With regard to the Scope battles, Prof. Lighton admitted that the Board had been made to appear ridiculous:

It goes to the Court and we think we have a case. The judge looks at these things and quotes a ruling and says, 'I must take the point of view of the man who is neither a prude nor a libertine'. I accept that our judges are neither prudes nor libertines. And the judge then takes it from his own point of view that he, as a mature person, finds nothing in it that can cause him any moral harm at all and he passes the publication. Our contention is just swept aside. And so repeatedly with Scope and similar magazines we found ourselves out of Court or we were informed by the Government Attorney that in his opinion we had no case because the judges would find against us. So repeatedly we have to say to ourselves: 'There is the law; the judges gave their ruling, so what sense is in our opposing it although we do not agree. This is causing unnecessary State expenses and this magazine is just making a laughing-stock of us. We just cannot succeed'. [92]

Much was made of the report of the Select Committee in the press. The Rand Daily Mail stated:

We could laugh it off if it were not so serious. Because this is the way in which our access to world culture is determined. The report offers the greatest possible indictment of censorship, Nationalist style. [93]

The Sunday Times took Jannie Kruger to task for stating in his evidence that many exemptions for the use of banned works had been granted when the bona fides of a person were above question. Jannie Kruger had concluded: "Study and research are not

restricted".^[94] The Sunday Times responded by citing the examples of Professor Monica Wilson and Dr. David Welsh, both of the University of Cape Town. Professor Wilson had been refused permission by the Publications Control Board to use John Dollard's Caste and Class in a Southern Town in her class.

Dr. Welsh was once given permission by the Board to use certain banned books - he estimates that the Board has banned 100 books which could be considered necessary for the study of Africa and race relations - but he was expressly forbidden to quote from these books in lectures or make them available to his students. He found the books, therefore, 'quite useless', and decided not to apply again for a permit.^[95]

On 5 October Mr. Jimmy Kruger announced that some of the evidence in the report had been over emphasized by the press. For this reason, he stated, it had been recommended to the State President that he should promulgate regulations as envisaged in Section One of the Commissions Act of 1947. The Rand Daily Mail reported:

A veil of secrecy has been clamped on anything to do with the Commission of Inquiry into the Publications and Entertainments Amendment Act. Regulations signed by the State President and published in a Government Gazette yesterday are designed to prevent prejudicing, influencing or anticipating the proceedings or findings of the Inquiry. A leading Johannesburg lawyer said this meant the press could ask nobody to comment on anything to do with the new regulations. Anybody commenting on these matters ran two risks. They might transgress the Commission Act and they could harm the dignity of the State President. Both offences carried severe penalties.^[96]

Double glazing: reporting on an official investigation

into censorship is itself censored.

The Commission of Inquiry concluded its report - or reports, as a minority report distanced the United Party members from the Nationalist members' majority report - in December 1973. By this time the Chairman, Mr. Jimmy Kruger, was Minister of Police. Whereas the Cronjé Commission had argued its case poorly, such was the majority of the Kruger Commission's disregard for those who had reservations with regard to censorship that the majority hardly bothered to present a case at all. A cursory mention of the "red peril" was deemed to be sufficient. Under the heading "Is Control Necessary" the report assumed that South African society is characterized by a religious and conservative stamp "notwithstanding a spirit of permissiveness and moral decay which has also reared its head in South Africa."⁹⁷ Symptoms of such moral decay - "the exposure and exploitation of the female body and sex"; violence; drug addiction; satanism; and "undesirable" practices and ideas which are propagated irresponsibly and sometimes unscrupulously and for purely commercial exploitation - were related to a communist conspiracy:

9. These trends are seen as serving to promote the ends of communism and as an attempt by communism to subjugate the spirit of the nation. In his book The Naked Communist W Cleon Skousen explains on page 261: break down cultural standards of morality by promoting pornography and obscenity in books, magazines, motion pictures, radio and TV. Present homosexuality, degeneracy and promiscuity as normal, natural and healthy. Indeed, the

idea of the safety of the Nation is coming to the fore as a matter which, side by side with State Security, also calls for the serious and constant attention of the authorities.

10. There are authoritative warnings that the youth, in particular, are the target of communism. In this regard, John A. Stormer, on page 67 of his book The Death of a Nation quotes the following from 'Rules for bringing about revolution': 'Corrupt the young, get them away from religion, get them interested in sex. Make them superficial. Destroy their ruggedness.'

11. It would be wrong to attribute the encouragement of the spirit of permissiveness in the Western world and also in South Africa solely to international communism, but it has a very ready and largely unwitting aid in the irresponsibility and at times unscrupulous exploitation of these things.^[98]

In particular publishers, film producers and film distributors, for whom the profit motive was said to be basic, were singled out as unwitting agents of international communism. Thus was the imposition of an even less restrained censorship than already existed justified.

The majority report concluded with a draft of the legislation which was to become the Publications Act. This legislation - which provided for the removal of the appeal to the Supreme Court and the re-establishment of the crime of possession of specified banned publications - will be discussed later in this chapter.

The minority report was an extensive critical commentary on the majority report. When viewed in accordance with international standards the signatories of the minority

report were conservative in that, following the Longford Report which they cited with approval, they were of the opinion that matter which provokes a sense of outrage or offence ought to be controlled. In this regard, they argued, the assistance of the publishing, film and entertainments industries - which had indicated their willingness to co-operate - ought to be sought. After the exhaustion of such measures, they suggested, control should be vested in the Courts. When one considers that in the preface to Homage to Qwert Yuiop Anthony Burgess explains to the non-British reader that Lord Longford, along with Barbara Cartland and Mrs. Mary Whitehouse, stands "for a kind of philistinism universally known but given sharper definition to a British reader through pronouncements that have already made them news",^[99] one is struck by the extent to which South Africa was out of step with the world of Western literature and ideas. Burgess continues:

They are concerned with cleaning up the arts, taking homosexual poets to Court, denouncing blasphemy, recommending the blandly safe (like The Sound of Music) and warning against the subversive (Ulysses or The Waste Land).^[100]

In accordance with their belief that, in the last resort, control should be vested in the Courts the minority advocated the abolition of the Publications Control Board and was critical of the "onslaught on the right of appeal to the Courts":

We viewed the resolution of the majority to abolish the right of appeal to the Courts in so serious a light that it finally became

impossible for us to take any further part in attempting to find a common approach and we then let it be known that we would submit a minority report with alternative proposals. [101]

In defending the right of access to the Courts the minority listed examples of representative bodies which opposed the removal of the appeal. These included the General Council of the Bar of South Africa, the Book Trade Association of South Africa, the Bar Council of the Orange Free State Society of Advocates, the Cape Bar Council, the Church of the Province of South Africa, the Civil Rights League, the English Academy of Southern Africa, The Federation of Film Societies of South Africa and Central Africa, the International Film Society, MacMillan South African Publishers, the NPU, the Presbyterian Church of Southern Africa, Purnell and Sons, the Society of Advocates of Natal, the South African Association of Theatrical Managements, PEN SA, the SASJ, the Southern African Catholic Bishops's Conference, the South African Library Association, Tafelberg Publishers Ltd, the Association of Law Societies RSA, Republikeinse Publikasies, Human and Rousseau Publishers and Pact. In the words of the minority, the Johannesburgse Afrikaanse Skrywerskring submitted that:

'The abolition of the right of appeal gives every cause to fear a tightening up of censorship, and inherent in stricter censorship is the danger of constraining creativity'. It made an 'urgent appeal' that the right of appeal to the Courts should in no way be interfered with, and quoted N.P. van Wyk Louw who once wrote: 'If there must be legal restrictions on literary art, let this

be done before a free Court where the artist can put his case. Then later history can also have its say'. And, in the same work: 'When the artist feels constrained by an unreasonable power he becomes something other than what he was destined to be: he becomes a rebel'. ('n Wereld deur Glas, pp 121 and 113, respectively).^[102]

The minority reported, further, that the most notable support for the denial of access to the Courts came from the Dutch Reformed Churches and added:

With all due respect for the opinions of the last-mentioned three church bodies, we could not but notice that the strongest and most pressing representations for the retention of the fundamental right of appeal to the Courts in point of fact came from influential and representative Afrikaans bodies and institutions whose members are members of the Afrikaans churches.^[103]

Given their conviction that whereas censorship ought to be reformed, the proposals of the majority were "primarily aimed at making the existing system of censorship more absolute",^[104] the minority had various other objections to the majority report. Hence they rejected the majority's proposal that the possession of specified publications should be a crime:

It is obvious that the police could combat crime more effectively if the possession of all potentially dangerous objects were prohibited, but we cannot agree that the mere possession of such objects, including political or pornographic publications, without proof of any intent to use them in a harmful manner, should now become a crime. In particular, we disagree with the concept that a committee of censors should have arbitrary power to prohibit the possession of a publication or object which a person has acquired previously, legitimately and without unlawful intent.^[105]

They also objected to proposals to grant the Minister of the Interior the power to authorize any member of the Board or other person to enter any place where it may be suspected that any undesirable publication or object is printed, reproduced, displayed, kept for sale etc. in order to examine such publication or object and to seize it if it appears to contravene the proposed Act.

This section ... appears to us to be an unnecessary extension of the normal powers of entry and seizure allowed by the law. It is remarkable that the anxiety to control undesirable publications should be thought to justify procedures more extensive than those which have long proved adequate to contain major crime. [106]

Finally the minority complained of the disregard with which they had been treated by both the majority and the Publications Control Board.

A Parliamentary Bill based entirely on the majority report was published early in 1974 but was not proceeded with. This is the context in which Kennis van die Aand was banned. According to the Daily News the ban on André Brink's novel, in conjunction with the proposed abolition of the appeal to the Supreme Court caused the controversy over censorship to be "driven deep into the Nationalist Camp".

The concern that is growing in Nationalist circles was reflected at the weekend in an editorial in Rapport in which it seriously questioned the decision of the Commission of Inquiry into the Publications and Entertainments Amendments Bill to remove the appeal to the Courts in the proposed new system. [107]

The Rapport editorial had stated that the removal of the appeal to the Courts would leave a void and raised the question of who would be appointed to the new Appeal Board. Rapport asked:

Who are the right people, and for whom will they be right - right for Dr. Koot Vorster or right for - with respect - André Brink? [108]

In March 1974 Rapport published the results of an opinion survey on censorship which it had commissioned from Mark en Meningopnames (PTY). The survey, which represented the opinion of whites aged eighteen years or older, found that the largest percentage of the sample, that is 39.2 percent, were of the opinion that censorship in South Africa should be less strict. 33.1 percent were satisfied with the censorship which was in existence. 82.2 percent believed that censorship was good as long as it was not overdone. Finally 71 percent felt educationalists should serve as censors as opposed to 36 percent who favoured churchmen. [109]

d. The Publications Act.

On 12 August 1974 the Publications Bill again came before Parliament. In introducing the Bill Dr. Connie Mulder described the control structure which existed at that time as a two-tiered one:

It comprises:-
 (a) the Publications Control Board which, over and above its decision-taking functions, has

to do administrative work as well, and

(b) Committees of the Board whose function is to examine and advise the Board on publications or objects, films and public entertainments. [110]

Dr. Mulder said that it was a disadvantage of this system that the full-time members of the Board had to adjudicate publications which in most cases they had not read themselves and films which, with the exception of the Board member who served as Chairman of the Committee in question, they had not viewed themselves.

The full-time members of the Board are required to spend so much time on administrative work that there is not sufficient time left to them for the proper performance of their primary function, the decision-taking function. [111]

Accordingly Dr. Mulder said the Bill proposed a three-tiered structure:

(a) The Committees shall decide whether or not publications or objects and films submitted to them by the Directorate, or public entertainments brought to their attention by the Directorate, are undesirable. This is therefore the decision-taking function.

(b) The Directorate will take over the administrative functions of the existing Board, such as the composition of the Committees, the allocation of work to them and the co-ordination of the activities of the Committees. The Directorate will also consider and decide on applications for permits and exemption from certain provisions of the Act. This is therefore the administrative function.

(c) The Appeal Board will consider and decide on appeals against the decisions taken by the Committees, and decisions taken by the Directorate in regard to applications for permits and exemptions. It will also be a function of the Appeal Board to establish

uniformity in judging standards. This it will do by giving full reasons for its decisions which will be open to inspection by the public and which will be submitted to the Chairmen of Committees for their guidance. This is therefore the appeal function.^[112]

After speaking to the Bill at length Dr. Mulder concluded by asking that the debate on the Bill be conducted at a high level and that an earnest attempt be made to serve the best interests of South African society in respect of its spiritual welfare.

After the Minister of the Interior introduced the second reading of the Publications Bill, Mr. Lionel Murray (UP Green Point), the opposition's chief spokesman on the Interior, moved that the Bill be read that day six months. He said that the United Party totally rejected the new Censorship Bill and that the Publications and Entertainments Act, with all its deficiencies, was preferable. He objected in particular to the abolition of the right of appeal to the Courts which could "only be the result of irritation caused to the Government by the proof of the inappropriateness of legislation of this type",^[113] as well as to the authority to authorise searches related to "undesirable" publications which would be vested in the Minister:

The Minister may authorise whom he pleases to enter anybody's home when he pleases and where he pleases. His right to do so is not restricted in any way. These powers are wider than those of the police.^[114]

These and other protests were to no avail. The Bill was passed and on 1 October 1974, the State President

gave his consent to the Publications Act^[115] which thereby became law.

The Publications Act^[116] commenced in a highly unusual fashion with the statement that ["In] the application of this Act the constant endeavour of the population of the Republic of South Africa to uphold a Christian view of life shall be recognised". Under the Act the the Publications Control Board was replaced by a Directorate of Publications, headed by a Director of Publications and comprising of a Deputy Director and up to three assistants. This administrative Directorate would be responsible for the appointment of Committees from a list which would be compiled annually by the Minister. Such Committees would be required to adjudicate publications, objects or films submitted to the Directorate and entertainments brought to its notice. In the performance of this task the Committees would be advised by advisory Committees appointed annually by the Coloured Persons Representative Council and the South African Indian Council. No such Committee was provided for in respect of the African population as, in the words of Dr. Mulder:

Their own distinctive orthogenous development is different from that of the Coloured and Indians and for this reason no specific role in the proposed system of control can be assigned to them.^[117]

In the case of matters found to be "undesirable", Committees would be permitted to review the matter and

withdraw a ban after a period of two years. The definition of "publication or object" remained scarcely altered while the definition of "undesirable" - applicable to publications, objects and films - was somewhat simplified as it omitted the "long dismal list of topics" contained in Section 6 of the previous Act:

47(2) For the purposes of this Act any publication or object, film, public entertainment or intended public entertainment shall be deemed to be undesirable if it or any part of it -

(a) is indecent or obscene or is offensive or harmful to public morals,

(b) is blasphemous or is offensive to the religious convictions or feelings of any section of the inhabitants of the Republic;

(c) brings any section of the inhabitants of the Republic into ridicule or contempt;

(d) is harmful to the relations between any sections of the inhabitants of the Republic;

(e) is prejudicial to the safety of the State, the general welfare or the peace and good order;

(f) discloses with reference to any judicial proceedings:-

(i) any matter which is indecent or obscene or is offensive or harmful to public morals;

(ii) any indecent or obscene medical, surgical or physiological details the disclosure of which is likely to be offensive or harmful to public morals;

(iii) for the dissolution or declaration of a marriage or for judicial separation or for restitution of conjugal rights, any particulars other than:-

(aa) the names, addresses and occupation of the parties and witnesses;

(bb) a concise statement of the allegations, defences and counter-allegations in support of which evidence has been given;

(cc) submissions on any point of law arising in the course of the proceedings, and the decision of the Court thereon;

(dd) the judgement and the verdict of the Court and any observation made by the judge in giving the judgement. [118]

As before, films required approval prior to screening and could be designated as suitable for a specific

category of viewer only.

A conspicuous change was that, subject to approval from the Publications Appeal Board established by the Act, the Committees were given the ability to deem an "undesirable" publication banned for possession. In introducing the Bill the Minister justified this clause by referring to the precedent set by the Indecent and Obscene Photographic Matter Act which had been passed in 1967:

The police explain that in many cases it is difficult and sometimes impossible to prove that a person in possession of so-called written pornography or publications propagating anarchy is distributing such publications so that he can be brought to book under the present Act. It is in view of these very considerations that this House passed the Indecent or Obscene Photographic Matter Act in 1967 unanimously.

Written pornography is at times more obscene than photographic pornography and publications dealing with anarchy and rebellion and with methods of bomb-making etc. can be as dangerous to the safety of the State as publications promoting Communism. [119]

Exemptions from the above provisions would only be by permit.

The Act replaced the appeal to the Supreme Court and, in the case of films, to the Minister, with an appeal to the Publications Appeal Board, an administrative tribunal of no fewer than three members. The Chairman - "a person who in the opinion of the State President is fit to serve as Chairman by reason of his tenure of a

judicial office or through experience as an advocate or an attorney or as a lecturer in law at any university for a period of not less than ten years" - was to appoint the remaining members of the Board from a list of persons designated by the State President. The Chairman's tenure would be five years.

An appellant - being any person with a direct financial interest in the publication or object, or any person who applied for a decision or even the Directorate of Publications itself - was granted the right to appear or be legally represented before the Publications Appeal Board. While the appellant was permitted to question witnesses, he would only have the right to adduce evidence if so permitted by the Board. Such proceedings were to be private but the Board was to furnish full reasons for its decisions.

No appeal to a court of law from a decision of the Publications Appeal Board was allowed. A full bench of three judges of the Supreme Court, however, was given the right to review a decision of the Appeal Board. If, acting in this way, the judges set aside a decision, the matter was to be referred back to the Board for consideration, unless the Court were to find that the Board had acted in bad faith, in which case the Court would be able to impose its own decision. The Act also rendered the insulting or disparaging or belittling of any member of the Appeal Board an offence.

Penalties under the Act ranged from a fine of not more than five hundred rand or imprisonment for a period not exceeding six months or both to a fine of not less than one thousand rand or imprisonment for a period of not less than six months or both such fine and such imprisonment. The Act, which applied also to South West Africa, amended section 29 of the Post Office Act,^[120] section 113 of the Customs and Excise Act,^[121] Sections 1 & 2 of the Indecent or Obscene Photographic Matter Act,^[122] and repealed the Publications and Entertainments Act, as amended.^[123]

Concurrent with the ratification of the Publications Act, the man who had assumed N.P. van Wyk Louw's mantle as the leading Afrikaans poet and man of letters, Professor D.J. Opperman, issued a "declaration of war"^[124] against the Government. Speaking at a lunch to celebrate his 60th Birthday he was sharply critical of the Act and pointed out that it was the Afrikaans writers who had helped to get the National Party to power. No Government, he said, could in the end win a war with writers.^[125] Die Burger criticised Professor Opperman for making such statements "in times of danger for the fatherland", while Rapport commented in an editorial that there would always be differences of opinion but the estrangement between writers and the authorities was too big to be healthy.^[126]

REFERENCES AND NOTES
CHAPTER FIVE

- 1 Leroux, E. To a Dubious Salvation. Page 183.
- 2 Act No. 42 of 1974.
- 3 Act No. 26 of 1963.
- 4 Act No. 42 of 1974.
- 5 Ibid.
- 6 Suzman, A. "Censorship and the Courts". South African Law Journal. Vol. 89, 1972. Page 197.
- 7 Ibid.
- 8 Suzman. Op cit. Page 199.
- 9 Natal Witness. 7 September, 1969.
- 10 Ibid.
- 11 Ibid.
- 12 Cope, J. The Adversary Within. Page 116.
- 13 Natal Witness. 7 September, 1969.
- 14 Kahn, E. "When the Lion Feeds - And the Censor Pounces". South African Law Journal. Vol. 83, 1966. Page 325.
- 15 Ibid.
- 16 Ibid. Page 327.
- 17 Ibid.
- 18 Sunday Tribune. 7 February, 1971.
- 19 Ibid.
- 20 Natal Mercury. 3 February, 1971.
- 21 Ibid.
- 22 Ibid.
- 23 Die Vaderland. 2 February, 1971.
- 24 The Natal Mercury. 11 March, 1971.
- 25 Sunday Tribune. 7 February, 1971.
- 26 Ibid.
- 27 Ibid.
- 28 Natal Mercury. 3 February, 1971.
- 29 Natal Mercury. 12 March, 1971.
- 30 Natal Mercury. 11 March, 1971.
- 31 Sunday Times. 14 March, 1971.
- 32 Natal Mercury. 2 July, 1971.
- 33 Natal Mercury. 8 September, 1972.
- 34 Daily News. 5 April, 1971.
- 35 Natal Witness. 25 April, 1971.
- 36 Translated in Natal Witness. 25 April, 1971.
- 37 Natal Witness. 25 April, 1971.
- 38 Hansard. 21 May, 1971.
- 39 Natal Mercury. 5 April, 1971.
- 40 Sunday Times. 6 June, 1971.
- 41 Ibid.
- 42 Sunday Tribune. 21 February, 1971.
- 43 Ibid.
- 44 Natal Mercury. 20 February, 1971.
- 45 Daily News. 4 and 5 March, 1971.
- 46 Natal Mercury. 4 March, 1971.
- 47 Daily News. 5 March, 1971.
- 48 Hansard. 10 June, 1971.
- 49 Ibid.
- 50 Sunday Tribune. 21 May, 1972.

- 51 Ibid.
52 Ibid.
53 Ibid.
54 Ibid.
55 Ibid.
56 Ibid.
57 Ibid.
58 Ibid.
59 Ibid.
60 Ibid.
61 Ibid.
62 Natal Mercury. 22 May, 1972.
63 Natal Mercury. 8 August, 1972.
64 Ibid.
65 Sunday Tribune. 24 December, 1972.
66 Ibid.
67 Report of the Commission of Enquiry into the Publications and Entertainments Bill. R.P. 17, 1974. Page 57.
68 Sunday Tribune. Op cit.
69 Ibid.
70 Daily News. 20 January, 1973.
71 Sunday Tribune. 28 January, 1973.
72 Cape Times. 7 May, 1973.
73 Ibid.
74 Sunday Tribune. 6 May, 1973.
75 Ibid.
76 Gordon, G. "The Right to write". Index on Censorship.
77 Die Burger. 19 May, 1973.
78 Act No. 62 of 1973.
79 Report of the Select Committee on the Publications and Entertainments Bill. S.C. 7 - 73. Page 8.
80 Ibid. Page 21.
81 Ibid. Page 27.
82 Ibid.
83 Sunday Tribune. 30 September, 1973.
84 Report of the Select Committee on the Publications and Entertainments Bill. S.C. 7 - 73. Page 59.
85 Ibid. Page 63.
86 Ibid. Page 64.
87 Ibid. Page 114.
88 Ibid.
89 Ibid. Page 112.
90 Ibid. Page 123.
91 Ibid.
92 Ibid. Page 109.
93 Rand Daily Mail. 25 September, 1973.
94 Sunday Times. 30 September, 1973.
95 Ibid.
96 Rand Daily Mail. 6 October, 1973.
97 Report of the Commission of Inquiry into the Publications and Entertainments Bill. R.P. 17, 1974. Page 4.
98 Ibid.
99 Burgess, A. Homage to Qwert Yuiop. Preface.
100 Ibid.

- 101 Report of the Commission of Inquiry into the
Publications and Entertainments Bill. R.P.
17, 1974. Page 58.
- 102 Ibid. Page 57.
- 103 Ibid. Page 58.
- 104 Ibid. Page 59.
- 105 Ibid. Page 53.
- 106 Ibid. Page 55.
- 107 Daily News. 4 February, 1974.
- 108 Ibid.
- 109 Daily News. 25 March, 1974.
- 110 Hansard. 12 August, 1974.
- 111 Ibid.
- 112 Ibid.
- 113 Cape Times. 13 August, 1974.
- 114 Ibid.
- 115 Act No. 42 of 1974.
- 116 Ibid.
- 117 Hansard. Op cit.
- 118 Act No. 42 of 1974.
- 119 Hansard. 12 August, 1974.
- 120 Act No. 44 of 1958.
- 121 Act No. 91 of 1964.
- 122 Act No. 37 of 1967.
- 123 Act No. 26 of 1963.
- 124 Daily News. 7 October, 1974.
- 125 Ibid.
- 126 Ibid.

CHAPTER SIX : THE SNYMAN PERIOD

I mentioned Anatoly Lunacharsky, Lenin's Cultural Commissioner and prototype for all Minister's of Culture. At once he conjured up an anecdote of Lunacharsky censoring Eisenstein's film October. "There is art; there is cinema. But...snip...snip... there are also politics".

Bruce Chatwin, "Andre Malraux".^[11]

The first five years of the operation of the Publications Act, from April 1975 to April 1980, mark the culmination of both the extension of censorship and the conflicts within Afrikanerdom which the writer has been tracing for much of this text. This period commenced and for some time proceeded in the familiar pattern: a strict censorship, much opposition, and an unrelenting Government. Out of this pattern, however, a new theme emerged. Whereas prior to the banning of André Brinks's Kennis van die aand the opposition to censorship from within Afrikanerdom had been against a potential threat, during this period it was against a real and present danger. For a couple of years this made little difference. That was until Magersfontein, O Magersfontein! was banned.

On 18 March 1975 Dr. Mulder announced the names of the people who had been appointed to the positions in the new censorship apparatus which, in accordance with the Publications Act,^[12] would commence operations on 1 April 1975. As announced by Dr. Mulder, the first Chairman of the Publications Appeal Board, the flagship

of the new system, was the Hon. Johannes Hermanus Snyman who had served as a judge of the Supreme Court of South Africa since 1958.

In February 1966, while giving judgement in the matter of the South African Magazine Company (Pty) Ltd. v the Publications Control Board, Mr. Snyman had deprecated the tendency of the Publications and Entertainments Act^[3] to draw the judiciary into controversy. It was wrong to assume, he said, that a Court would "in every case have sufficient knowledge of the taste and sense of decency of the people who are likely to read a particular publication". He added:

For art and literature (or attempts at them) can be highly controversial matters which give rise to strong feeling and explosive expression. The judiciary should steer clear of such situations. I know that I have not sufficient knowledge of these matters. Yet my opinion must prevail over that of the Publications Control Board whose members are mainly persons with a special knowledge of the subject.^[4]

Mr. Snyman may not have considered himself to be competent to adjudicate in matters involving aesthetic considerations but he did not have such doubts with regards to political theory. Shortly after his appointment to the Appeal Board he stated that since he had majored in political science at university and was not ignorant of the works of Marx and Engels, he felt competent to deal with any political works of that nature which might come before the Board.^[5]

J.C.W. van Rooyen, advocate of the Supreme Court and Professor of Criminal Law in the University of Pretoria, was appointed deputy-Chairman of the Appeal Board. Professor Van Rooyen was the author of Die Kontrak in die Suid-Afrikaanse Internasionale Privaatreg, a work described by Ellison Kahn, in a review published in the South African Law Journal, as a "splendid piece of juridical exploration".^[6] The remaining persons who could be appointed to the Publications Appeal Board as required were Dr. K.S. Van Wyk de Vries, a minister of the NGK in Pretoria East; Professor A.P. Grové of Pretoria University; Professor Anna Neethling-Pohl, a retired professor of drama at Pretoria University, and Dr. A.R. Williams, a former member of the National Education Council.

The first Director of Publications was career civil servant Mr. J.L. Pretorius. Mr. Pretorius had served both as Chairman of the inter-departmental Committee which investigated censorship in 1972 and as secretary to the Commission of Inquiry into the Publications and Entertainments Bill. Shortly after his appointment Mr. Pretorius said that he had so little time for reading that for him it was a "pure relaxation". "I read such light stuff that I do not have to think", he said.^[7] The five-member Directorate also included deputy-director, Mrs. A.M. Theron, Mr. Jannie Kruger, who was to die during the period under consideration, and

Professor R.E. Lighton, later deputy-director, all of whom had been members of the Publications Control Board. The remaining member of the Directorate was Mr. S.F. du Toit, a civil servant.

Dr. Mulder also announced the names of 190 people - including five "Coloureds" and five Indians, but no Africans - eligible for inclusion in the Committees which would do the actual censoring. These names included the two full-time members of the Publications Control Board who had not been appointed to the Directorate, its part-time members and all the panel members who had served on Committees of that Board. According to Mr. Pretorius, this was

[for] the sake of continuity and to ensure that there would be a core of persons with the necessary experience to give guidance in the organisation.^[8]

As will be discussed later in this chapter, critics of censorship in South Africa, members of the opposition in Parliament and the English-language press immediately noted that the list of people from which Committees could be constituted included many known conservatives and very few English-speakers. The apprehension consequent to this observation was exacerbated by the publication, on 23 March 1975 in the Sunday Times, of an interview with Dr. Mulder wherein the Minister stated:

We do not want to be in line with the permissiveness and pornography of so many other countries in the world. In this we prefer to be out of step.^[9]

Against this background some critics sought relief in the appointment of Mr. J.H. Snyman as Chairman of the Appeal Board. A Natal Mercury editorial of that time stated:

The history of censorship decisions in South Africa - with the signal exception of Court judgements on appeal - proclaims the intention of the Government to see that the apparatus of censorship remains basically in the hands of the Afrikaner Nationalist establishment that regards itself as the arbiter of public taste and morals for the country. ...

Happily there is reason to welcome the appointment of the Chairman of the Appeal Board, Mr. Justice J.H. Snyman, who will be remembered for his widely acclaimed handling of the dispute over the rock musical, Godspell. [10]

Similarly Eugene Hugo, reporting for the Sunday Tribune on an interview with Professor Tom de Koning, head of the Department of Communication Studies at the Rand Afrikaans University, wrote of the new censorship system as follows:

But on closer examination - taking also into account the elimination of the right of appeal to the Courts - one of the few redeeming features appears to be the appointment of Mr. Justice Snyman as Chairman of the Appeal Board.

Mr. Justice Snyman, the man who will take ultimate decisions on desirability, or otherwise, of publications and productions has this balanced viewpoint: 'As I see my task I must decide what effect or influence the publication or any part thereof is likely to have on an ordinary reader likely to read such publication: that is to say a reader of normal mind and reaction who is neither a prude nor a libertine.' [11]

Barely two weeks after the Publications Act came into

operation Mr. Snyman applied the scissors to any illusions that he might alleviate the severity of the new system. On 18 April 1975, while addressing students at the University of Pretoria, he stated that censorship was likely to become stricter.^[12] On 12 May, speaking after the first meeting of the Appeal Board at their new offices in the Civitas Building in Pretoria, Snyman emphasised this point:

[the] new tests applied to publications and films in South Africa will be a great deal stricter than the tests applied under the old system^[13]

He realised that producers and distributors of censorable materials might resent the stricter standards, he said, but these standards would not result in more bannings because they would get to know the standards within a few months and would not waste money producing material that was going to be banned.^[14] He added that representations in Parliament would be the only remedy for a disgruntled public.^[15]

Aside from the unequivocal warning that censorship would be stricter, the second of the above statements, that of 12 May, is notable for at least three reasons:

- 1) it contains an assumption that there is no necessary correlation between the number of publications which are banned and the strictness of censorship;
- 2) it was the first indication that different criteria would be used to adjudicate matter submitted for censorship (as opposed to the stricter application of

the criteria applied under the previous Act) and
3) it includes the claim that representations in
Parliament would be the only remedy for a disgruntled
public.

The writer will examine each of these points below.

a. The question of statistics.

Mr. Snyman was correct when he assumed that there is no absolute correlation between the extent and the strictness of censorship. An increase in the rate of bannings could as satisfactorily be explained by an increase in the number of potentially undesirable publications submitted for consideration (as might happen if the police and customs authorities became more zealous or if "undesirability" in books and films became more frequent) as by an increase in the strictness of censorship. Consequently if one is to investigate the strictness of censorship one must also examine the standards wielded by the censors. In this regard the requirement that the Appeal Board give full reasons for its decisions provides access to a realm that prior to 1975, with the exception of the decisions of the Supreme Court, was open only to speculation. Unfortunately the reasons for the decisions of the Committees of Publications have not been as forthcoming. Such "reasons" are supplied only to interested parties and only on request to the Directorate. The standards utilized in censorship during the Snyman period will be

the subject of the next section of this chapter.

While the statistics of censorship may not conclusively indicate the severity of censorship, they are not without interest, particularly after 1975, from which time the Directorate and Appeal Board have published annual reports giving an extensive numerical account of their activities. This has been amply demonstrated by André Du Toit in his article "The Rationale of Controlling Political Publications", perhaps the most impressive article dealing with the Snyman period. Since Du Toit has performed many of the calculations on these figures which might be of interest the writer draws on him with full acknowledgement. The writer will also make use of Louise Silver's useful article "Trends in Publications Control : A statistical analysis".

The most obvious conclusion from the statistics for the Snyman period is that both the total number of publications submitted annually as well as the number of these found to be undesirable increased after the Publications Act came into operation. Du Toit illustrates this by comparing the figures for 1967 and 1968 with those for 1977 and 1978. Since 1967 and 1968 fell within the Dekker period his comparison shows a great (threefold) increase. While less dramatic this trend is also evident if one makes use of figures drawn

from the Kruger instead of the Dekker period, as the writer has done in Table One.

Table I

Year	Publications and items submitted	Publications and items found undesirable
1973	1230	889
1974	2086	1059
1977	2121	1246
1978	2520	1326

Both the number of publications submitted and those found undesirable can be broken down into various categories. In the following tables the writer has not included figures for 1980 as only four months of that year fell within the period under consideration. Table Two is a breakdown of the persons and organisations which submitted publications for scrutiny.

Table II^[16]

Number and Percentages of Publications submitted

	1975	1976	1977	1978	1979
Total	1850	1944	2121	2520	2138
By Customs Officials	1039 56,2%	971 49,9%	929 43,8%	796 31,6%	822 38,4%
By Police	404 21,8%	562 28,9%	793 37,4%	1323 52,5%	903 42,4%
By Publishers	182 9,8%	200 10,3%	178 8,4%	228 9,0%	204 9,5%
By Members of the Public	191 10,3%	177 9,1%	136 6,4%	130 5,2%	120 5,6%
By the Directorate	34 1,8%	34 1,7%	85 4%	43 1,7%	89 4%

Two things come to mind. Firstly the small extent of

what Du Toit calls "unofficial participation". Here the greater share is the publications submitted by publishers (approximately 10%) who presumably participated so as to minimize their losses rather than out of loyalty to the system. By 1978 and 1979 the percentage of the publications submitted by the public was down to approximately 5% which is hardly indicative of any significant public participation in censorship. Secondly one notices the very great role played by the Customs and Police, which between them accounted for approximately 80% of the publications submitted. Here one also notices an increase in the role of the Police in relation to that of the Customs.

What of the publications and objects found to be undesirable? Before examining such statistics it is useful to reiterate the provisions of s42 of the Publications Act^[17] which allows for a finding of "undesirable" if a work

- a) is indecent, obscene or is offensive or harmful to public morals;
- b) is blasphemous or is offensive to the religious convictions or feelings of any section of the inhabitants of the Republic;
- c) brings any section of the inhabitants of the Republic into ridicule or contempt;
- d) is harmful to the relations between any section of the inhabitants of the Republic;
- e) is prejudicial to the safety of the State, the general welfare or to the peace and good order ...

Table Three was compiled by Louise Silver from the Government Gazette; hence the slight difference between her total number of publications found undesirable and

those of the Directorate.

Table III^[18]

Publications and objects found to be undesirable within the meaning of paragraphs (a) to (e) of Section 47(2) of the Publications Act.

Paragraphs:	(a)	(b)	(a+b)	(c)	(d)	(e)	(d+e)	other*	Total
1975+	604	12	91	1	6	159	26	39	938 GG# 1078 D of P~
1976	679	15	79	-	4	190	44	40	1051 GG# 1149 D of P~
1977	691	12	87	-	2	254	61	53	1160 GG# 1262 D of P~
1978	545	15	97	-	2	424	43	52	1178 GG# 1338 D of P~
1979	466	11	95	1	7	407	39	35	1061 GG# 1220 D of P~

*other = combinations of (a)-(e), specifically excluding (a)+(b),(d)+(e)

+ April to December

GG = Annual accumulated Government Gazettes

~ D of P = Annual Report of the Directorate of Publications or Annual Report of the Department of Internal Affairs containing information on "Publications Control".

It is noticeable that during the period under consideration most publications and objects were banned under the moral clauses, but as the period progressed the share of publications banned under the political clauses rose sharply.

What of publications banned for possession? Table Four is from Du Toit.

Table IV^[19]

	1975	1976	1977	1978	1979
Number of publications banned for possession:	78	240	357	448	420
Banned for possession as a percentage of all publications submitted:	4,2%	12,3%	16,8%	17,7%	19,6%
Banned for possession as a percentage of publications found undesirable:	7,3%	21%	28,7%	33,8%	34,8%

In words, by 1979 Committees were banning for possession almost one in five of all publications submitted to them and, by 1978 and 1979, more than one in three of the publications which were found to be "undesirable".

The bannings for possession can be broken down further, as in Table Five:

Table V^[20]

	1976	1977	1978
Number and percentage banned for possession under clauses (a) & (b):	55 24,4%	98 24,9%	103 23,5%
Number and percentage banned for possession under clauses (c) or (d) & (e):	159 70,6%	281 71,3%	321 73,3%
Other:	11 4,9%	15 3,8%	14 3,2%

From the above it is clear that publications banned under the political clauses bore the brunt of bannings for possession. Du Toit has calculated that in 1976 66,8%; in 1977 89% and in 1978 67,7% of all publications found to be undesirable under clauses (d) and/or (e)

were banned for possession.^[21] These figures become even more significant when one considers that restrictions on possession required confirmation from the Publications Appeal Board. Table Six reveals that the Appeal Board seldom overturned restrictions on possession:

Table VI^[22]

	1975	1976	1977	1978	1979
Bannings for possession confirmed:	57	208	325	400	377
Banning for possession set aside:	0	0	1	4	10

Table Seven gives an indication of the Committees's activities with regard to full-length films. Included for purposes of comparison are the figures for 1973.

Table VII^[23]

Full-length Films considered under section 47(2)

	Number examined	approved unconditionally	approved conditionally	Rejected
1973	1283	252 19,6%	902 70,3%	129 10%
1975	816	310 37,9%	428 52,4%	78 9,5%
1976	869	293 33,7%	490 56,4%	86 9,9%
1977	634	266 41,9%	312 49,2%	56 8,8%
1978	562	212 37,7%	294 52,3%	56 10%
1979	684	329 48%	310 45%	45 6,6%

Aside from the drop in the number of films submitted for consideration from the Kruger to the Snyman period, the above table shows that prior to 1979 a fairly constant 10% of all films submitted were rejected and that in the Snyman period less use was made of conditional approval. The latter occurrence was no doubt in part due to the tendency not to restrict a film to any particular race

group or groups during the Snyman period. Even so, it would be extremely difficult to deduce the strictness of film censorship from these figures. One is required to examine the standards utilized during the Snyman period.

b. New criteria for censorship.

The first clear statement of the new criteria for censorship which were promised by Mr. Snyman was contained in the Appeal Board's judgement in the case *Directorate of Publications v Brandwagpers (Edms.) Bpk.*^[24] A summary of this decision, prepared by the deputy-Chairman, was published in De Rebus Procutatoriis^[25] as a guide to the legal profession. An extended exposition of the new criteria was later published in deputy-Chairman Van Rooyen's Publikasiebeheer in Suid Afrika. From the above mentioned instances, and indeed in the judgements of the Snyman Board as a whole, it is clear that, in accordance with the Board's reading of the Act^[26] and in contrast to the decisions of the Court under the previous Act,^[27] the "likely reader" was not a factor in deciding undesirability. Gerald Gordon QC expands on this point:

Then there is the question of readership. The Chairman of the Publications Appeal Board, Mr. Justice JH Snyman, in his report tabled in Parliament on February 13, 1978, said that members were appointed by 'virtue of their educational qualifications and knowledge and not because they represented certain interest groups. Therefore the gauging (of undesirability) does not take place at a

literary level, but with due regard to a broad spectrum of values'.

Under the previous Act judges said the tests were 'the tendency to corrupt the minds of any substantial number of likely readers' and what effect the work would have on the average modern reader with a healthy mind, that is, 'neither a prude nor a libertine'. Moreover it was held to be the duty of the Courts to determine in every case what the contemporary taste and sense of decency were, since values were not static. Mr. Justice Snyman thus in effect applies the criterion of the average reader rather than that of the likely reader of the particular work.^[28]

It was this exclusion of the "likely reader" (also called the "probable reader") test that precipitated the stricter censorship imposed by the Snyman Board. That this should have been so is emphasised by the way in which Mr. Snyman elucidated the average reader test on one occasion:

The duty of the Publications bodies is, they must ask the question: "What does the average man in the street with a standard seven education think?"^[29]

The average reader, it would appear from this exposition of the test, did not read at all. Even if Snyman, J did overstate the case, without the mitigating factor of the likely reader the average reader test is manifestly a severe test. As Van Rooyen expressed it, the Board had moved from the relative test as applied by the Court to an absolute test.^[30]

In his book Human Rights and the South African Legal Order, Dugard, with the assistance of Louise Silver, reviews the Publications Act and the standards laid down

by the Snyman Board. With reference to the provisions relating to morality he concludes:

South African legislation on censorship in the field of art and literature is out of line with the standards of Western Europe and North America. It is too early to comment upon the performance of the Publications Appeal Board, which to date has approached the question of obscenity in much the same way as the Courts under the 1963 scheme, but it is unlikely that it will release South Africa from the grip of Calvinist morality, as the standards laid down in the Publications Act impose severe restraints upon the Board. Moreover, the guidelines already laid down by the Appeal Board, particularly in respect of the 'portrayal of sex and love life', hold out little hope for liberalization.

Obscenity is a notoriously elusive concept, but it is essential that those charged with the task of censorship go beyond the subjective I-know-obscenity-when-I-see-it approach and attempt to lay down standards that will not stifle artistic and literary endeavor. That the formulation of standards is no simple task is shown by the agonized and often confused efforts of the United States Supreme Court to come to grips with the slippery concept of obscenity. ...

The tests employed by the Supreme Court [of the US] fall far short of a standard of perfection but it is probably true to say that such a goal is unattainable. Nevertheless they do confine Government interference with art and literature to cases of social harm and sexual exploitation and in practice they have not obstructed artistic creativity. The South African standards, on the other hand, cast their net too wide. The statutory definition of 'undesirability', the statutory rejection of the Anglo-American requirement that the work be judged as a whole, and the standards approved by the Publications Appeal Board, ensure that many works of 'a serious literary, artistic, political or scientific value' which cannot be described as patently offensive by twentieth-century standards are withheld from South African readers and audiences. [31]

Not only did the Board not show any noticeable regard for literary merit, as Dugard correctly stresses, but the Board even held that the "literary factor" may be an aggravating factor. The following quotation is from the Board's decision with regard to Jack Cope's The Dawn comes Twice:

[very] little attention has so far been given to the part played by the literary factor in works dealing with political matter. ... A work may be harmful to the relations between sections of the inhabitants or prejudicial to the safety of the State, the general welfare or the peace and good order even though the reader realises that it is a work of fiction, and is not based on real events. A work of fiction, because it is not confined to real events, can in fact do so more effectively, for it can picture fictitious events, often in caricature so as to raise or heightened the emotions of its readers. In other words the fictional presentation of facts can provide the very sting for an attack by creating fictitious situations of hardship, or unfairness or injustices. [32]

Commenting on the political provisions, Dugard suggests that they

[resulted] in the banning of numerous political works (particularly those with a Marxist bias) including the publications of exiled African political organizations. Censorship of this kind has serious consequences for the teaching of political science, sociology, economics, and law in South African universities, as students and staff are denied access to many basic texts. But more important than this is the fact that political censorship isolates informed opinion in the Republic from current radical thinking about the Republic itself. In this way South Africans are kept largely ignorant of threats to the status quo and denied information that might provide an incentive to peaceful social change. [33]

On the same subject Louise Silver has commented:

The concepts of obscenity, indecency and blasphemy referred to in s 47(2)(a) and (b) of the Publications Act 42 of 1974 are well known to Anglo-American jurisprudence, which consequently offers guidelines for their elucidation. These jurisdictions, however, yield no assistance when one is faced with material that is undesirable because of its political implications. ...^[34]

In reviewing the "political" decisions of the Board, Du Toit has convincingly argued that although the Board attempted to transpose the "average reader" test applied on moral issues to political cases, it was neither consistent nor particularly successful in this regard. One of the examples Du Toit cites is the The Dawn Comes Twice^[35] decision:

The Appeal Board in effect admitted the inadequacies inherent in its attempted transposition of the 'average reader' principle to political contexts when, in its The Dawn Comes Twice decision, it came to the interpretation of the crucial clause (e), which defines a publication as undesirable if it 'is prejudicial to the safety of the state' etc. Rather than using the views of the average citizen as its test, the Board instead held that a publication 'cannot be considered only from the point of view of its effect on the average decent-minded and law abiding citizen. ... The enquiry in addition is whether there is a substantial number of persons in the South African community on whom it is likely to have such an effect. If the work or any part of it is calculated to have the effect of inciting certain elements in the community to indulge in the conduct contemplated in the paragraph, or to have such an effect on persons who already have revolutionary or lawless tendencies ... then such a work would be prejudicial to the safety of the state'.^[36]

Du Toit concludes this section of his review as follows:

In short, we can only conclude that the Appeal Board, having set out to transpose the procedural 'average reader' principle from

literary to political contexts, abandoned this attempt when it came to the crucial kind of cases. No definite rule of interpretation was substituted for the meaning of 'undesirability' in the political clauses of section 47(2), and the resulting situation, to say the least, is confused and ambiguous, allowing considerable latitude in finding publications to be undesirable.^[37]

Du Toit proceeds to note that the Appeal Board, however, is not the primary actor in the control of political publications:

That is rather the function of the special permanent Publications Committee dealing with most, if not all, political publications submitted for investigation.^[38]

The first indication of the existence of this specialist Committee was provided by the Director of Publications in his report for the period April to December 1975:

As a result of the great number of communist and State - security publications continually being sent, solicited or not, to organisations and members of the public in South Africa, a Committee of highly specialized members was constituted to deal with these publications and to decide whether they were undesirable or not within the meaning of section 47(2) of the Act. This specialized Committee functions on a more or less permanent basis and holds weekly meetings.^[39]

Both the Minister and the Director of Publications repeatedly refused to reveal the identities of the members of this Committee, which continued to operate throughout the period under consideration, or the names of members of any of the other Committees for that matter. In response to questions from D.J. Dalling MP in Parliament in August 1981 the then Minister of

Internal Affairs, Mr. A.L. Schlebusch, did give the qualifications of the members of this Committee of "specialists":

Each one of the present members appointed on the ad hoc Committees is an expert on among others, one or more of the following subjects: political science, military and intelligence matters, the practice and teaching of law, African Studies and the dangers of subversion.^[40]

Of the six members of this Committee at the time of Mr. Dalling's question two had been appointed in 1975, one in 1977, one in 1978 and two in 1981.^[41] Prior to 1980, the limit of the Snyman period, there tended to be only four members, hence the qualifications of all the members of this Committee from 1978, at least, are included in the Minister's statement.

The Minister further confirmed that nearly all publications or objects of a nature possibly endangering State security, or of a "communistic" nature, were, from the commencement of the Act, referred to the specialist Committee.^[42] Given, further, that only a small percentage of matter found to be undesirable was taken on appeal (Silver has calculated the figure to be between 2 and 3 percent between 1975 and 1979^[43]), Du Toit is correct to state that one has to look at the decisions of the Committee. This however, as Du Toit realizes, is where the trouble starts. In coming to terms with the decisions of the Committees, he notes, one has to rely on "an essentially speculative experiment in rational reconstruction" until such time, if ever, as

the archives of the Directorate are opened up.^[44]

In his "speculative experiment", based on such decisions of the Committee as were available to him, Du Toit argues that despite a strong tendency towards a merely partisan approach,

[the] Committee generally stops well short of taking the full consequences of the partisan principle, which would be to require of all publications that they show support for official policies, and which would rule out any support for or sympathetic publicity to what is perceived as adversary movements. What happens instead might superficially appear to be the reverse of the partisan approach: the Committees and the Appeal Board likewise, require publications to conform to a standard of 'impartiality'. In effect this means that they are required to give the 'other side' as well, that is, the official version of events.^[45]

Writing at the beginning of 1981 Du Toit concedes that "a totally different approach has surfaced in a few notable recent decisions by the Appeal Board".

In these cases the 'one-sidedness' of the publications concerned are also emphasized, but rather than being a cardinal ground for finding such publications to be undesirable in terms of the Act, it is now conversely held to be a mitigating factor! Thus the Board says of Burger's Daughter that 'as a result of its one-sidedness the effect of the book will be counter-productive rather than subversive'. More elaborately the Board constructed an argument along similar lines in the case of A Dry White Season concluding in so many words that 'one-sidedness' and the absence of correspondence to reality (waarheidsgetrouheid) is not sufficient for finding a publication to be undesirable: These are such startling innovations within the context of South African publications control precisely because they indicate a basic departure from the inherent logic of both the

partisan and the veracity principle, and of the various compromises of these principles which constituted the operative rationale for the publication's Committee's concern with counteracting 'one-sided' political publications.^[46]

The writer will seek to explain this trend in the remainder of this chapter.

c. Representations in Parliament?

Judge Snyman was wrong when he said that representations in Parliament would be the only remedy for a disgruntled public. Firstly, insistent representations in Parliament and pleas to the Minister appeared to be no remedy at all. Secondly, a change in the direction of censorship occurred only when the Government had little option but to respond to events which were enacted outside of Parliament.

As has already been mentioned, one of the earliest manifestations of opposition to censorship during the Snyman period related to the Committees. The tone of the immediate and extensive reaction against the composition of the Committees is epitomised by a Daily News editorial of 19 March 1975, that is the day after the Minister announced the list of people eligible for inclusion in the Committees.

Anyone naive enough to have expected comfort from the composition of the new censor panels will have had all hope dashed by the list of the chosen, released yesterday. ...

Firstly the home language of the panel members is overwhelmingly Afrikaans. In Natal for

instance, English - speaking panelists look like a contemptuous sprinkling. But even nationally there's a clear disregard for the language spoken - all race groups considered - by the vast majority of the population. ...

Secondly, the only churchmen members are ministers of the Dutch Reformed Churches. Alan Paton sees the appointments as an attempt by Calvinists to impose their will on the rest of South Africa. And Pietermaritzburg Bishop Hallows says the implication is that the Afrikaner is the only person with moral or ethical standards. This is strong talk. But what can you expect when such heavily - loaded sectional appointments are made to panels that will decide the local fate of art and literature emanating almost exclusively from English - language sources? And anyone tempted to dismiss the reaction as Boerehaat should sound out the opinions of the Malherbes, the Brinks, the Barnards and the Breytenbachs.^[47]

The issue was immediately taken up in Parliament. On 19 March Dr. Mulder responded to the extensive criticism that the list was "unbalanced". To this end he employed contradictory arguments. Firstly he asserted that the list was not unbalanced and that the listed people formed a cross-section of the community. Secondly he said that not as many English-speaking people had come forward for appointment as he would have liked. For this he blamed a section of the English-language press for having appealed to the public to have no part in the new system of censorship. With regard to the omission of Africans from the list he said that he could not appoint Africans

[as] I would have to appoint Zulus, Tswanas, Vendas - there are eight ethnic groups. Must I appoint five from each group ... that would mean a total of 40 Bantu.^[48]

In a hard-hitting editorial the Daily News responded to the Minister:

Perhaps Dr. Mulder is genuinely thick-skinned. More likely, he is a political cynic who has few qualms about insulting the intelligence of not only the English-speaking population, but of the Blacks as well. Because it is hard to believe that many people would be taken in by his words yesterday.

The Editorial concluded:

Dr. Mulder was being so patently absurd that he may as well have come clean and said that the censor structure has been loaded with Nationalists because the Government believes only in the moral and ethical standards of the most conservative members of the Afrikaans community. [49]

When in 1976 and 1977 the Minister announced the lists of potential Committee members he noted, on both occasions, that more English-speakers had been included. Commenting on the 1977 list The Star observed that of the 256 persons only 45, judging by the names, were English-speaking. [50] In any case the Government had grown weary of the perennial debate over the composition of the Committees. The result was an Amendment to the Act in 1977. [51] In accordance with this Amendment, henceforth the lists of Committee members would be compiled every three years. This, of course, did not address any of the reservations with regard to the composition of the Committees. If anything it facilitated the further entrenchment of "unbalanced" Committees. Representations in Parliament, it would appear, merely served to make the Act even more rigid.

The same Amendment abolished the provisions of the principal Act which exempted technical, religious, scientific and professional publications from the control of the Act. This clause rendered the conditions for scholarship even more adverse than they had previously been. On 11 September 1975, in delivering the Hoernle Memorial lecture of the Institute of Race Relations, Professor Monica Wilson had already stated:

A scholar must holiday abroad if he is to keep up to date with history, literature and even theology written by Black South Africans. Is it not dangerous for us to remain so ignorant?

She added;

I fear the gross distortions of current reality in South Africa and I fear above all the confusion between a demonstration that conflict exists and advocating of conflict.^[52]

It was also rendered an offence to prejudice, influence or anticipate a decision of the Directorate or its Committees and, in an appeal against the imposition of conditions on the showing of a film by a Committee, the Appeal Board was empowered to impose additional or fresh conditions whereas previously it could only either delete or confirm conditions. In addition advertisements relating to banned matter were prohibited. Given these amendments there is little evidence to suggest that the Government had any inclination to relent on the censorship issue.

The Amendment did not eradicate criticism of the Committees. The culmination of the dissatisfaction with the Committees is to be found in the judgement of Van Winsen A.J.A. in the case *S v Maroney*.^[53] Here a judge of the Appellate Division, the highest Court, described a Publications Committee as

[an] extra - judicial body, operating in an administrative capacity whose members need have no legal training, before whom the appellant has no right of audience, who in their deliberations are not required to have regard to the rules of justice designed to achieve a fair trial, whose proceedings are not conducted in public and who are not required to afford any reasons for their decision.^[54]

In this case Maroney, in his capacity as editor of Wits Student had been convicted by a magistrate of producing two "undesirable" publications in contravention of s8 (4) (b) of the Publications Act.^[55] The magistrate had held that the Act made it unnecessary for him to decide whether the publications were undesirable since the Act held that the decision of a Committee that they were undesirable was sufficient proof thereof. An appeal to a Provincial Division having been dismissed, in a further appeal with Wessels A.C.J., Corbett J.A. and Van Winsen A.J.A. presiding it was

[Held], that a contention by appellant that s8 (1) (a) should be so interpreted as to read into it words to the effect that what was thereby penalized was the production of a publication already declared undesirable by a Committee had to be rejected.

Held, further, that the magistrate should have considered that the Committee's decision

constituted prima facie proof that the publications were undesirable but that he was nevertheless required to weigh this proof together with such countervailing evidence, if any, adduced on behalf of the appellant or emerging from the publications themselves which were placed before him in evidence by the State in order to arrive at a decision as to whether the State had proved beyond reasonable doubt that appellant had published the publications and whether they fell within the definition of an undesirable publication as set out in s 47 of the Act.

Held, accordingly, that the magistrate had committed a fatal irregularity and that the conviction and sentence had to be set aside.^[56]

The consequence was a further amendment to the Publications Act in 1979.^[57] This amendment - the third to the Act (the second will be discussed presently) - provided that in the English version of the Act, a decision by a Committee that a publication was undesirable was no longer "sufficient" but rather "conclusive" evidence thereof. Since the Afrikaans text already used the phrase "afdoende bewys" there was no need to amend that version.

The second amendment to the Act related to the conflicts with regard to censorship within Afrikanerdom. The first major signal of the response of Afrikaans writers to the Snyman period was the conference of the newly-formed Afrikaanse Skrywersgilde at Broederstroom in July 1975. On 10 July the Guild voted, by an overwhelming majority, to include in its constitution a clause deploring State censorship as formulated in the

Publications Act. The clause continued:

Therefore no persons who are attached to State bodies which attempt to control literature qualify as members.^[58]

A proposal that the second half of the clause be scrapped was defeated by 22 to 5, with several abstentions. The Star noted that an immediate consequence was the termination of the membership of novelist Anna M. Louw, who was listed for inclusion in Publications Committees and who was a former Publications Control Board member.^[59]

At the same conference the guild elected its first Executive Committee. Included were many of the foremost Afrikaans writers: Etienne Leroux, John Miles, Bartho Smit, Chris Barnard, Abraham de Vries, Elsa Joubert, Leon Rousseau (publisher) and Jan Rabie. In light of subsequent events, it is interesting to note that a proposal to establish a literary prize in opposition to the Hertzog Prize only floundered after Rabie observed "we have enough literary and agricultural shows already".^[60] Towards the end of the decade the Hertzog prize would play a key role in the events which precipitated the change in the direction of censorship.

In an editorial the Sunday Times contrasted the Broederstroom meeting with an FAK language festival:

The two conflicting streams of thought within Afrikanerdom were nowhere better illustrated than in Paarl and Broederstroom this week. In the south, at the birthplace of Afrikaans, the venerable leaders of the FAK were

lamenting the setbacks, real or imagined which they believe their language has been suffering. In the north the leading contemporary Afrikaans writers were displaying similar concern over the state of Afrikaans - more particularly, its suffocation by censorship. ...

Many of the FAK academicians were calling, in sombre, Old Testament-like terms, for more and more handhawing, for more and more compulsion on people to use and to recognise Afrikaans. The writers, on the other hand, were pleading for more freedom of expression, believing - quite rightly - that a language that is freely and vigorously creative does not need artificial means to safeguard its future. It will survive, prosper and grow on its own. [61]

Less than a fortnight after the adoption of the Skrywersgilde constitution it became evident that there were not only two "streams" within Afrikanerdom but that there was more than one "stream" within the Guild itself. The following is from a Rand Daily Mail editorial:

The dilemma facing Afrikaans writers has resulted in strange and seemingly contradictory behaviour on their part. After a defiant rejection of the South African censorship system less than two weeks ago, top Afrikaans writers are now in desperation proposing a form of self-censorship. ...

The writers will meet the Minister of the Interior to propose that serious literature be approved, banned or censored not by the present censorship Committees but by experts-writers or academics. And they want literature to be judged in context and as a whole, not in sections or parts as the present system allows. ...

It is possible to sympathize with the plight of these authors, who have to write here and now in Afrikaans, or become largely voiceless exiles like Breyten Breytenbach. But it would be a serious mistake if they, out of sheer desperation, were to surrender their newly-stated principles. [62]

Despite the revelation, in the Director of Publications' report for 1975, that a Committee of "experts" existed to vet literary publications (whether this Committee existed before the pleas from Afrikaans writers is not clear), that nothing substantial came from the appeal to the Minister is manifest from the continued banning of Afrikaans works and the absence of any relief in the 1977 Amendment.^[63] For that matter, nothing came from the increasingly militant statements from certain Afrikaans writers, most notably from André Brink who rapidly moved towards the "radical" position.

The clearest indication of the Department of the Interior's disregard for literature, the calls for a more reasonable censorship, and the position of the Afrikaans writer occurred on 7 September 1977.^[64] On this day Dr. Mulder issued a directive ordering the Appeal Board to review the decision of the relevant Committee with regard to Etienne Leroux's satire Magersfontein, O Magersfontein!. The Committee had found the book, which had been awarded the CNA prize for literature in 1976, not undesirable, motivating its decision as follows:

Ernstige en belangrike literatuur: 'n surrealistiese samestelling van die werklikheid in terme van verlede en hede', sê die roman self. Die verlede : die Slag and Magersfontein, 11/12/1899; die hede : die verfilming van, die rekonstruksie van die slag êrens in die 70er jare. Die resultaat is 'n grilligerige opeenvolging van soms bisarre en groteske, soms vulgêre episodes, met hede en

velede steeds in 'n soort kontrapuntale verhouding, met as slot 'n onstellende profeties simboliese gebeure. Dit alles geperspektveer, van onmiddellikeheid 'gespeen' deur die sg. 'double vision' van die satirikus wat gegewens tegelyk skematiseer en skerper laat vertoon. Die seksepisodes, wat origins geen eksplisiete of uitvoerige beskrywings bevat nie, word hierdeur volkome skadeloos want dit word basies potsierlik gemaak; die platvloerse taal (bv. bl. 22) is betreklik skaars en boonop funksioneel, duidelik geen deel van 'n volgehoue opset of skoktegniek nie. Die naam van die Opperwese word deur net een persoon herhaaldelik gebruik, met naam deur Marigold Rosemary, en ook dit word funksioneel gemotiveer. Die roman bied ten spyte van sydelingse, terloopse verwysings na die rasseproblematiek, geen probleme ten opsigte van subartikel (c), (d) en (e) van artikel 47(2) nie.^[65]

Etienne Leroux was widely regarded as the foremost prose writer in the Afrikaans language.

The proceedings of the Magersfontein hearing before the Appeal Board attracted much attention and was attended by a number of prominent Afrikaans writers and academics. Reports from 36 "experts" on literature, ministers of religion, educationalists and other "knowledgeable people" from various sectors of society were submitted to the Board. Of these reports sixteen were requested by the Appeal Board, the rest were submitted by the publishers.

On 21 November Mr. Snyman announced the decision of the Board:

A study of the relevant reports reveal that eight of those who were consulted judge that the book would be regarded as offensive by the average member of the community. Of the other 28 three expressed the opinions that the

average man would accept the publication. The other 25 did not answer the question or said that they had no knowledge of community standards of the public morality, or said that there were no community standards on the matter. But the great majority stated that the publication was sophisticated adult literature which would have a small reading circulation and the larger reading public would not read it and indeed it was not intended for them to read.

They averred that the publication is intended for the literary man who will take it as an informative work. According to them, if the book is read in this light it is wholesome and healthy and actually has a moral contribution to make. By using shock tactics the book illustrates the depravity of our society. The use of filthy language is thus necessary. These literary men also maintain that good satire is rare in Afrikaans and that this particular contribution and approach should not be hampered by a decision that the work is undesirable.

The Appeal Board believes that just for the very reason that he does not understand the book the average man will be constantly irritated by the unsavoury language with the result that the cumulative effect on him will be one of repugnance. The point in issue is whether the claim of the literati is justifiable, that the use of filthy language (however extreme) is permissible in a work of acknowledged literary value.

The Appeal Board must bear in mind and the literati do acknowledge mostly by implication that by far the great majority of the community will see filthy language as filthy language and regard it as offensive to public morals. The literati in the community will have to accept this position. ...^[66]

In short, the decision of the original Committee was set aside: Magersfontein, O Magersfontein! was "undesirable".

The decision of the Appeal Board was not unanimous. Of the six members of the Board, the composition of which had changed since 1975, Mr. Snyman, Professor Van

Rooyen, General Gideon Joubert and Mr. D.P. Wilcocks constituted the majority with Professor A.P. Grové and Mr. C.D. Fuchs dissenting. The minority based its decision on three reasons. Firstly, Leroux had constructed a grotesque carnival in order to contrast the futility of our world and times with an heroic past. The minority said:

So gesien, is die boek sanerend, opheffend selfs, 'n kritiese blootlegging van die 'maladie van ons tyd' teen die agtergrond van die 'grandeur van Magersfontein'.^[67]

Secondly, the minority argued:

Dit is contradictio in terminis om te beweer dat 'n boek van hoë literêre gehalte 'n hele reeks onnodige en ongure elemente bevat.^[68]

Stressing this point the minority argued that any apparent "undesirability" is functional to the book. Thirdly, they argued that the Board had previously held that the reasonable man (as opposed to average reader) would be given more weight in judging a serious book than in judging light reading. Here the minority referred to the Marathon Man decision of 1975. The minority concluded their submission as follows:

Dit is ons oortuiging dat so 'n redelike, gebalanseerde mens Magersfontein, O Magersfontein! sal aanvaar, al verstaan hy die boek ook nie by sy volle essensie nie.^[69]

The reaction to the Appeal Board's decision was as immediate as it was extensive. D.J. Opperman's response alluded to the provision of the Publications Act which made it an offence to belittle the Publications Appeal Board:

Die wet maak dit vir my onmoontlik om onomwonde te sê hoë ek oor die aangeleentheid voel.^[70]

A.A.J. van Niekerk and Leon Rousseau registered the dismay of the Skrywersgilde. Mr. Rousseau said:

Dis 'n droewige dag. Geen skrywer wat dinge op 'n ongewone of nuwe of ander manier wil sê - en dis die reg van die skrywer, mits hy dit op 'n letterkundig verdedigbare wyse doen - kan nou meer veilig voel nie.

Vir baie Afrikaners, wat ook al op ander gebiede gebeur, was hul taal en letterkunde nog altyd iets om op trots te wees, bly weinig oor. Die Afrikaanse Skrywersgilde het reeds sterk standpunt ingeneem teen ons huidige sensuurstelsel. Die Magersfontein uitspraak bewys nogmaals dat sy vrese gegrond was.^[71]

Mr. Koos Human, speaking on behalf of Leroux's publishers, Human and Rousseau, said the book was already out of print. He added that he was very deeply shocked and distressed that a book of such high quality could be banned. He stated further that Minister Mulder had said that Afrikaans literature had nothing to fear, but if a book of such unmistakable literary value could be banned, the Act ought to be revised immediately.^[72]

Professor Ernst van Heerden, Afrikaans poet and head of the Department of Afrikaans-Nederlands at the University of Witwatersrand, said:

Die uitspraak bevestig wat ons lank reeds weet - dat daar met 'n sensuurstelsel soos ons s'n geen kompromis moontlik is nie. Al die vroë Ministeriele gerusstellinge is in hulle waardeloosheid ontmasker. Dis bitter ironies dat dit 'n Nasionale regering moet wees wat in die geskiedenis die twyfelagtige roem sal verwerf dat hy tot die gestadige verwurging van die Afrikaanse letterkunde meegewerk het.

Die verwydering tussen die skrywer en die owerheid is nou volkome en onheelbaar. Maar

wie die skeppende woord wil vernietig, moet totale oorlog verwag. Dit was 'n paar jaar gelede nog buitensporig om van ondergrondse Afrikaanse letterkunde to praat, maar vandag lyk dit glad nie meer so 'n fantastiese gedagte nie.^[73]

Abraham H. de Vries and Professor F.I.J. van Rensburg, head of the Department of Afrikaans-Nederlands at the Rand Afrikaans University also spoke out against the decision. Van Rensburg stated:

Dis 'n swart dag vir die Afrikaanse letterkunde, 'n werk van die belangrikste prosaskrywer van Suid-Afrika, alle tale bygereken, is verbied.

Dit verbyster. Geen mens met 'n sin vir verantwoordlikheid is teen beheer in ons soort situasie gekant nie, maar ons huidige sensuur-opset in ons land is reeds besig om waardevolle dinge seer te maak.^[74]

Strong words all, but, except perhaps for a more urgent tone, there was little in the above statements, all of which were contained in three major headline articles in Die Burger of 22 November, which had not been heard before. Most of the above quoted people had previously registered strong protest against the censorship system to no avail.

What was new was the response of literateurs who had followed the pragmatic path laid by N.P. van Wyk Louw. While many Afrikaans-speaking literary figures and academics had continued to speak out against censorship after 1963, others had opted to support it as long as no harm was done to genuine Afrikaans literature. Chief among the latter was A.P. Grové who, despite having expressed strong reservations about censorship in the

1950s, went so far as to join the censorship machinery. In the Kennis van die Aand appeal of 1974 he had given evidence against the book. Quite simply he did not consider it to have literary merit. Likewise Professor T.T. Cloete who also gave evidence against the Brink novel and, under the Publications Act, worked on censorship Committees. With Magersfontein neither Grové nor Cloete had any doubt that it was genuine literature. Grové submitted the minority report to the Appeal Board while Cloete, who resigned from the Committee system shortly before the hearing of the Magersfontein appeal,^[75] said of Magersfontein that it was the first Afrikaans book of genuine literary merit to be banned.^[76]

Following the announcement of the Appeal Board's decision Anna M Louw and Professor Merwe Scholtz immediately resigned from the specialist Committee on literature.^[77] It was this four person Committee, of which Professor Cloete had presumably also been a member, which had passed Magersfontein. In an interview Mrs. Louw said that she had accepted work in the Directorate as she believed her literary knowledge could help to protect literature. She still believed that some control was necessary, she continued, but the banning of Magersfontein made her feel that she no longer had a role to play in the Directorate.^[78] Something was clearly afoot: even those Afrikaans

literateurs that actively supported censorship were disaffected.

Human and Rousseau publishers gave notice that they were taking the unprecedented step of applying for a judicial review of the Appeal Board's decision. In the interim the disaffection spread. Here the most surprising and public manifestation was the statements of the old Nationalist war-horse, former Transvaal leader of the NP and Minister of Transport, as well as Chairman of Perskor (of which Dr. Mulder was a director), Ben Schoeman. On the television programme P.G. Gesels, hosted by P.G. du Plessis, in the course of narrating a story, Schoeman used the phrase "skiet die blerrie leeu" and added:

Regter Lammie Snyman is mos nie nou hier om die woord te verban nie.^[79]

Rapport takes up the story:

PG het stout gesê hy sal maar liever nie vra of Oom Ben vandag saamstem met regter Lammie Snyman, nou voorsitter van die Appelraad oor Publikasies, wat in 1948 sy politieke opponent in die kiesafdeling Maraisburg was.

Of PG wou vra of nie vra nie, Oom Ben wou baie beslis antwoord. Die land het al weer na PG se volskerm-glimlag gekyk, toe hoor 'n mens onmiskenbaar van hier regs van die kassie: "glad nie", hy stem "glad nie" met hom saam nie.^[80]

In a subsequent interview with Rapport Schoeman was even more forthright:

Ek is nou baie jammer dat ek, toe die betrokke Minister die Wet destyds voor die kabinet gelê het, nie sterk beswaar gemaak het teen die afskaffing van appèl na die howe nie. Het ek

geweet ... nou sien 'n mens waarop alles uitloop! Die bewakers van ons sedes! ... die wagters op sionsmure ... grrrrrom! ...

Ek beskou hierdie hele sensuurstelsel ... na my mening is dit 'n snotterny. Ek is verbaas dat hulle nog nie die Ou Testament van die Bybel in die ban gedoen het nie, want ek is seker as ons tydskrifte publiseer wat in die Ou Testament staan, dan was hulle al verban ...

Ek is oortuig daarvan as daardie wêreldberoemde Dawidbeeld van Michelangelo sonder 'n kunsmagtige vyeblaar ... as 'n foto daar van geplaas word, sal daardie tydskrif verban word. Of as hulle byvoorbeeld 'n foto moet plaas van die wêreldberoemde skilderstuk van Goya, die Naked Maja, wat in die Pradokungallery in Lissabon is, ek is seker daardie foto sal verban word. As hulle een van die wêreldberoemde skilderstukke voordra van Rubens, van sy naakte vrouens, sal daardie tydskrif in die ban gedoen word.

Dit is die soort ... ek wonder partykeer of hierdie ... (ons loop maar lig vir die Publikasiewet) ... ooit op 'n strand kom waar hulle die vrouens met hulle skrapse baaikosuums sien, want as 'n tydskrif een van hulle publiseer, word hy in die ban gedoen. [81]

On the subject of the Action Moral Standards pressure group - which had claimed responsibility for bringing Magersfontein to the notice of more than 2 000 ministers of religion and "cultural leaders", thereby precipitating a "massive" protest against the book to the Minister [82] - Schoeman said :

Dit is natuurlik 'n drukgroep soos jy by ander dinge ook kry. As ek die Minister was, sou ek baie min notisie van hulle neem. Maar blykbaar neem die Minister van Binnelandse Sake heelwat notisie van hulle. [83]

Mr Snyman responded to the Rapport article by referring it to the Attorney General for consideration under the Publications Act which prohibits the "insulting

disparaging or belittling" of any member of the Appeal Board. When told that this was aimed more at Rapport than at him, Schoeman said that the newspaper had quoted him correctly. He added:

I always regarded Mr. Lammie Snyman as a fighter and never expected him to run to the Courts for action. ... I have been in public life for 40 years, have been attacked, slandered and smeared, but have never run to the Courts. I have always fought back on public platforms and in newspapers. ... I did not criticise Mr. Snyman or any member of the Board, but the system itself.^[84]

With regard to a death threat which Mr. Snyman had received, Schoeman dismissed it as the actions of a crank which should be ignored. Mr. Snyman had received an anonymous phone call in which it was said:

Remember Justice Kuper - he got a bullet through the head. Keep your mouth off Ben Schoeman or you'll get a bullet through your head.^[85]

Dr. Mulder's response to the Rapport interview was to say that the old proverb remained true: "Shoemaker, stick to your last."^[86]

Much of the remainder of the groundswell within Afrikanerdom against the censorship system was not so public, at least not at that stage. In 1979 the Akademie vir Wetenskap en Kuns would demonstrate just how far the reaction against the banning of Magersfontein reached. In the meantime all eyes were on the Supreme Court. On 8 June, with Boshoff J.P., Myburgh and Van der Walt J.J. presiding, judgement was given in the judicial review of the Magersfontein

case.^[87] While it would later be important to Professor J.C.W. van Rooyen's redirection of censorship, in the short term the judgement had little to offer supporters of either the Appeal Board or Magersfontein. The South African Law Report summary of the judgement is as follows:

Where the Publications Appeal Board had decided that a book was undesirable with the meaning of s 47(2) (a) and (b) of the Publications Act 42 of 1974, in an application for review,

Held, in terms of s 47(2) (a), that the Appeal Board had, contrary to law, limited its investigation as to what was improper, indecent and offence to public morals by finding that the probable reader as a consideration was prohibited.

Held further, as far as s 47(2) (b) was concerned, that the Appeal Board had validly found that in determination of what was offensive to the religious convictions or feelings of any section of the population the probable reader should not be taken into account. Accordingly the application could not succeed.^[88]

In other words the Board had seriously erred, but the book remained banned.

All the while the new Minister of the Interior, Dr. Alwyn Schlebusch, who assumed the post in February 1978 after Dr. Mulder fell victim to the political scandal which bears his name (Muldergate), was preparing an amendment to the Act. The Amendment^[89] was duly assented to on 20 June 1978, 12 days after the Court gave its judgement in the Magersfontein case. In accordance with the Amendment the Appeal Board was

empowered to impose, on appeal, such conditions of distribution on a publication, film, public, entertainment or object as it deemed fit. Previously the Board could merely confirm or set aside a decision by a Committee that such matter was undesirable. In other words the Appeal Board was given greater discretion to conditionally pass matter which might otherwise have been found undesirable.

A new section introduced by the Amendment empowered the Chairman of the Appeal Board, at the request of the Directorate or of specified people or of his own accord, to appoint a Committee of Experts to advise the Board on a decision. The quorum of such a Committee, which would comprise people designated by the Minister of the Interior from a list compiled, annually by the Chairman of the Appeal Board, was given as three members. People liable to be included on the list of designated "experts" were people with suitable educational qualifications and special knowledge of and experience in art, language or literature. This provision, unambiguously implied that henceforth literary value ought to be taken into significant account under the Publications Act. Taken together with the provision for conditions on distribution, this was clearly an attempt to prevent a recurrence of the Magersfontein imbroglio.

The Amendment also provided that the Appeal Board, before

arriving at a decision, could submit questions of law arising from the proceedings to a special division of the Supreme Court. Requests from the Directorate, from the person who submitted the publication to the Directorate, from any person with a direct financial interest in the publication or from a person in charge of a public entertainment would oblige the Board to make such a submission. Provision was made for a further appeal to the Appellate Division.

While the 1978 Amendment^[90] showed the Government to be backtracking in the face of the adverse reaction to the handling of Magersfontein, the Afrikaans-speaking literateurs were not placated. By May 1979 it was clear that the 1979 Hertzog prize of the Akademie vir Wetenskap en Kuns would be awarded to Etienne Leroux for Magersfontein, O Magersfontein! This decision has been described as one of the most controversial decisions to be made by the Academy and an attempt was made to overturn it at an annual conference of that organisation.^[91] Not being one to remain silent in situations such as this, Dr. Koot Vorster had his say. Using a metaphor with which he had described Kennis van die Aand he referred to Leroux's novel as "septic art" and said that an alternative to the Hertzog Prize was under consideration.^[92] In a letter to Die Burger he added that only "unbelievably naive people" would think the award was not intended as a "blow to the Government

and its instrument the Publications Board, which was created to keep our literature nice and clean".^[93]

The Academy adhered to its decision and in due course Leroux was presented with the Hertzog Prize.

Significantly the presentation was made by Dr. A.P. Grôve in his capacity as Chairman of the Academy. Cope has written that the awarding of the "prestigious" Hertzog Prize to Leroux for his banned book was

[an] unprecedented event and a slap in the face for the censors from the highest-placed guardians of Afrikaans culture. Obviously something had gone wrong in the backstage power set-up.^[94]

Like many critics of censorship Mr. Snyman appears to have failed to appreciate the importance of the battle of Magersfontein. In an interview published in the Sunday Times of 30 September 1979 he said the Committee of Experts appointed to assist the Board in terms of the 1978 Amendment had been appointed "as a sop to South African writers". He added that the Board was seldom in any doubt about literary value consequently the Committee was "virtually of no significance".^[95] The Sunday Times takes up the story:

Dealing with criticism by South African writers, particularly Afrikaans authors, Mr. Snyman said that in the four years since the Board was established, 18 books by Afrikaans writers had been banned. Only four appeals were made against the bannings and two were upheld. Many of the Afrikaans writers were not prepared to co-operate with the Appeal Board system and therefore did not try to have a banning reversed.

Mr. Snyman said Afrikaans writers wanted their books to be judged solely on their literary merit by literary experts. They believed that as long as a book had literary merit the content did not matter - whether or not the books were blasphemous, subversive or obscene. ...

'If the public does want books to be judged solely by literary experts, they should inform their local MPs and ask them to change the law. We can only act in terms of the Act', Mr. Snyman said.^[96]

As far as the Minister was concerned it was not the law that needed further changes, rather it was time for Mr. Snyman to retreat from the stage. Mr. Snyman, who could not be fired during his five-year term of office, was prevailed upon to take six months accumulated leave and on 3 October J.C.W. (Kobus) van Rooyen became acting-Chairman of the Publications Appeal Board.

On his last day in office Mr. Snyman sat as Chairman in the appeal, brought by the Directorate, against the banning of Nadine Gordimer's novel Burger's Daughter. In this hearing the Board heard evidence from a Committee of Experts consisting of Professors P.J.H. Titlestad and N.J.G. Sabbagha and Dr. Riallette Wiehahn. In the Chairman's report the Committee of Experts criticized the way in which the Publications Committee responsible for the prohibition had approached the novel:

[the] Committee of Experts would also like to state that the Committee of readers has erred very gravely in the way it has approached this novel. It has not read accurately, it has severely distorted by quoting extensively out of context, it has not considered the work as a literary work deserves to be considered and

it has, directly and by implication, smeared the authoress. ... [the] Committee of readers stands convicted of bias, prejudice and literary incompetence.^[97]

In short the Committee of Experts recommended that the appeal succeed.

In a judgement written by Van Rooyen the Appeal Board argued that

[When] considering a political novel such as the present the adjudicator must bear in mind that strong and derogatory language is a typical feature of the South African political scene. Political criticism is often one-sided and would probably, in most cases, not fall within the bounds of good taste or be in accord with the opinion of a substantial number of South Africans. However this is not enough to find a book undesirable.^[98]

Due regard being given to literary value and the limited likely readership, the appeal was successful.

A short while later the Board heard the appeal against the banning of the English and Afrikaans versions of André Brink's novel A Dry White Season. This appeal was also at the request of the Director of Publications, then Mr. D. Vosloo, who motivated his decision as follows:

We feel not enough attention has been given to the literary value of the book. It has therefore been decided to ask the Publications Appeal Board to refer the book to a Committee of Experts for advice.^[99]

The appeal was successful.^[100]

All the while the two year period which was required before Magersfontein could be resubmitted to the Directorate was drawing to an close. On 4 December 1979

the novel was duly sent to the Directorate by the Publishers.^[101] On 10 January 1980 the decision of the Committee was made known: Magersfontein, O Magersfontein! remained banned under s 47 (2) (b) of the Publications Act.^[102] On 5 February 1980 the publishers gave notice of an appeal.

On 7 March 1980, less than a month before the Snyman period was officially to come to its conclusion, the Appeal Board sat on Magersfontein for the second time. After hearing a strong recommendation from a high-powered Committee of Experts - consisting of Prof. Dr. H. van der Merwe Scholtz (Chairman), Prof. Dr. W.E.G. Louw, Prof. Dr. F.C. Fensham, Ds. I.L. de Villiers, Mrs. A.M. Bassel and Dr. Elize Botha - that the novel be released, the Board came to its decision. In a judgement written by acting-Chairman Van Rooyen the Board stressed the need to consider a work as a whole and argued that the likely reader must be taken into account, within limits, even under s 47(2) (b):

Die waarskynlike leser moet by art s 47(2)(b) by die bepaling van die aard of strekking van die boek in sy geheel geneem en met inagneming van die konteks waarin die woorde daarin gebesig word, in ag geneem word. Die waarskynlike leser het ook te make met die graad en aard van die aanstootlikheid. So 'n ondersoek het sy eie ondersoekingsveld waarin die waarskynlike lese regtens nie uitgesluit is nie. Die waarskynlike leser mag egter nie in ag gennem word by die peiling van wat die godsdienstige oortuigings of gevoelens van 'n bevolkingsdeel is nie.^[103]

The decision of the Board: Magersfontein, O

Magersfontein! was not undesirable.

As is evident from Die Transvaler, 25 March 1980, the decision of the Board was greeted with joy by Afrikaans-speaking literateurs. Elsa Joubert and Jan Rabie expressed their pleasure that the writer was again free to write. D.J. Opperman was pleased by the unbanning in that, amongst other things, it meant that that the "kloof" between the lawmakers and the most refined people in the land over the terrain of culture could come to an end. Professor T.T. Cloete stated that in previous years the Board had paid too much attention to literature as if it were the chief culprit while cheap novels were responsible for far more damage. Dr. Elize Botha pointed out that Leroux's readers are more numerous than was commonly accepted. She added that there were hundreds of people for whom the prohibition of the book had been inconceivable. Professor Louis Eksteen indicated that he was convinced that a positive trend in literary censorship was emerging. André Brink suggested that an unforgettable blunder had been cancelled out, but added that the liberalisation ought not to be reserved for the exceptions, for writers with a reputation. In Die Volksblad, 25 March 1980, Professor F.I.J. van Rensburg said that he was most pleased that the Appeal Board was giving significant weight to literary value.

Conversely Dr. Koot Vorster said he was upset and

shocked. He added that if the Publications Act could no longer restrict Magersfontein then the authorities should be magnanimous enough to recognise that the Act had gone wrong. The unbanning indicates, he said, that the norms had changed and this was a victory for septic and leftist art.^[104] Mr. Eddie van Zyl, the secretary of Action Moral Standards, stated that the Appeal Board had indicated that "die kunstenaar God maar kan vloek". He added that the Act now protected the interests of so called experts and not those of the "volk".^[105]

d. Behind the scenes.

In an interview, on September 1990, the writer asked Professor Van Rooyen about the Snyman period.^[106]

With regard to Mr. Snyman, Van Rooyen said:

He really gave the Board the standing of a Court. That's what he did. One may not like his decisions but he did give the Board the standing of a Court. He foresaw that we had to have parties before the Board. Something which I think I would never have seen was to have the Publications Committee before the Board as well.

I'm loyal to law and I found Judge Snyman a very interesting lawyer who'd had a lot of experience with procedure. He made a mistake, and I made this mistake with him, to believe that the likely reader was not accommodated in the new law. I did that under his supervision. My attitude was that the Chairman interprets the law and we had a new law before us. I thought it would be wrong in law and if you don't look at the likely reader then Magersfontein is undesirable. That is why I voted undesirable there as well. The Magersfontein review said we were wrong in respect of morality.

Stewart: Would you agree that, at the time it was

passed, the Publications Act appeared to mark a further move away from the interests of Afrikaans intellectuals and writers and towards a position epitomized by the NGK and Dr. Koot Vorster?

Van Rooyen: Are you saying that it was intentionally there to be more strict?

Stewart: Yes, at a time when writers were asking for it to be less strict.

Van Rooyen: It depended very much on the relevant Government at the time. The Minister, Dr. Connie Mulder, happens to have been a very enlightened guy but he was a very pragmatic and realistic leader of the Transvaal wing of the NP, which is a conservative group. If you want to keep those people behind you, you had better make conservative noises. So when they decided to allow coloureds and Indians back into Parliament the story is that they had to give them something in return, so they gave them Magersfontein's banning. That's the old trick.

You must remember that Connie Mulder was not a member of the NGK, by the way, so it wouldn't be that he was furthering their interest. But of course he was a member of one of the three big Afrikaans churches. Section 1 of the Act could be interpreted as something which tried to further the interests of Christian dogma.

Stewart: My question was intended in a broader sense. Afrikaans writers were expressing fear ...

Van Rooyen: They were right. Because it lead to the banning of Magersfontein. Even after the law was changed by Mr. Schlebusch it lead to the banning of (... um)

Stewart: Donderdag of Woensdag?

Van Rooyen: Yes, now Donderdag of Woensdag was a very difficult case because on the face of it it's one of the most blasphemous books I've ever read. If we [the Snyman Board] had followed the advice of the Committee of Experts like we did in 1982 when it came up again in my chairmanship and when the likely reader started playing an important role, which it didn't according to the then Chairman Judge Snyman ... You must remember that was a very difficult case, and that even open minded

thinkers said so because it showed a God which was menstruating, a Jesus who said "fuck", I mean how far can you push this (chuckle). This was a difficult case, so we passed it on a very limited basis in 1982. But lets get back to the whole thing of looking after certain interests. The main point is that the Board was entrusted with the application of the Act, within its terms, but do remember that when Mr. Schlebusch came in he brought a more flexible approach. He brought in the Committee of Experts. It has a clear implication that literary merit and dramatic merit and artistic merit are factors within the Act. The 1978 legislation turned the whole situation, along with the Magersfontein review.

Stewart: I would argue that the 1978 legislation was an attempt at reconciliation with Afrikaans-speaking literateurs after the banning of Magersfontein.

Van Rooyen: It was the banning of Magersfontein in 1977. It was a wonderful thing in disguise. That brought the whole thing to its great (...) climax (chuckle). When the Akademie gave that prize, that showed that Afrikaners were ready, in the highest line, to accept a work like that with a substantial amount of "fucks" and other words which we had always regarded as dirty words. The 1978 amendment brought the change but the 1980 Board was also a factor because on a certain interpretation of the Magersfontein review we [the Snyman Board] could have passed Donderdag of Woensdag. But I think the first sign of a more open attitude towards security works was to be found in Snyman's own time. When Burger's Daughter was passed.

Stewart: Weren't you already acting-Chairman?

Van Rooyen: No, but I wrote the judgement. Stoffel van der Merwe gave evidence before us and he influenced Lammie Snyman. Lammie was always very open on security having been a member of the South African Party. He was kicked out of the NP in 1929 and joined the SAP. He was tipped to become the leader of Transvaal just before Strauss became the leader. That was his story though. But his big problem was that he didn't like fiction in films and in books.

Stewart: He even held that the fictional aspect could be an aggravating circumstance.

Van Rooyen: Yes, that's true, but he loved works in which you could really learn something. He was pretty careful though I still found that he was ... he had a soft spot for the police. And that was his genuine attitude. He was always very bona fide. He believed in certain things and this brought him into trouble. An inflexibility. ... When he said that the likely reader shouldn't be taken into consideration, that was the big problem. So Scope and Magiersfontein were judged by the same principle.

Stewart: At one stage Mr. Snyman referred to the Committee of Experts as being just a sop to South African writers and as being of virtually no significance.

Van Rooyen: I must say he intended that to be an off the record statement and it was sad that it made the papers and this was one of problems which he had. We didn't really know how to deal with the press in those days. He'd been a judge for years, I didn't have any experience of the press. The relationship between himself and the press was really bad so when he made this statement he didn't say off the record. He made a mistake there and that is why on the 3 October 1979 he decided to take his leave which had accumulated, six months leave. He had a discussion with the Minister and what the contents of the discussion were is not clear to me, but what he told me was that he wanted to know from the Minister whether he was going to reappoint him. The Minister said he could not decide on this matter now but in the meantime take your leave. So he decided to take his long leave. He wasn't fired, he couldn't be fired. You can't fire the Chairman of the Publications Appeal Board. So he went away and left me as the acting-Chairman from the 3 October 1979. Whereupon immediately the onus was on me to start a better relationship with the press.

e. Some qualifications.

In this chapter the writer has argued that the severe disaffection of even those Afrikaans-speaking literateurs who had since 1963 pragmatically supported

censorship, as was precipitated by the banning of Magersfontein, O Magersfontein!, set in motion the redirection of censorship which began to be manifest with the unbanning of Burger's Daughter, A Dry White Season and, of course, Magersfontein, O Magersfontein!. It must be noted however, that a constellation of fortuitous circumstances contributed to this trend. Of these the most important were the Muldergate scandal which facilitated the replacement of Dr. Mulder by Mr. Schlebusch and the Magersfontein review before the Supreme Court which reintroduced the criterion of the likely reader. A further factor was that an increasing number of South Africans were starting to come to terms with twentieth century culture, if only as a result of the introduction of television in 1976. Yet another circumstance was the presence of J.C.W. van Rooyen who was both well-positioned and inclined to make use of the opportunity for the more flexible application of the Publications Act. During the period 1980 to 1990 Van Rooyen was to be Chairman of the Appeal Board. Finally one must not disallow the role of Mr. Snyman. In his consistently over-strict interpretation of the Publications Act he no doubt contributed to the intensity of the reaction against censorship. Like the banning of Magersfontein, O Magersfontein!, Lammie Snyman was a blessing in disguise.

f. A beginners guide to twentieth century publications.

The works of literature banned during the Snyman period included various novels by Anthony Burgess, the Marquis de Sade, Charles Bukowski, J.G. Ballard, Martin Amis and Henry Miller, as well as Breyten Breytenbach's And Death White as Words and Skryt: Om 'n Sinkende Skip Blou te Verf, André Letoit's Struisbaai Blues, Gabriel Gàrcia Màrquez's The Autumn of the Patriach, Paul Theroux's The Black House, Jerzy Kosinski's Blind Date, John Nichol's The Milagro Beanfield War, Mtutuzeli Matshoba's Call me Not a Man, Stephen King's Carrie, John Updike's Marry Me, Ian McEwan's The Cement Garden, John Berger's G, Dennis Brutus's China Poems, E.M. Corder's The Deer Hunter, Anais Nin's The Delta of Venus, Thomas Pynchon's Gravity's Rainbow, V.S. Naipaul's Guerrillas, Kurt Vonnegut JR's Happy Birthday Wanda June, D.H. Lawrence's Lady Chatterley's Lover, D.M. Thomas's The Honeymoon Voyage, James Baldwin's If Beale Street Could talk, Miriam Tlali's Just the Two of Us, Philip Roth's The Professor of Desire, the text of Pieter Dirk Uys's Selle Ou Storie, Sipho Sempala's The Soweto I Love, E.L. Doctorow's Welcome to Hard Times, John Irving's World According to Garp, Can Temba's The Will to Die, André Brink's 'n Droë Wit Seison, Etienne Leroux's Magersfontein, O Magersfontein!, Welma Odendaal's Keerkring, John Miles's Donderdag of Woensdag and one or more works by Jack Cope, Edna O'Brien, Nadine Gordimer, Gore Vidal, Harry Bloom, Ken Kesey, J.P. Donleavy,

Tennessee Williams, John Cheever, Woody Allen and Joseph Heller. The literary journals Staffrider (Vol 1 No 1; Vol 2 No 1) and American Review (16) were also banned.

Aside from numerous publications emanating from the ANC, the PAC, SWAPO, various South African student's organisations, the World Council of Churches, the Soviet Union and the United Nations, amongst other sources, and aside from countless publications bearing the authorship of Marx, Engels, Trosky, Lenin, Stalin, Bukharin and Mao Tse Tung, the non-fiction works banned during the Snyman period include Donald Wood's Biko (banned for possession), the Black Sash's The Police Behaviour and Political Trials, Albert Goldman's Ladies and Gentlemen -Lenny Bruce, Francoise Sagan's Briquette Bardot, Hilda Bernstein's For their Triumphs and for their Tears (banned for possession), Richard Ellman's edition of the Selected Letters of James Joyce, a work listed as Sigmund Freud's The Cocaine Papers, Derek Sayer's Marx's Method, various editions of the Daily Mirror, Malcolm X's The End of White World Supremacy, Colletti's From Rousseau to Lenin (banned for possession), Rosa Luxemburg's Selected Political Writings (banned for possession), Emma Goldman's Traffic in Women and other Essays on Feminism, Georg Lukács' History and Class Consciousness, Marx for Beginners (banned for possession), Samora Machel's Impermeabilizemo, Alex Comfort's The Joy of Sex (banned for possession), Eric

Fromm's Socialist Humanism, David Conway's Magic : An Occult Primer (banned for possession), The Hite Report, New Left Review Volumes 107 and 112 (Volume 112 banned for possession), Reality Vol 9 No 2, C.Wright Mill's Os Marxistas and, strangely enough, a document published by the headquarters, Department of the army, Washington, namely Counter Guerrilla Operations of March 1967 (banned for possession). Ironically, John Trevelyan's study of censorship, What the Censor Saw, was also restricted.

Sundry other banned publications and objects include Victor Marsden's Protocols of the Meetings of the Learned Elders of Zion (banned for possession), Spare Rib (2 editions), Scope (numerous), various recordings of Jesus Christ Superstar, the LP John Lennon/Plastic Ono Band, "pendant consisting of silver hand with forefinger and middle finger forming a V and peace sign on palm", "women's panties with a hammer emblem with the words 'Cool your tool'", Paul Simonon and Mick Jones's Clash (it is not clear if this is the first Clash album or the songbook), a Dylan poster, Peter Tosh's record Equal Rights, Bill Cosby's LP The Best of Bill Cosby, a Donna Summer record and a book called Turned on Schoolgirls by a gentleman with the unlikely name of Ralph Stoker (banned for possession).

The films which were totally prohibited include Cuba, Lenny, Sacco and Vanzetti, The Lost Man, Little Black

Angel, Race with the Devil, The Farmer, Season for Assassins, Performance, Milestones, Godspell, Tommy, Come and Have Coffee with Us, Love Under the Elms, The Rocky Horror Picture Show, The Tiger from the River Kwai and Foxes. The numerous Films which had segments excised include Leadbelly, The Omen, Exit the Dragon, The Human Factor, Battle of Midway, Desperadoes, Combat Cops, Al Capone, Rocky, One flew over the Cuckoo's Nest, The Body, Night Moves, Farewell My Lovely, Jaws, Helter Skelter, The Living Dead and the film version of Cry the Beloved Country namely Lost in the Stars.

REFERENCES AND NOTES**CHAPTER SIX**

- 1 Chatwin, B. What Am I Doing Here? Page 130.
- 2 Act No. 42 of 1974.
- 3 Act No. 26 of 1963.
- 4 Sunday Times. 6 February, 1966.
- 5 Sunday Times. 23 March, 1975.
- 6 South African Law Journal Vol. 89 Part 3 Page 382.
- 7 Telex No. 19031855 headed "Times to Group Cape own Wedy" sent to Natal Mercury March 1975.
- 8 Report of the Directorate of Publications. April to December, 1975. R.P. 118/1975, Page 9.
- 9 Sunday Times. 23 March, 1975.
- 10 Natal Mercury. 20 March, 1975.
- 11 Sunday Tribune. 23 March, 1975.
- 12 Daily News. 18 April, 1975.
- 13 Natal Mercury. 13 May, 1975.
- 14 Ibid.
- 15 Daily News. 13 May, 1975.
- 16 Du Toit, A. "The Rationale of Controlling Political Publications". Coggin, T. (ed.). Censorship. Page 84.
- 17 Act No. 42 of 1974.
- 18 Silver, L. "Trends in Publications Control : a Statistical Analysis". South African Law Journal. Vol. 100. Page 525.
- 19 Du Toit. Op cit. Page 90.
- 20 Ibid. Page 91
- 21 Ibid.
- 22 Ibid. Page 92
- 23 Adapted from Silver. Op cit. Page 524.
- 24 P.A.B. case of 1975 07 09.
- 25 Van Rooyen, J.C.W. "Appealraad oor Publikasies". De Rebus Procuratoriis. February, 1976.
- 26 Act No. 42 of 1974.
- 27 Act No. 26 of 1963.
- 28 Rand Daily Mail. 22 May, 1978.
- 29 Film and Entertainment. Vol. 3, No. 4, Page 1.
- 30 Van Rooyen. Op cit. Page 73.
- 31 Dugard, J. Human Rights and the South African Legal Order. Page 200.
- 32 P.A.B. case (144/76).
- 33 Dugard. Op cit. Page 192.
- 34 Silver, L. "Criticism of the Police : Standards Enunciated by the Publications Appeal Board". South African Law Journal. Vol. 95, 1978. Page 580.
- 35 P.A.B. case (144/76).
- 36 Du Toit. Op cit. Page 97.
- 37 Ibid. Page 99.
- 38 Ibid. Page 110.
- 39 Report of the Directorate of Publications. Op cit. Page 12.
- 40 Hansard : Questions and Answers. 28 August, 1981, Page 202.
- 41 Ibid.

- 42 . Ibid. Page 204.
- 43 Silver. "Trends in Publications Control". Op
cit. Page 528.
- 44 Du Toit. Op cit.
- 45 Ibid. Page 118.
- 46 Ibid. Page 120.
- 47 Daily News. 19 March, 1975.
- 48 Ibid.
- 49 Daily News. 20 March, 1975.
- 50 The Star. 2 March, 1977.
- 51 Publications Amendment Act No. 79 of 1977.
- 52 Natal Mercury. 9 September, 1975.
- 53 S v Moroney. 1978 (4) S.A. 389 (A.D.).
- 54 Ibid. Page 403.
- 55 Act No. 42 of 1974.
- 56 S v Moroney. Op cit. Page 390.
- 57 Publications Amendment Act No. 44 of 1979.
- 58 The Star. 11 July, 1975.
- 59 Ibid.
- 60 Ibid.
- 61 Sunday Times. 13 July, 1975.
- 62 Rand Daily Mail. 23 July, 1975.
- 63 Act No. 79 of 1977.
- 64 Magersfontein, O Magersfontein: Die Dokumente.
Page 9.
- 65 Ibid. Page 10.
- 66 The Cape Times. 22 November, 1977.
- 67 Die Burger. 22 November, 1977.
- 68 Ibid.
- 69 Ibid.
- 70 Die Burger. 22 November 1977.
- 71 Ibid.
- 72 Ibid.
- 73 Ibid.
- 74 Ibid.
- 75 Die Suid Afrikaan. October/November, 1990. Page
48.
- 76 Die Burger. 22 November, 1977.
- 77 Ibid.
- 78 Ibid.
- 79 Rapport. 15 January, 1978.
- 80 Ibid.
- 81 Ibid.
- 82 The Star. 24 November, 1977.
- 83 Rapport. 15 January, 1978.
- 84 Daily News. 18 January, 1978
- 85 Ibid.
- 86 Daily News. 16 January, 1978.
- 87 Human and Rousseau uitgewers (edms) BPK v Snyman,
N.O. 1978 (3) S.A. 836 (T).
- 88 Ibid. At 836.
- 89 Publications Amendment Act No. 109 of 1978.
- 90 Ibid.
- 91 Magersfontein, O Magersfontein: Die Dokumente.
Page 49.
- 92 The Star. 3 May, 1979.
- 93 Ibid.

- 94 Cope, J. The Adversary Within. Page 123.
95 Sunday Times. 30 September, 1979.
96 Ibid.
97 Gordimer, N. et al. What Happened to Burger's
Daughter or How South African Censorship Works.
Page 41.
98 Ibid. Page 38.
99 Natal Witness. 2 October, 1979.
100 Case No. (81-82/79)
101 Magersfontein, O Magersfontein: Die Dokumente.
Page 94.
102 Act No. 42 of 1974.
103 Magersfontein, O Magersfontein: Die Dokumente.
Page 120.
104 Die Transvaler. 25 March, 1980.
105 Ibid.
106 Interview with J.C.W. van Rooyen. 25 September,
1990, at the University of Pretoria.

CHAPTER SEVEN : THE VAN ROOYEN PERIOD

Sharp borderlines everywhere became blurred, and some new, indescribable capacity for entering into hitherto unheard-of relationships threw up new people and new ideas. These people and ideas were not wicked. No, far from it. It was only that the good was adulterated with a little too much of the bad, the truth with error, and the meaning with a little too much of the spirit of accommodation.

Robert Musil, The Man Without Qualities.^[1]

On 1 April 1980 Professor J.C.W. van Rooyen was officially appointed Chairman of the Publications Appeal Board by the Minister of the Interior, Mr. Alwyn Schlebusch. In an interview after the announcement of his appointment Van Rooyen said that the Board's decision to lift the ban on Magersfontein, O Magersfontein! would set the tone for the future.

If you look at the early decisions by the Board and compare them to our very recent findings you will see there is a difference. This trend will continue.^[2]

In particular the recently introduced criterion of the "probable reader" - the main reason given by the Board for the unbanning of Leroux's satire - would assume more importance in the Board's deliberations, he stated. His aim, he continued, was to ensure an image of objectivity for the Board. He added:

If I can remain objective in the years to come I'll be happy.^[3]

At around the same time - July 1980 - Dr. A (Braam) Coetzee, former Professor of the Department of Afrikaans and Nederlands in the University of Fort Hare, was

appointed Director of Publications.

Professor Van Rooyen was to serve two consecutive terms as Chairman of the P.A.B. By the end of his ten year period in office he would receive unprecedented recognition for having "liberalised" the application of the Publications Act. In October 1989, for instance, the British newspaper The Independent carried an article on Van Rooyen's role in censorship in South Africa under the headline "Pretoria's moral barometer swings in a temperate direction".^[4] In March 1990 Dries van Heerden, writing in the Sunday Times, referred to the "wide acclaim" which Van Rooyen had won for "his modern enlightened policies".^[5] When, in March 1990, it became evident that Van Rooyen would not be appointed to a third term, Professor John Dugard was quoted in the Weekly Mail as follows:

To be blunt, (Van Rooyen's ousting) is very bad news for censorship.^[6]

The same article recorded "media lawyer" Lauren Jacobson's opinion of Van Rooyen's Chairmanship:

For the first time in the history of its existence, [the Board had] developed a real and coherent system of precedent as a result of his astute legal mind.^[7]

Ian Gray, in the Star, commented:

The man whose personal touch and unique approach took censorship out of the Dark Ages and into the present is reluctant to take credit for the enlightened attitude of the Publications Appeal Board in the past decade. Professor Kobus van Rooyen ... put a human face to what had been a granite edifice between the arts and a discerning public erected by his predecessors. The strict

Calvinistic attitude which governed the printed word and the performing arts soon gave way to sweet reason - but with a firm emphasis on artistic merit.^[8]

One final example. In an interview published in 1992

J.M. Coetzee stated:

The 1970s were a time of fairly harsh censorship in South Africa, the 1980s, broadly speaking, a time of liberalization.^[9]

The redirection of censorship in South Africa which characterises the Van Rooyen period was not immediately evident to observers of censorship in South Africa. At the time of Van Rooyen's appointment many critics objected to the very idea that censorship might "change" while "apartheid" was still in existence. The following is a report on the first National Conference on Censorship which was held at the University of Cape Town in April 1980:

Delegates soon reached the consensus that censorship in its present form in South Africa was undesirable, but disagreed as to strategies of resistance. Maintaining that the censorship system was inseparable from the apartheid system, the black writers present (supported by Nadine Gordimer) argued that censorship could not be 'improved' until apartheid had been removed. In the meantime they would continue in their refusal to appeal against the decisions of the Board, on the ground that such action amounts to recognition of the validity of the system and legitimation of its authority. Others present, including academic lawyers John Dugard and Barend van Niekerk considered this a futile gesture of ideological purity, noting that black political figures did not refuse to fight in Court, they argued that no opportunity to prevent the suppression of truth, the ultimate weapon, should be spurned.^[10]

John Dugard, displaying his characteristic open-mindedness, probably came closest to pinning the tail on the donkey. In an article titled "Censorship in South Africa : The Legal Framework", published in 1980, Dugard recognised that changes were evident in the approach of the Appeal Board but stressed the limitations of these changes:

While there is a welcome change in the decisions of the P.A.B in respect of literary works, it must not be forgotten that these are only the tip of the iceberg. Most prohibitions imposed by the Committees established under the Act are final as no appeal is lodged in the overwhelming majority of cases. In 1978, for instance, the P.A.B. heard approximately 65 appeals, but in the same year 1 185 publications and objects were found to be undesirable by Committees. Moreover there has been a marked increase in the number of works banned by Committees for political reasons (that is, under section 47(2)(d) and (e)). ...

It would therefore be wrong to judge the rationality of censorship in contemporary South Africa by reference to the decisions of the P.A.B. Although it is not a judicial body, the Board does have many of the attributes of a Court and follows the forms, procedures and methods of reasoning employed by Courts of law. While the Board may operate in closed session, in practice most of its hearings are open to the public. Moreover in certain cases involving literary works the Board is advised by a Committee of Experts. Not so the Committees. Their membership and modus operandi are closely guarded secrets; they meet in secret; they do not give reasons for their decisions unless requested. The Committee which prohibited Burger's Daughter was presumably aware of the high reputation of its author and of the likely consequences of banning the work. Yet according to the report of the Chairman of the Committee of experts the Committee 'has not read accurately, it has severely distorted by quoting out of context, it has not considered the work as a literary work deserves to be considered ... (it) stands convicted of bias, prejudice and literary incompetence'.

If this arbitrary approach is employed by a Committee when it is on its guard, how much more arbitrary is it likely to be when it is dealing with the work of a relatively unknown writer, in particular a black one?^[11]

Dugard's circumspection in welcoming the change in the decisions of the P.A.B. was not misplaced. A small handful of decisions is not sufficient basis to dispense with caution; as Etienne Leroux remarked in this regard, a puffadder can be at its most dangerous when it appears to be asleep.^[12] Moreover Dugard's belief that the Committees would constitute an obstacle to the process initiated by the Appeal Board would prove to be correct.

As sure as death, whenever the possibility that there might have been a change in censorship was raised, however circumspectly, there was a "radical" to assert that any such changes were illusory or, at best, insignificant. Here is Dorothy Driver, in her 1980 article "Control of the Black Mind is the Main Aim of Censorship"^[13]:

Into the objections of other regular critics of the system has crept grudging praise. ... Professor John Dugard refers to the 'welcome change in the decisions of the P.A.B.', though adds that this is 'only the tip of the iceberg'. The fact is that the bulk of the iceberg is mysterious and threatening, and its whereabouts unknown.^[14]

This appraisal of Dugard sits uncomfortably with her opening sentence:

Censorship in South Africa is part of apartheid: it is an authoritarian strategy that imposes on the public an ideology that is Calvinist, capitalist and increasingly militaristic.^[15]

If the bulk of the censorship apparatus is mysterious and threatening, and its whereabouts unknown, how can one be certain that censorship is part of apartheid? Undeterred, Driver links what she calls the "surface impression of increasing liberalisation" to Prime Minister P.W. Botha's "total strategy".

The application of censorship is being carefully honed to minimize the amount of criticism from articulate and well-established spokesmen and to maximize the possibility of a value system shared by all who live in South Africa and their commitment to a common political ideology. In other spheres Botha is gaining support; he means to in this sphere too.^[16]

The view that the "changes" in censorship were a superficial symptom of P.W. Botha's reformulation of the discourse of the State in South Africa appears to have been shared by Keyan Tomaselli in his 1980 article "Ideology and Censorship in South African Film".^[17]

The major structural flaw in apartheid is its ideological fragility and its consequent inability to withstand critical disturbances either from within or from without the system. In order to minimize the impact of such infringements, the state, which can be regarded as the coercive arm of society, has had to increase its mechanisms of control through the increasingly stringent application of State ideological machinery (as well as in terms of brute force within the wider society). Against a background of apparent large scale liberalization of this country's racially based restrictions, the much vaunted return to a free enterprise economy, the lifting of bannings of locally written books, a seeming marked easing of cinema censorship, the opening of theatre to all races and the appointment of a verligte head of the SABC, it is the logical conclusion of my argument that such moves are ideologically based, propelled by adjustments occurring in the national

economy as it shifts from a labour intensive industry to a capital and skills based mode of production. As such, it is obvious that such liberalization on the fringe of apartheid must be paralleled by a stronger intensification on the part of government to maintain the dominant position of white nationalism. This trend has been wilfully overlooked, by even the opposition press which is itself part of the dominant group, by stating that apartheid is 'dead' and that a new 'dispensation' is around the corner. What they do not seem to realize is that they are now, more than ever, agents of the government in their mediation of the ruling ideology. No structural changes have taken place in the South African political economy, or are even likely to. ...

It is unfortunate that most criticism of censorship as it is applied in South Africa is offered simply at the level of sex and nudity. This over-emphasis tends to obscure the more vital function of the Directorate of Publications, that of the maintenance and reinforcement of the ideological stance of the dominant party.^[18]

Arguably the most influential article in which the "radical" critique of censorship was articulated was Nadine Gordimer's "New Forms of Strategy - No Change of Heart."^[19] Her tone that of one possessing only the gift of prophecy,^[20] Gordimer stated:

I am one who has always believed and still believes we shall never be rid of censorship until we are rid of apartheid. Personally, I find it necessary to preface with this blunt statement any comment I have about the effects of censorship, the possible changes in its scope, degree, and methodology. Any consideration of how to conduct the struggle against it, how to act for the attainment of immediate ends, is a partial, pragmatic, existential response seen against a constant and over-riding factor. Today as always, the invisible banner is behind me, the decisive chalked text on the blackboard, against whose background I say what I have to say. We shall not be rid of censorship until we are rid of apartheid. Censorship is the arm of mind-control and as necessary to maintain a

racist regime as that other arm of internal repression, the secret police. Over every apparent victory we may gain against the censorship powers hangs the question of whether that victory is in fact contained by apartheid, or can be claimed to erode it from within.^[21] [Gordimer's emphasis]

Her answer, the central thesis of the radical critique of censorship, was already inscribed on the metaphorical blackboard, behind her. She continued:

The censorship Act remains the same. It is still on the statute book. The practice of embargo will continue. The same anonymous Committees will read and ban; ... The enlarged panel of experts has some of the old names, among whom is at least one known Broederbonder, and the new ones are recruited from the same old white cadres. The powers of the Board are what they always were.

There is no change in law or procedure, then. Nor is any promised, or even hinted at.^[22]

This passage reveals rhetorical techniques which are endemic to the "radical" critique.

The censorship Act remains the same. It is still on the statute book.

Her reference to the "Publications Act" as the "Censorship Act" establishes her contempt for the authorities. Not for her any officious euphemism - she tells it like it is. Her second sentence introduces a subtle shift. The implication is that the continued presence of the Act on the statute book is equivalent to it having remained the same - an act may undergo substantial revision and stay on the statute book. Here the subtext is that the 1978 Amendment to the Publications Act,^[23] which created the Committee of Experts and granted the P.A.B. greater discretion to

conditionally pass matter which might otherwise have been considered undesirable, and the decision of the Supreme Court in the Magersfontein case,^[24] which held that the P.A.B. had been wrong in excluding the response of the "likely reader", are irrelevant.

The same anonymous Committees will read and ban ...

This is a fair observation - an observation which would point to serious limits with regard to any changes in the Act - but it does not preclude the possibility that the Act had changed.

The enlarged panel of experts has some of the old names, among whom is at least one known Broederbond and the new ones are recruited from the same old white cadres.

Here Gordimer appears to conflate the "experts" who functioned within the Committees appointed by the Directorate with the Committees of Experts which might advise the Appeal Board. She gives no indication that the Board's newly established ability to appoint Committees of Experts may qualify her assertion that the "Censorship Act" remains the same. Instead she ridicules the "panel" to the point where it may be said to have no value.

The powers of the Board are what they always were.

The 1978 Amendment granted the Board more latitude to not ban an item; the Magersfontein review placed significant limitations on the "average reader" test previously applied by the Board; the creation of the Committee of Experts was a clear indication that

literary merit ought to be a factor in censorship decisions.

There is no change in law or procedure, then.
Nor is any promised, or even hinted at.

Having concluded that there was no change in the law or procedure of censorship, Gordimer deduced that it was only the "philosophy and the psychology" of censorship that had changed.^[25] Such change was, in her view, limited to white writers and intellectuals (and hence was irrelevant):

Why may intellectual readers handle inflammables?

Is it because this readership is predominantly white, and radical initiative by whites has been contained by imprisonment, exile, bannings and the threat of right-wing terrorism while the moderate, let alone the revolutionary initiative for social change has passed overwhelmingly to blacks, and is not contained?

Why may white writers deal with inflammables?

It is because the new censorship dispensation has understood something important to censorship as an arm of repression - while white writings are predominantly critical and protestant in mood, black writings are inspirational, and that is why the government fears them?

The definition of the 'probable reader' can be arrived at by the old pencil-in-the-hair and finger-nail tests believe me. The criterion for reading-matter allowed him is not literary worth but his colour.^[26]

It is notable that Driver, Tomaselli and Gordimer's articles were published in the middle of 1980 - that is before the Van Rooyen Board could have been expected to have arrived at a fully formulated approach to

censorship. Nonetheless the impact of the "radical" critique was such that it dominated the critical discourse on censorship for much of the 1980s. As late as June 1987 an article on the Publications Appeal Board in the Weekly Mail^[27] - wherein an interview with Van Rooyen, which portrayed him as being intelligent and literate, was carefully balanced by an interview with Gilbert Marcus, senior lecturer at the Centre for Applied Legal Studies, who argued that while the rhetoric of the Board was impressive and seductive, its commitment to these principles was often fragile - provoked the following response from Christopher Merrett, an academic librarian who has published in the field of censorship:

Charlotte Bauer's sympathetic treatment of Kobus van Rooyen, Chairman of the P.A.B. struck a strange note. He is after all one of the South Africa's chief censors... His liberalising tendencies which come across as endearing may be seen from another angle as simply a shift in tactics of apartheid, an ideology notable for expedience as well as immorality. What we really need to know about Van Rooyen is whether he supports the scrapping of political censorship, and when he intends to do something about it. Until then he remains an apartheid functionary.^[28]

Eventually, in an article published in Staffrider, 1988, Nadine Gordimer conceded that the "Censorship Act" was being "imposed less and less":

Why do I talk about bannings, and the psychological pressure of the hand of the censors on writers and artists in the past tense? The Censorship Act is still with us, with its over 90 definitions of what is considered undesirable.

The fact is that it is being imposed less and less. None of the books by the writers I have mentioned is any longer under ban. All have been released. ...

Censorship used to have two criteria for bannings: one, sexual explicitness; two, liberation politics and theory. The tutelary guides who breathed down the Committees' necks while they were reading were, apparently, the Dutch Reformed Church and the Security Branch. The tannie from the DRC seems to have slunk away; explicit sex doesn't get the chop whether in South African literature or books from abroad, and you have only to go to the cinema, to any of our indigenous plays, or to art exhibitions to see that sexual - including homosexual - explicitness is not banned. The weekly bulletins issued by the Publications Control Board consist of lists of an extraordinary mixture of radical pamphlets, tracts, trade union publications, reports of congresses in remote countries of Eastern Europe and Latin America, with hard porn in the form of posters, calendars, and the memoirs of prostitutes.

This should be an occasion for rejoicing, for writers and artists. But we are also ordinary citizens, men and women living and working under the laws that restrict and inhibit and mentally impoverish South Africa. The State of Emergency is the culmination of many laws that have been steadily taking over and extending the functions of censorship for some years, sending out tentacles far beyond the reach of a censorship board, in response to situations that dwarf the problem of keeping mere writers and artists in line.

The problem of controlling freedom of expression in its broadest sense is a priority on an enormous scale, for the government now. There is not much time to bother about the small minority of creative people - always an obstreperous, iconoclastic lot - when the urgency is to control what influences the masses; the mass media.^[29]

Gordimer's suggestion that the "Censorship Act" was used less frequently as a result of the government having other priorities is a poor argument. The mechanisms of the Publications Act are set in motion when an item is

submitted to the Directorate of Publications. The subsequent banning or passing of the item has no bearing on the amount of time the government may have for other urgent matters. In 1988 only 6 fewer publications were considered by the Committees than during the period July 1981 to June 1982. What accounts for the decrease in censorship under the Publications Act?

a. The Van Rooyen Board

During the Snyman period the task of the Publications Appeal Board was to assess the tolerance of the "average reader" with regard to morality, blasphemy or State security. If a work violated this tolerance it was banned. This has been described by Professor Van Rooyen as an absolutist approach to censorship.^[30] For the Van Rooyen Board the initial test was to determine whether matter submitted to the Board transgressed the terms laid down in s 47(2) of the Publications Act (ie. whether it was indecent, obscene, blasphemous, harmful to public morals or State security or likely to bring any section of the public into ridicule or contempt). Each of these terms was regarded as having a limited judicial meaning derived from Supreme Court judgements, common law and the Board's deliberations. The reintroduction of Supreme Court decisions into the censorship process was facilitated by the return of the "likely reader" as a

factor in deliberations; the exclusion of this factor during the Snyman period had limited the applicability of Court judgements under the 1963 Act.

If submitted matter did transgress the terms of s 47(2), which when interpreted by the Van Rooyen Board already allowed considerably more latitude for expression than the "average man" test, it did not necessarily mean that it would be banned. In the guise of the "reasonable man" the Board would attempt to determine the extent to which the transgression was justified by the mitigating factors provided for in the Magersfontein review and the 1978 Amendment to the Publications Act. Mitigating factors included the response of the likely reader/viewer and literary, artistic or academic value.

Needless to mention, although it was ignored in the "radical" critique, the interpretation of the terms of s47(2) of the Act and a policy with regard to the extent to which mitigating factors ought to influence a decision did not arrive ready-made with Van Rooyen's appointment. Guidelines in this regard evolved as the Board had cause to consider various aspects of the Act, as evidence in mitigation was heard and as the Board grew in confidence. In his book Censorship in South Africa, published in 1987, Van Rooyen noted, for instance, that

[In] 1983 a new set of guidelines was laid down with regard to protest literature by black authors. The advice of prominent black

literary specialists was sought, and their advice was incorporated into the Board's more lenient approach. Of twelve such books adjudicated upon by the P.A.B. from 1980 only two have been found to be in violation of the Act. A new policy allowing for strong protest in novels and films has been adopted, and this is based on the philosophy that it is often in the interests of State security to permit the expression of pent-up feelings and grievances.^[31]

A further indication of the evolution of the Appeal Board's policy is a number of early decisions of the Van Rooyen Board which would have had different outcomes had the cases come before the Board a few years later. In 1982, for example, a Grassroots calendar was deemed undesirable by the P.A.B.,

[because] of its strong sympathy towards the ANC and its highlighting of days on which violent struggles, amongst other politically contentious things, have been taken place.^[32]

In 1985 a similar Grassroots calendar was passed. In its judgement the Board stated:

With regard to the designated 'days to remember' the Board is of the view that the mere fact that they are indicated on this calendar does not justify the deduction that the aims of violence of similar aims which could be related to those days are thereby furthered. These days are widely regarded as historical occasions by a large section of the Black community. They are, in any case, well known, and the mere fact that they are highlighted in a calendar is nothing more than an act of sympathy or an act of historical dedication. Nothing more than that, however, can be deduced from this.^[33]

The latter decision reflects the influence of the "clear and present danger" doctrine of the United States Supreme Court. In an interview Professor Van Rooyen indicated to the writer that the Board began to be

guided by this doctrine in 1982. In his opinion, and that of the Board, however, the wording of the Publications Act is such that an "imminent" danger is not a requirement as a substantial contribution to such a danger is sufficient.^[34]

In general, if one examines the various decisions and guidelines laid down by the Board, one can see a gradual increase in the limitations placed on the meanings of the terms of s47(2) of the Publications Act. With regard to mitigating factors the Board also investigated ways to give greater recognition to these factors without violating the interests which, in its opinion, were protected by the Act. In 1982 the Board started imposing age restrictions on the distribution of books; as from 1983 it made use of place restrictions in regard to films of merit and, in terms of an amendment to the Publications Act^[35], from 1987 it was able to impose different conditions on films according to the time, date and place of screening. Early examples of such conditional restrictions are the films Clockwork Orange (which came before the P.A.B. in 1983), The Exorcist (1985), Monty Python's : The Meaning of Life (1985) and Pasolini's The Canterbury Tales (1985), all of which were passed with high age restrictions and limited to smaller cinemas which cater for "art films". In 1983 the novels Donderdag of Woensdag by John Miles and Portnoy's Complaint by Phillip Roth, were unbanned subject to the condition they be made available on

request only. In Censorship in South Africa Van Rooyen notes that the "request only" condition on books was unusual and a symptom of the evolution of the Board's policy.^[36] In later years the only restrictions which would be imposed on books which were not banned outright would be age restrictions and/or the condition that they be sold in recognised bookshops.

Commenting on the development of the Van Rooyen Board, in 1984, Louise Silver stated that the liberalisation of the Board

[is] a change from conservatism to moderation. It can hardly be described as markedly libertarian or revolutionary.^[37]

This is an apt characterisation of Van Rooyen's first term of office; it might, however, have been more accurate to describe the change as being from reactionary to conservative. Elsewhere, in the same year, she observed that

[while] political censorship is more reasonably and liberally applied than previously, it is clear that traditional attitudes of the ruling white minority still permeate the censorship fabric. This traditional conservatism is particularly apparent in respect of works dealing with communism and the African National Congress.^[38]

An example of the "traditional conservatism", chosen virtually at random as there are many examples, is the 1983 P.A.B. case concerning Varsity Vol. 42 No. 1.^[39] In an article headlined "SADF raid into Maseru", Varsity, the student newspaper of the University of Cape

Town, criticised the invasion of Lesotho by the SADF and suggested that South African society was becoming increasingly militarised and that the SADF was playing an aggressive role in Southern Africa. The article concluded

[Clearly] the government is preparing for a long war. The Lesotho raid has served to enlarge the arena of conflict and so diminish the possibility of inevitable change taking place peacefully.^[40]

The Board responded as follows.

As its decisions have demonstrated in the past this Board is extremely reluctant to curb debate, criticism and the airing of grievances. Criticism of the Lesotho raid and of the SADF in general is certainly not undesirable per se, but here it is coupled with thinly veiled sympathy and support for the African National Congress (ANC), a banned organisation, which is carrying on a campaign of sabotage and terrorism. The 'Civil War' referred to in the article would appear to be the struggle between the ANC and the security forces. Seen against the explosive situation obtaining in South Africa at present, and the fact that many if not most of the readers of this publication are liable for service in the armed forces, the article poses a distinct threat to the safety of the State. At the very least, a substantial number of readers of the article will, as a result be less inclined to undergo national service. This contributes to a disruption of the war effort.^[41]

The banning of the above mentioned issue of Varsity was confirmed. Perhaps even more noteworthy are the decisions where this "traditional conservatism" is evident yet the matter under consideration was passed by the Board, usually on the grounds that the sophisticated "likely reader" would be able to contextualise the material presented. Ecunews, Vol. 9 1982, to give one

example, was unbanned by the Board in 1983. In its judgement the Board stated:

The fact that the publication is very one-sided, does not necessarily make it subversive. In the attack on the government's apartheid policy as one of exploitation and suppression responsible for the relocation problems, little account is taken of the larger aspects of relocation, such as the drift to the towns, the resulting unemployment, the increase in crime, and the almost insurmountable resultant problems in regard to housing and health. It could be argued that South Africa, without apartheid, would still have had an acute relocation problem. Ecunews is, however, under no legal obligation to present all sides of a question.^[42]

Under the Snyman Board this publication would have been found to be undesirable.

Despite the persistence of "traditional conservatism" in the decisions of the Appeal Board during Van Rooyen's first term of office, there is evidence of an attempt to distinguish between the interests of the State and those of the government. Particularly significant to Professor Van Rooyen in this regard is the 1984 case concerning the Freedom Charter. Grassroots Vol.6 No.1 contained a calendar which included a full transcript of the Freedom Charter. The Board held that

[the] Charter in itself is a moderate document expressing sentiments contained in the constitutions of many countries, as well as in basic declarations of human rights. The sentiments expressed in the Charter are within the bounds of legitimate aspirations and are not the exclusive preserve of the ANC.^[43]

In an interview with the writer in 1990 Professor Van Rooyen expressed the opinion that this decision was an early

indication of the Board's independence from the government. "If we were merely looking after the interests of the government", he argued, "we would never have passed the Freedom Charter"^[44]. The Race Relations Survey 1984 commented that the Freedom Charter case was the "most significant appeal" heard by the Board during 1984^[45].

Aside from moderating the previous absolutist approach to censorship Van Rooyen's Appeal Board had the urgent task of bringing the Committees into line with P.A.B. policy. In this regard the Board gave an extensive outline of its position in the annexure to the Heartland decision in 1982. This annexure includes summaries of the Board's guidelines as to the interpretation of each of the clauses of s 47 (2) of the Publications Act and contains the argument that the Committees are bound by the Appeal Board's interpretations of the words contained in the Act. In a previous case involving Work in Progress, also in 1982, the Committee concerned, presumably the "political" Committee, had explicitly rejected a precedent system. The Committee stated:

.The Committee is under no obligation to accept or follow the guidelines which the Appeal Board may offer where it feels that the Board is out of touch with the situation which is involved. Section 37a expressly prohibits exercise of any form of outside pressure on the Committee.^[46]

The Board responded that this statement

[is] clearly wrong in law. Findings as to facts, although having persuasive value, do

not create precedents - not even within the structure of the Courts. The provisions of the law itself cannot, however, be departed from even if the Appeal Board or a Committee is of the opinion that the law is 'out of touch with the situation'. If this is so the Legislature would have to amend the law, and this cannot be done by those who merely apply the law. Within a hierarchical structure such as exists between the Appeal Board and a Publications Committee, the latter is of necessity bound by the interpretation that the higher body gives to the law under which they both function, until such time as the Appeal Board's interpretation is set aside by the Supreme Court.^[47]

In his book Censorship in South Africa Van Rooyen glosses over the struggles with the Committees:

Although problems were encountered initially, Committees generally succeeded in following the precedents. Since questions relating to undesirability are extremely complex it is inevitable that the P.A.B. does not always agree with Committees. This is, however, a typical feature of any hierarchical structure. The Board is generally in a better position to decide, since it enjoys the benefit of argument as well as a bird's eye view of various Committee's decisions. In addition, new solutions are frequently initiated by the P.A.B. while these are not expected from Committees.^[48]

At another point he notes:

[a] recent review of Committee reasons reveals that the standard of motivation has increased substantially.^[49]

While the resistance of the Committees to the precedent system seems to have abated over time and while the standard of the decisions of the Committees, particularly those concerned with literature, appears to have improved, even after the publication of Van Rooyen's book the Board found it necessary to reprimand

the Committees, particularly the "political" Committee. In the 1987 case concerning Beating Apartheid the Board noted:

The tests laid down by the P.A.B. regarding legal concepts must be followed by Publications Committees ... The Committee has not indicated why these tests have been satisfied.^[50]

Similarly in the cases South African Metal Worker and three issues of South,^[51] the Board was of the opinion that the Committees had not provided sufficient reasons for banning the publications at issue. In the 1987 War Against Children case, the Board found it necessary to comment:

The task of the Publications Committee is to adjudicate the material before it. Although negative factors must be mentioned in this procedure, care must be taken not to create the impression that the Committee is prosecuting the publication.^[52]

Yet another task which confronted the Van Rooyen Board was the improvement of the Board's public image which had taken a severe battering during the later Snyman period. Here the Board's relationship with the press was crucial. Van Rooyen noted in the writer's interview with him that

[The] onus was on me to establish a better relationship with the press and I immediately invited the press in to watch films with us. I built up a relationship with every journalist working at the Board and a number of editors. I believe you must always keep your press very well informed and build a very strong fiduciary relationship. Its amazing the relationship I had even with the Rand Daily Mail. It's just a realistic approach.^[53]

By the middle of 1982 Van Rooyen's courting of the press had begun to pay dividends. Henceforth, for the remainder of Van Rooyen's first term in office, the typical response of the traditionally hostile English-language press to the censorship process was to balance praise for Van Rooyen for having opened up the censorship system with a discussion of the limitations and contradictions of that process. The following extract from a Sunday Express article, July 1982, is typical.

Professor Kobus van Rooyen, Chairman of the Publications Appeal Board, is the man chiefly responsible for the wind of change blowing through the corridors of South African censorship. He readily concedes the system is the most stringent in the Western world. In his recently released censorship guidelines he notes, 'The fact that undesirable matter, such as the Freedom Charter, appears in a publication does not necessarily make that publication undesirable'. As an example, the P.A.B. lifted the ban on the Great Books of the World Series. Volume 50 contains the collected works of Marx and Lenin including the Communist Manifesto.

Prof. Van Rooyen noted: 'A pro-communist publication, in reality protest literature, is not necessarily undesirable'. The test is if it will 'probably' incite readers to violence or sabotage. Therefore the P.A.B. passed an issue of Diakonia News, a church publication with a 'pro-Swapo bias' ...

Contradictions exist, however. While Reds was allowed onto the cinema circuit with few cuts, the scholarly book by John Reed (the film's hero) on the Bolshevik revolution Ten Days that Shook the World was banned for 21 years. The ban was re-imposed again this year although libraries may stock it for loan on permission from the Directorate of Publications. Mr. John Allen of Penguin, the book's publisher, said the censors' attitude had become a little more responsible and realistic in recent years. 'But distributors

still wouldn't get books such as Biko by Donald Woods or Boss by Gordon Winter'.^[54]

Other reservations with regard to the moderation of censorship, as expressed in the press, included the tendency of Committees to ignore the Board's guidelines,^[55] the continued lack of certainty as to what would be banned,^[56] the "devastating onslaught" on political works^[57] and the prosecution of Dan Roodt for producing an "undesirable" publication, Taaldoos One plus One.^[58] In 1982 Roodt - a young maverick on the South African literary stage - was convicted and fined in the second and last reported case of this nature.

Van Rooyen's moderation of censorship was soon noticed by the proponents of strict censorship. The Citizen, February 1982, reported:

A new campaign appears to be on the way in South Africa against relaxed film and book censorship - and the Nederduitsch Hervormde Kerk could become the spearhead of such a move. ...

And this week Die Hervormer - official journal of the Nederduitsch Hervormde Kerk, the second biggest and strongest of the three Dutch Reformed sister churches - started the ball rolling with a massive attack on 'pornography'. In articles it said there was concern that the word 'pornography' was not defined adequately in the Publications Act. And it took strong exception to what it describes as a provision for age restrictions being used to enable public showing of films which might previously have been banned. ... 'Is it ethically Christian that children should be forbidden from seeing that which their parents may see?' asked Die Hervormer. 'If it is wrong for a child is it not wrong for the parent, apart from harmful effects', it asked.^[59]

In September 1982 the former Appeal Board Chairman,

Mr. J.H. Snyman, added his voice to the opposition to the new direction in censorship:

'I am shocked by what is happening. Porn and subversion are flooding into South Africa, The Publications Act has failed. ... I dislike the new permissiveness so much, I am scared to go to the bioscope or theatre and I used to be very fond of both. Now films have explicit bed scenes and unnatural sex, nothing normal. Books are coming through like Magersfontein, O Magersfontein! which is nothing but pornography. Lady Chatterley's Lover is one of the worst examples of porn, it is still banned in Japan and took 50 years to unban in Britain and now we've let it through'.

Mr. Snyman's feelings are echoed by a number of conservative organisations which are mobilising to stop moves by the Publications Appeal Board to ease the previously rigid censorship regulations. While the Kappiekommando, under Mrs. Marie van Zyl, believe the 'filthy must be left to get filthier and the pure, purer on the narrow and steep road', Action Moral Standards, the self-guardians of South African virtue, take a harder line. Two weeks ago the AMS, which claims a membership of 80 000, met Minister of Internal Affairs, Mr. F.W. de Klerk, to express their outrage at the liberalisation of censorship and to recommend seven secret guidelines to tighten up censorship.^[60]

Had the Publications Appeal Board not laid down strict guidelines for the adjudication of matter with a popular audience and had the moderation of censorship not been a process - if for instance the Committees had not lagged behind the Board and if the Board had been less cautious in opening up censorship - it is possible that the conservative opposition would have been more substantial. It is also conceivable that under these circumstances Van Rooyen would not have been reappointed Chairman of the Publications Appeal Board in 1985. In

this year the State President, Mr. P.W. Botha, the man who had defended the banning of Bertrand Russell's Why I am not a Christian in 1959 and who had introduced a censorship Bill during the State of Emergency which followed the Sharpeville massacre, declared a State of Emergency in numerous magisterial districts. In June 1986 the Emergency was extended to include all of South Africa. The Emergency years were a time of desperately extensive censorship, particularly of political reporting and commentary, under the Public Safety Act.

In the period immediately following Van Rooyen's reappointment the development of censorship continued along the trajectory established during his first term of office. In other words the liberalisation of censorship remained a gradual, halting process. A year or so into his second term, however, there was a sharp decline in censorship. This is evident from the statistics for the Van Rooyen period.

b. The Statistics of the Van Rooyen Period

The first table shows the number of publications and objects (publications) submitted to the Directorate in the specified year, the number of publications considered by Committees, the number of publications found to be undesirable and the percentage of considered publications deemed undesirable. It is worth noting that a relaxation in censorship tends to be accompanied

by the importation and publication of items which would not have been distributed previously. This is not reflected in the statistics - theoretically a relaxation of censorship can thus entail an increase in the percentage of considered publications which are found to be "undesirable".

Year	Publications submitted	Publications considered	Publications undesirable	% of considered publications undesirable
Snyman period:				
1977	2121	2059	1246	60.5
1979	2138	2076	1207	58
Van Rooyen period:				
Jan 1981 - June 81	1021	1018	565	55.5
July 1981 - June 82	1714	1705	911	53
July 1982 - June 83	1808	1790	931	52
July 1983 - June 84	1739	1724	803	46.5
July 1984 - June 85	1278	1242	645	52
July 1985 - June 86	1167	1209	643	53
July 1986 - Dec 87	1177	1030	355	34
1988	1773	1699	672	39.5
1989	1102	1075	355	33

TABLE ONE [61]

In each of the categories there was a noticeable decrease from the Snyman period to the Van Rooyen period. Comparing the figures for July 1983 to June 84 with those of 1977, there was an 18% drop in the number of publications submitted; there was a decrease of more than a third in the number of publications deemed undesirable and less than half of the considered publications were found to be undesirable as opposed to approaching two thirds. By 1989 half as many publications were submitted as had been in 1977; a

quarter of the number of publications were found to be undesirable, and a third of the considered publications were deemed undesirable as opposed to approaching two thirds in 1977. Of particular interest is the sharp decrease in the percentage of considered publications which were found to be undesirable after June 1986.

Table Two breaks down the statistics with regard to "undesirable" publications and objects (publications) which were resubmitted for review.

Year	Publications submitted for review	Publications considered	Publications found undesirable	% of considered undesirable
Snyman period:				
1978	19	19	12	63
1979	30	29	13	45
Van Rooyen period:				
July 1981 -June 82	101	97	38	39
July 1982 -June 83	157	154	76	49
July 1983 -June 84	60	54	13	24
July 1984 -June 85	223	210	54	25
July 1985 -June 86	168	148	41	28
July 1986 -Dec 87	31	20	4	20
1988	112	99	16	16
1989	64	59	5	8

TABLE TWO^[62]

Of note in the above table is the significant increase in the number of "undesirable" publications which were submitted for review during the Van Rooyen period.

Taken in conjunction with the decrease in the percentage of those publications which were, on consideration, found to be undesirable, this is an indication of a moderation in censorship from the Snyman period to the Van Rooyen period. The marked decrease in the probability of a Committee finding a publication

undesirable, towards the end of the Van Rooyen period, noted in regard to Table One, is also evident here.

Table Three examines the statistics with regard to full-length films, both those examined for the first time and on re-submission.

Year	Number of films Examined	Approved Unconditionally	Approved Conditionally	Number rejected and percentage of examined rejected
Snyman period:				
1977	634	266	312	56
1979	684	329	310	45
Van Rooyen period:				
July 1981 -June 82	972	522	366	84
July 1983 -June 84	1831	982	701	202
July 1985 -June 86	626	305	256	65
1988	901	329	488	84
1989	1620	831	663	126

TABLE THREE [63]

It is interesting to note that the percentage of films rejected annually remained fairly constant, between 7% and 11%, though both the Snyman and Van Rooyen periods. Nonetheless it is difficult to draw any conclusions from these figures given that a conditional approval can entail anything from a minor age restriction, say 2 - 12, to the excision of important scenes. It is widely accepted that films were cut more judiciously during the Van Rooyen years than the Snyman years. It is noticeable that more films tended to be examined each year during the Van Rooyen decade; this is an indication that film distributors were more confident of getting films passed and were consequently importing a wider variety of films.

What of the political component of censorship? Here the relevant figures have to be extracted from the Government Gazette as the Directorate of Publications does not supply such a breakdown in its annual reports - listings in the Gazette are accompanied by the clause(s) under which each publication was banned. Up until 1983 a cumulative list of publications found to be undesirable each year was published from which one may calculate the number of publications banned under each clause of section 47(2) of the Publications Act. From 1984 the task is even more laborious; one is required to consult sixty odd lists of publications banned each year. These lists are numbered but in some cases up to three different lists have the same number and numbers are occasionally missing. Due to the difficulty in compiling these figures and the uncertainty of the results the writer has selected sample years from the Van Rooyen period.

Table Four contains the number of publications banned under the political clauses (that is Section 47(2)c, d and e of the Publications Act). The percentage of publications found undesirable under these clauses is also included as is the percentage of submitted publications which, according to the Directorate of Publications, relate to these clauses.

Year	Number and percent of publications found undesirable under s 47(2)c,d and e	Percentage of submitted publications possibly prejudicial to the security of the State
Snyman period:		
1977	646 (31.9%)	31.5
1978	744 (44%)	53.5
Van Rooyen period:		
1983	352 (54%)	60
1988	207 (60%)	62

TABLE FOUR^[64]

While it is evident that both the proportion of publications found undesirable under the political clauses and those submitted under these clauses steadily increased, the number of publications banned under these clauses steadily decreased. In the decade 1977 to 1988 the proportion of publications both submitted as possibly prejudicial to State security and found undesirable under the political clauses doubled while the number of undesirable political publications decreased by two thirds. Du Toit estimates that approaching 60% of the political publications which were submitted were found to be undesirable under the Snyman period.^[65] The writer calculates the figure to be approximately 33% in 1988. In other words, while the political component of censorship may have increased the Publications Committees were significantly less likely to find a "political publication" undesirable during the Van Rooyen period than during the Snyman period.

What of publications banned for possession - Du Toit

calculated that by 1978 two out of every three undesirable political publications were also banned for possession? Once again the writer has had to rely on his own counting from the Gazette for figures after 1983. The figures for the years before 1983 reflect Silver's count from the Gazette.^[66]

Year	Total Number of Publications banned for possession	Number and % of publications banned, for possession, s47(2)c,d,e	Proportion of undesirable publications banned for possession	Proportion of publications undesirable under s47(2)c,d,e also banned for possession
Snyman period:				
1977	394	282 (71.5%)	34	89%
1978	437	321 (73%)	37	68%
Van Rooyen period:				
1983	318	276 (87%)	49%	78%
1988	239	152 (63.5%)	35.5%	73%

TABLE FIVE^[67]

What do these figures mean? The percentage of publications banned for possession which were banned under the political clauses peaked in the early Van Rooyen period. Thereafter this percentage dropped substantially. Significantly, half as many publications were banned for possession (both in general and under the political clauses) in 1988 than during the later Snyman period.

Tables Six and Seven reflect the activities of the Publications Appeal Board, Table Six with regard to publications and objects, Table Seven with regard to

films.

Year	Publications undesirable after appeal	Publications not undesirable	Conditionally approved	Total Examined	Percentage of examined publications undesirable
Snyman period:					
1977	39	5	-	44	88
1978	13	18	-	31	41
Van Rooyen period:					
Jan 1981 -June 81	17	24	-	41	41
July 1981 -June 82	33	38	19	90	36
July 1982 -June 83	42	42	24	108	39
July 1983 -June 84	24	16	31	71	33
July 1984 -June 85	28	37	26	91	31
July 1985 -June 86	19	29	47	95	20
July 1986 - Dec 87	27	47	35	109	24
1988	12	11	10	33	36
1989	6	12	7	25	24

TABLE SIX [68]

Year	Films found undesirable after appeal	Films not undesirable	Conditionally approved	Total Examined	Percentage of examined films undesirable
Snyman period:					
1977	15	-	10	25	60
1978	13	-	16	29	44
Van Rooyen period:					
July 1981 -June 82	25	5	51	81	30
July 1983 -June 84	49	7	47	103	47
1988	13	-	49	62	20
1989	12	1	82	95	12

TABLE SEVEN [69]

The conspicuous increase in the number of items brought before the Van Rooyen Board is an indication that this Board was held in greater confidence than the Snyman Board. It is interesting to note that at the beginning of the Van Rooyen period a slight majority of appeals were with regard to publications while at the end of the period such appeals were a marked minority. This

reflects the decline in the number of publications which were banned each year.

c. A sharp decrease in censorship

It is striking that the sharp decrease in censorship which became evident in the period July 1986 - December 1987 should have occurred when South Africa was engulfed in a nationwide State of Emergency. It is as if the polarisation of discourse which was consequent to the Emergency obliged the Committees to choose between the discourse of the government and that of the Publications Appeal Board. Whereas the dominant tone in the statements and actions of a plethora of official spokespersons from various branches of government was "kragdadigheid" - a dour stubbornness favoured by Nationalist politicians and refined by State President P.W. Botha - the Appeal Board repeatedly stressed that it was "extremely reluctant to curb debate, criticism and the airing of grievances."^[70]

Had the P.A.B. not developed a viable interpretation of the Publications Act by this time it is possible that the Committees, like so many other institutions of the State in South Africa, might have succumbed to the rampant intolerance which characterised much of the official discourse of the State during the Emergency. By 1986 Van Rooyen was sufficiently confident of his Appeal Board's reading of the Act to commit it to paper.

Early in 1987 Censorship in South Africa was published. This book is an attempt to explain, justify and communicate the moderation of censorship.

The bulk of Censorship in South Africa details the Van Rooyen Board's approach and guidelines with regard to the various aspects of the Publications Act. In the first chapter Van Rooyen locates the "moderate approach" developed by the Board after 1980 within the context of contemporary religious, legal and philosophical debate, in particular the Devlin-Hart-Dworkin debate:

The concept of suppression of expression is to be found not only in the Old Testament but also in the writings of Plato and even of John Stuart Mill, who conceded that acts which offend against decency should be prohibited if committed publicly and if tangible harm to others ensues.

The controversy concerning the limits of the state's right to intervene reached a peak in the middle of this century when Lord Devlin and Professor Hart took part in a famous debate: Devlin defended the idea of extending the community's right to prohibit acts which it finds to be offensive while Hart limited this right, in a manner typical of Mill, to acts injurious to others. Professor Dworkin supports Hart by acknowledging that intervention may take place, but he warns against those who too readily accept that morality is at stake - a warning which ultimately conforms with the principle that intervention in this field may take place only if injury to others ensues and if this conclusion is not based on prejudice, emotion, rationalization and what he terms 'parroting and not relying on a moral conviction of my own'. This means that sound objective reasons must be given before legal intervention may take place. ...

Research into the claims of Protestant and Roman Catholic theology concerning the duty of the State in the enforcement of morality and

religion indicates that a moderate approach is expected, that a common responsibility exists between state, church and community, that sin may be dealt with but not glorified, and functionality is important. The Hart-Devlin-Dworkin debate also indicates that legal philosophy is divided on the basis of control. It is submitted that most legal scholars would, were a system of control accepted, reject an absolutist approach and support a moderate approach.^[71]

In his article "Censorship in South Africa"^[72] J.M. Coetzee notes that in claiming a moderate approach between Patrick Devlin's argument in favour of the community's right to protect its standards and Herbert Hart and Ronald Dworkin's granting of priority to individual rights, Van Rooyen is actually closer to Devlin than to Hart. Coetzee writes:

[when] Van Rooyen claims for himself a 'moderate' position, it is not a position mediate between Devlin's functionalism and the libertarianism of Hart and Dworkin (who in this respect both follow J.S. Mill), but rather moderate in the sense in which Hart uses it, namely, moderate by comparison with the extreme position that the enforcement of morals is a good in itself. To Hart, the 'moderate thesis' is that 'a shared morality is the cement of society' and a breach of moral principle is therefore 'an offence against society as a whole' (Hart 1963, 48-49). It is this kind of moderation that Hart attributes to Devlin, and it is the kind of moderation that Van Rooyen follows.^[73]

It is no accident that Van Rooyen should have emerged from his brief plunge into the Hart-Devlin-Dworkin debate near Devlin's position. His role as Chairman of the Publications Appeal Board required that in presenting a case for censorship, such a case should accommodate both an extensive censorship and the

moderation of censorship which had transpired under his Board. Consequently he needed a functionalist account of censorship - a defense of censorship deduced from what Coetzee calls the "extreme position" would not easily allow for mitigating factors - and this is what he extracts from the debate.

Unlike many defenders of censorship in South Africa Van Rooyen raises controversial areas pertaining to censorship. The raising of an issue is usually followed by a concise and apparently disinterested sketch of the issues involved before the position demanded by his Board's interpretation of the Publications Act is deftly asserted. He writes, for instance, that

[convincing] proof that the reading of pornography leads to antisocial conduct or criminal behaviour has not been given.^[74]

The evidence with regard to the effects of "senseless violence" on children is, in his opinion, more convincing. He continues:

Whatever the position is, the question arises whether it is necessary to have proof of damage or injury in the field of potential antisocial conduct or criminal behaviour. Should the basis of control not rather be sought in the protection of interests which underlie morality?^[75]

This, for Van Rooyen, is a rhetorical question. To give a further example, he notes:

It is not the task of the State to legislate for morality, since morality finds its source in man himself. It would also, according to various theological arguments of this century,

be immoral for the State to enforce a specific kind of morality on its subjects: One could, however, speak of a common responsibility between state, church and community in regard to the enforcing of religion and morality, but then the duty of the State is limited to maintaining order in society. In this field this would amount to providing for a framework within which the arts may be performed. In South Africa this framework is to be found in the wording of the Publications Act 42 of 1974^[76]

As synthetic as his argument might appear when projected against the demands of his speaking position, Van Rooyen's location of censorship within contemporary religious, philosophical and, especially, legal debate cannot be dismissed. Firstly it was an efficient line of defense against criticism from both the left and the right of the Board: some of the status of the discourse accrued to the Board (Gilbert Marcus, an academic lawyer, refers to "the impressive and seductive rhetoric of the P.A.B."^[77]); the Board could be portrayed as moderate and the unwary could be lured into a discourse which is open ended. Secondly it is a indication of the distance which the Van Rooyen Board had travelled. Measured against the Hart-Devlin-Dworkin debate the Snyman Board would have been off the scale. Thirdly Van Rooyen's engagement with Anglo-American jurisprudence was not without risks. With every concession, with every move away from the protected waters of the notion that South Africa is a special case; Van Rooyen was drifting closer to the iceberg of individual autonomy. He was ebbing further and further

away from the interpretation of Afrikaner-Nationalism embodied by P.W. Botha.

At the core of Van Rooyen's "moderate" approach to censorship, as expounded in Censorship in South Africa, is the idea that the Publications Appeal Board (and the Committees) are adjudicators between contending interests in society.

The ideal is that the [P.A.B.] should be seen to be an objective and independent arbiter.^[78]

Again he writes:

A balancing of interests has become the hallmark of control in the Republic. General or sectional interests are continually weighed against minority interests as well as the interests of likely viewers and readers.^[79]

While this approach is first formulated with regard to morality (most of Van Rooyen's philosophical manœuvring occurs in relation to morality), it is also applied in the domain of State security:

The Publications Committees and the P.A.B. are arbiters whose function is not to restore order or to defend the country, but to strike a balance between the opposing interests.^[80]

Van Rooyen's portrayal of the P.A.B. and the Committees as impersonal technocrats is marred by a discernible bias towards the "general or sectional rights" protected by the Act as opposed to what Van Rooyen terms "minority rights". This bias is inherent in the phrases "general or sectional rights" and "minority rights". While there are precedents for characterising morality and the

like as "general or sectional rights" the term "minority rights" is an innovation by Van Rooyen. He writes:

I have described these [literature, art and language] as 'minority rights' since there is little doubt that were a referendum to be held as to the value which should be given to these interests, majority opinion would deny them recognition.^[81]

To characterise literature, art and language as "minority rights" is to place them at a disadvantage in relation to the construct "general or sectional rights". Moreover the notion that the censorship structures are adjudicators between "general or sectional" rights and "minority rights" is dependent on an acceptance that there is a necessary conflict between free expression and the interests of society; and that society needs to be protected in this regard.

What does Van Rooyen say about society's need for protection?

The protection of children, respect for the privacy of the nude human body, for the dignity and property of man, for religious freedom and feelings, are, according to my view, at the basis of the control of the arts in so far as morality and religion are concerned.^[82]

At this point (i.e. in his general introduction to censorship) he is mute on the protection of political interests. J.M. Coetzee comments:

The basis of the notion of privacy, argues D.N. MacCormick, lies in a desire to be able to seclude ourselves. But if the essence of obscenity and indecency is the 'public revelation, display, depiction or description' of certain matters, then it is hard to see how such acts can be understood as intrusions on the privacy of others. It is particularly

hard to see obscenity in a book as an intrusion into privacy, since (a) reading a book is an act of choice, and (b) the book can be closed and the intrusion ended. In fact, in obscene displays it is rather the case that the people performing the acts are waiving their own privacy. MacCormick therefore concludes that 'offensive obscenity' and 'offensive intrusions on privacy' are 'entirely different categories and types of wrong' except in certain areas of overlap.

In other words: certain obscene acts can be construed as invasions of privacy, certain invasions of privacy may be obscene; but obscenity in general is not an invasion of privacy, and it is not possible to argue, as Van Rooyen does, that the general ground for acting against obscenity is to protect the privacy of the citizen (or the reader). Whatever it is that is protected in the process of banning books, if anything is indeed protected, has yet to be pinned down.^[83]

In its role as "arbiter" the Van Rooyen Board applied the criterion of the tolerance of the "reasonable reader". Van Rooyen:

This test is a fictional, legal test, not to be confused with the so-called average man test, which is often determined with reference to the average scholastic and cultural development of the subjects of a country. It is, indeed, academically more acceptable not to speak of a reasonable man, but simply to seek a solution which is reasonable in the light of all competing interests. The ultimate question is therefore not one of morality; it concerns instead the extent to which it is reasonable to allow certain infringements on morality or religion in the interests of art, literature, drama, freedom of choice of adults, and entertainment in general. In practice the terminology 'the reasonable reader/viewer' is, however, easier to understand and to relate to the reactions of the reading and viewing public. An adjudicator must, however, always bear in mind that reaction per se is not the test; reaction must be modified by the protection the Act gives to minority interests.^[84]

So far as the judicial postulates of obscenity, offensive, harmfulness and blasphemy are concerned, the guiding principles in the adjudication via the "reasonable man", as summarised by Van Rooyen, were:

The immoral may form the subject-matter of a work; no subject is prohibited as such; a work need not be a tract on morality or make a contribution towards the advancement of morality; freedom of expression includes both the right to write and to read a story; freedom of religion is an established common-law right; literature and drama function within an imperfect world; the standards of the likely reader are relevant in so far as morality is concerned; passages may not be judged in isolation; all reference to 'those whose minds are open to such influences' in terms of the 1868 Hicklin test is not valid; poor taste and vulgarity do not amount to obscenity; the motive of the author or distributor is irrelevant; publicity resulting from, for example, the censorship history of a work, is irrelevant in establishing the likely readership; fear of allowing material only because it may form a precedent for later cases is an improper basis for adjudication; the allowing of a work does not necessarily suggest the board's approval of it, but amounts instead to a finding that it will be tolerated by the reasonable viewer or the average adult Christian in the light of all the relevant circumstances; a work should be found to be undesirable only if it is absolutely necessary to do so.^[85]

The reference to the "average adult Christian" in the above quotation indicates that the religious clause of the Publications Act (s47(2)b) was interpreted more strictly than the moral clause (s47(2)a). This reflects the decision of the Transvaal Supreme Court in Human en Rousseau Uitgewers v Snyman, N.O.^[86] that the likely readership/viewership was irrelevant in ascertaining the religious convictions or feelings of a

section of the inhabitants of the population - the "likely reader" could be considered, however, with regard to the "interpretation and degree of encroachment".^[87] It also reflects the Board's view that religion is a particularly sensitive subject in South Africa. In a paper delivered to the Newspaper Press Union, September 1988. Van Rooyen noted:

We do find, however, that religious sensitivities are very acute, and this is an area where we make our way very carefully.^[88]

Even so, the writer sees no reason why the test should not have been the "reasonable adult Christian".

Incidentally, the Board did not confine its protection to Christianity. Judaism, Islam and even "occultism", for example, qualified for protection under s47(2)b.^[89]

With regard to the political clauses of the Publications Act, the guidelines listed by Van Rooyen included:

a) The motives of the writer producer or distributor may not be taken into account. ...

b) It is the book and its effect on the likely reader that must be judged and not the motives of the reader thereof. The issue therefore is not whether the reader may duplicate parts of a book or read part of it to an audience. ...

c) The mere fact that anti-government emotions are voiced is not sufficient for a finding of undesirability. ...

d) Mere sympathy with socialism, communism or prohibited organisations is not sufficient.

i) Mere criticism of the military or the police is insufficient. Even if the criticism is false or one-sided it is not undesirable as such. ...

j) The use of emotionally loaded terms within the context of revolution, such as 'suffer', 'oppressed', 'struggle' is an aggravating factor, but such use is not undesirable per se. The excessive use of

such words may, however, in certain contexts lead to a finding of undesirability.

k) Neither references to or the quoting of listed persons is undesirable. ...

l) The mere call for a boycott or a strike - even an unlawful strike - is not undesirable in terms of the Publications Act.

n) The plea that political objections to military service should be allowed for by Parliament is not undesirable as such. ...

q) The mere call for one man, one vote within a unitary State is not undesirable. ...

s) The expression of grievances is of the utmost importance. ...^[90]

Van Rooyen noted that the Police Act, the Internal Security Act and the Emergency regulations of 12 June 1986 and of 11 December 1986 may have been applicable with regard to a number of the guidelines. In his opinion, however, these Acts had their "own spheres of application"^[91].

It is notable that most of the guidelines listed above provided a negative account of an undesirable political publication. Van Rooyen conceded with regard to s47(2)e, in terms of which an item may be deemed undesirable if it is prejudicial to the safety of the state, general welfare, or peace and good order, that

[Criticism] has justifiably been levelled against the P.A.B. for not having conclusively defined each of these terms. On the other hand it is clear from various judgements of the P.A.B. that all of these terms must be understood to relate to the overall political system as distinct from the policy of the government of the day and that of other political parties.^[92]

Problematic though Censorship in South Africa may be, the web of meanings which Van Rooyen spun around the

Publications Act was sufficiently intricate to render his interpretation of the Act authoritative. This was, no doubt, a major contributing factor to the Committees having moved towards the P.A.B.'s reading of the Act, as is suggested by the decrease in censorship noted in the statistical review. A further factor may have been the compilation of a new list of people eligible for inclusion in Committees. This list came into effect on 1 April 1987. For the first time the full list of names was released by the Minister of Home Affairs,^[93] including the race (white 120; Indian 26; Coloured 7, Black 7) and qualifications of each person. The home language is not given; there are, however, two Snymans, two Van Der Merwes and no Smiths. When the Directorate advertised for these Committee members, in September 1986, a Sunday Tribune reporter commented:

Not anyone can be a censor - as advertisements placed by the Directorate of Publications make clear. One has to be under 65, have academic or professional qualifications, and be civilised and balanced. Or, to put it in the words of Professor Braam Coetzee, Director of the Directorate of Publications: 'We don't want a complete nincompoop'.^[94]

Yet another factor which may explain the decrease in the number of items which were banned by Committees towards the end of the Van Rooyen period is that the Publications Appeal Board set an example by becoming notably more confident in granting recognition to mitigating factors and "minority" interests as well as more reticent in deciding that the interests protected

by the Act had been violated. Subsequently, this side of soft-core pornography, calls to violence and items published by the "liberation movements", there were few instances in which items with recognised "literary", "artistic", "scientific" or "academic" value were restricted outright after appeal.^[95]

In 1988 Van Rooyen noted:

The Committees and the Publications Appeal Board are continually attaching more and more weight to audience maturity and artistic merit. Age restrictions are nowadays used to back up this system.^[96]

Illustrations of this new mood include the passing, after appeal, of David Lynch's film Blue Velvet (passed in 1987), the cinematic interpretation of Milan Kundera's novel The Unbearable Lightness of Being (1988) and the theatrical productions Quartet (1988) and Sunrise City (1988) all with high age restrictions. With regard to Sunrise City, a Committee had banned the work for "breast nudity, simulated copulation, sadism, suggested lesbianism and crude language".^[97] The P.A.B. was of the opinion that the likely audience would be limited and discerning, that the Committee had overlooked the satirical elements of the play and that the work contained "correctives" for the apparent "undesirability"^[98]

By 1988 very few novels were banned - to the extent that the restriction of Salman Rushdie's The Satanic Verses had something of the sense of a funeral service in an

abandoned cemetery. This book fell foul of the blasphemy clause - in this area the Board remained conspicuously cautious. Matthew Krouse and Robert Coleman's cabaret Famous Dead Man (1986) and Martin Scorsese's film The Last Temptation of Christ (1988) were deemed to be unsuitable even for adult audiences under this clause. When, in 1988, after a Committee decided that Bernard Bertolucci's Last Tango in Paris could be screened uncut, the P.A.B. excised one scene, also under this clause. This was the famous "butter" scene, wherein the Marlon Brando character sodomises the Maria Schneider character while muttering pseudo-religious incantations.

The increase in the confidence of the P.A.B. and the consequent influence on the Committees was not restricted to "adult movies" with "artistic merit". In this regard Van Rooyen relishes the example of Back to School, which was screened to all ages:

In Back to School we allowed quite a bit of nudity. But I saw kids watch that scene and enjoy it, really laugh at it - it has an A restriction. I remember watching that scene four times because I had the deciding vote in that case. I decided it should go through. We discussed it with a number of people and they've said its just a lovely scene. A chap knocks on the door and inside a girl is having a shower. He thinks its his son and sees this girl. He even peeks back and says 'You're beautiful!' I was watching the audience on the first evening it was screened - I took my family along - and I was very happy with that decision. [99]

Nonetheless potentially "undesirable" matter which was

directed at a popular audience was much more likely to be banned than matter which had a "sophisticated" likely viewership/readership. This was particularly the case with regard to pamphlets, T-shirts, calendars, pictorial representations and records. Here the direct nature of the medium was regarded as an aggravating circumstance. In 1986 the P.A.B. policy of not allowing female breast nudity in publications with a popular audience was endorsed as a valid interpretation of the Publications Act by the Supreme Court when the banning of two editions of the Squire Guide to Glamour Photography was taken on review. [100]

In a paper presented in September 1988 Van Rooyen indicated that the Board was prepared to review its approach to the "likely reader":

As members of the Appeal Board, we must also be wary of preconceptual biases. For example, my black and coloured colleagues on the Publications Appeal Board have during the last twelve months urged me to question some of the past assumptions of the Board. According to them, the Board seems too prone to accept the notion that when readers are less sophisticated, they are more readily incitable. Have we not simply come to accept without question that films and books influence the less discerning adult reader more readily? Is this not a form of elitism. It seems this is an area which needs further examination. [101]

d. The clampdown?

The increased flexibility in the application of the Publications Act was met with the familiar response: the

threat of a tightening up of censorship. On 21 June 1987 the Sunday Times headline article stated:

A sweeping crackdown on screen violence and a general sharpening of moral laws in South Africa appears to be on the way. ... The new mood - in line with a similar backlash in western countries - is understood to be personally endorsed by President Botha, who has long expressed concern about the issue. The resurgence of the right wing in Parliament has added to the clamour for a closure look at the state of national morality.

This weeks report of the Social Affairs Committee of the President's Council - in many respects it was severely critical of the youth of the country - has given a boost to the mood. The report recommended that the Publications Control Board should apply stricter censorship of publications, advertisements and presentations which have a 'negative influence on young people'. In particular the report singles out violence, assault, sexual activities, drugs, alcohol and satanism. [102]

On 24 January 1988 the Sunday Tribune carried a headline article on a potential "split" in the "censor machine":

A major split is looming between the conservative and more tolerant factions of South Africa's giant censorship machine. The battle is over the government's promised crackdown on sex, violence and political opinion and part of its motivation stems from 'security' interests. ...

Shaping up in the censorship battle is the conservative element led by the Director of Publications, Dr. Braam Coetzee, who wishes to see the Publications Committees and Appeal Board 'combat undesirable portrayals of sex which might give rise to an inadmissible liberal-mindedness'. Opposing them are the more tolerant members of the Appeal Board, led by Professor Kobus van Rooyen, who in recent times have allowed a franker and more open attitude towards films, plays and books. Professor Van Rooyen remained tight-lipped about the expected clash this week and said it was 'not the right time to talk'. [103]

In a follow-up article on 1 May 1988 the Sunday Tribune stated:

As part of the morals clampdown begun early this year, Home Affairs Minister Stoffel Botha this week invited 'interested organisations' to submit proposals for the 'preservation of proper customs and the maintenance of sound moral norms'. ... Proposals should be submitted to the Director of Publications. ... The Government's initiative on morals had received 'very solid support' from church organisations, he [Dr. Braam Coetzee] said.^[104]

It was in this context that the Van Rooyen Board's commitment to its interpretation of the Publications Act faced its most conspicuous and severe test. Late in 1987 a Committee found Sir Richard Attenborough's film Cry Freedom - a dramatisation of the life of Bantu Steven Biko, who died in South Africa police custody on 12 September 1977, based on the book Biko by Donald Woods, a listed person who could not be quoted without Ministerial permission in South Africa - to be within the guidelines laid down by the PAB. Consequently the film was passed without an age restriction. The film was originally scheduled for release in April 1988 but, due to the "Government resistance"^[105], this was delayed until Friday 29 July 1988. The Minister of Justice, Mr. Kobie Coetzee, was given the script of the film on 21 July but the distributors, UIP-Warners, indicated that the film would be screened regardless of Ministerial permission^[106]. On 25 July the Minister of Home Affairs, Mr. Stoffel Botha, referred the film to

the Publications Appeal Board in order that it should review the decision of the Committee. This was generally read as an indication that the Cabinet was of the opinion that the Board should ban the film. On the morning of Friday 29 July, shortly before the film was due to commence, the Appeal Board announced its decision: Cry Freedom was not undesirable subject to a 2-19 age restriction.

The Cape Times, July 30 1988, reported on the dramatic events which followed the PAB's decision.

Police swooped on cinemas across South Africa yesterday, seizing copies of the film Cry Freedom within hours of its morning premiere. And as the news of the ban dominated all news broadcasts in Britain yesterday, the Minister of Information, Dr. Stoffel van der Merwe, lashed out at the film, saying it had been intended as an anti-South African propaganda instrument. ... Bombs exploded in two cinemas and several other cinemas after anonymous bomb threats. No one was injured. ... In Pretoria last night, Dr. van der Merwe said the government had decided to override the Publications Appeal Board and to have the film seized, because the board was not able to judge 'the situation on the street'. He said the government believed the screening of the film would have seriously disturbed race relations.

The banning followed a flurry of last-minute developments, including a 9.30am approval of screening by the Publications Appeal Board, which described the film as 'mediocre' and posing no national security threat. Five hours later the Minister of Justice, Mr. Kobie Coetsee, denied the distributor, United International Pictures permission to release the film under the Internal Security Act, which makes it a crime to quote a banned person. One of the characters in the movie, Mr. Donald Woods, the former editor of the Daily Dispatch, was banned in 1977 and then listed in terms of the Internal Security Act when he went into exile. Later the

Commissioner of Police, General Hennie de Witt, ordered that copies of the film be seized.^[107]

As would be expected, the seizure of Cry Freedom was a major source of copy in South African newspapers. In the press it was generally accepted that the film had never had, in the words of Rapport, "'n kat se kans".^[108]

According to reports, the Cabinet and the State Security Council had decided that the film should not be screened, but had hoped that the Appeal Board would do the "dirty work"^[109]. This was confirmed by "members of the Board" and Dr. Stoffel van der Merwe^[110]. Dr. Van Der Merwe elaborated:

The security aspects weighed so heavily that we decided to make use of the Emergency Regulations ... The government decided it was not desirable. ... It would whip up emotion among a range of groups of people and contribute to the cause of violence.^[111]

He also indicated that the Cabinet was displeased with the PAB, but added

[it] is not exceptionally unhappy ... There will definitely be unhappiness from time to time with the way people do their jobs and that is natural.^[112]

An addendum to the Cry Freedom episode: On the morning of 29 July 1988, before the PAB decision with regard to Cry Freedom was announced, Professor Van Rooyen received a phone call in which it was stated that his house would be burnt down as a consequence of that decision. At dawn on 4 October 1988 the Van Rooyen family awoke to

find their front door on fire.^[113]

The Cry Freedom decision by the Appeal Board, as well as the preceding decision by a Publications Committee was a public enactment of the distance which the censorship machinery established by the Publications Act had travelled from the government. The Cabinet and State Security Council may have succeeded in restricting Cry Freedom but the PAB had demonstrated that its interpretation of the Publications Act was independent to the immediate priorities of the government. The discourse of the PAB and the Committees remained shot through with Afrikaner Nationalist assumptions - not withstanding the appointment of three black (one "African", one "Indian" and one "Coloured") members to the Board in mid 1987 - but whereas the government sought to circumscribe opinions of which it did not approve, the nationalism of the Publications Appeal Board was tempered by judicial procedure, an endorsement of the need for dialogue between South Africans and a healthy dose of pragmatism born of an awareness of the complexity of South African society. To this extent the Publications Appeal Board echoed the liberal nationalism advocated by N.P. van Wyk Louw and foreshadowed State President F.W. de Klerk's reformulation of Afrikaner Nationalism in the early 1990s. That the Committees followed the lead of the Board and did not succumb to the pressure for the

tightening up of censorship is suggested by the statistics for this period.

Commenting on the banning of Cry Freedom, Insiq, a current affairs journal published by Nasionale Pers and aimed at Afrikaner intellectuals, criticised the security forces for encroaching on matters outside their domain.

The Defence Force has for many years played a decisive role in the forming of foreign policy. Now it looks as though the police are intent on playing a similar role in the determination of internal policy actions. Such conclusion necessarily leads to a question that is already disturbing loyal and patriotic people: is the 'revolutionary climate' not sometimes exploited for the sake of political influence on the decision-making process?^[114]

That there was a growing resistance amongst "loyal and patriotic" Afrikaner Nationalists to the extent to which the "revolutionary climate" was being manipulated by the security forces was evidenced by the marginalisation of State President P.W. Botha in 1989. As Prime Minister and, after the implementation of a new constitution for the Republic of South Africa in 1984, as State President, P.W. Botha was strongly influenced by the security forces.

On 2 February 1990, soon after taking office, Botha's successor F.W. de Klerk, lifted that State of Emergency and unbanned various restricted organisations, including the African National Congress, the Pan Africanist Congress and the S.A. Communist Party. An immediate

consequence was the lifting of the restrictions preventing specified individual from being quoted, in terms of the Internal Security Act^[115]. A further consequence, in the opinion of a Department of Justice spokesman, was the falling away of prohibitions on publications under the Internal Security Act. Confiscated copies of Cry Freedom were accordingly returned to the owners by the police^[116].

Shortly after Mr. De Klerk's speech of 2 February Dr. Braam Coetzee, predicted that restrictions on the possession of items under the political clauses of the Publications Act would cease^[117]. A spokesman for the Directorate of Publications reminded the public that a banned publication could be submitted for review after a period of two years^[118]. This notification was in recognition of the necessity for a revision of the practice of banning publications published by the ANC, PAC and SACP. In 1990 225 previously banned publications and objects were reviewed by Committees. Of these three were found to be undesirable. In the same year 883 publications and objects were considered by the Committees for the first time: 291 were found to be undesirable under s47(2)a (morality), 5 under s47(2)b (religion) and 9 under s47(2)e (politics). The combined effect of the "liberalisation" of censorship and the unbanning of political organisations had precipitated the withering away of political censorship.

Ironically Van Rooyen was not reappointed as Chairman of the Publications Appeal Board by F.W. de Klerk in April 1990. Van Rooyen, in an interview with the writer, speculated that caution with regard to the power which he had accumulated might have prompted the decision not to appoint him to a third term of office. Early in March 1990 it appeared likely that the Deputy Chairman of the Appeal Board Professor Piet Oosthuizen, would be promoted. The possibility that Oosthuizen, who was regarded as substantially more conservative than Van Rooyen, would be Chairman of the Board was not welcomed in the press - to the extent that Oosthuizen found it necessary to remind Rapport that it is an offence to belittle a member of the PAB^[119].

By 18 March it was clear that Mr. Louis Pienaar, the Administrator-General of Namibia and a former colleague of President De Klerk on the Kruger Commission which drafted the Publications Act, would replace Van Rooyen. Mr. Pienaar's appointment was timely in that his position in Namibia fell away with the granting of independence to that country on 20 March 1990. Just over six months after taking office at the Publications Appeal Board Louis Pienaar was appointed to the Cabinet by the State President. Thus ended his brief career as South Africa's chief censor - a career, incidentally, to which he was not suited since he had little sympathy for contemporary literature or cinema^[120]. Professor

Oosthuizen stepped into the breach as Acting Chairman.

In November 1991 Professor Dan Morkel, Dean of the Law Faculty at the University of the Orange Free State, became Chairman of the Publications Appeal Board. Shortly before his appointment he was quoted in Business Day as saying that "there was a tendency to be too strict in the past" regarding what was "undesirable".^[121]

e. · Why The Reservations?

This chapter is headed by a quotation from Robert Musil's great unfinished novel, The Man Without Qualities. This passage evokes the ambivalence which the writer feels when assessing Van Rooyen's term as Chairman of the Appeal Board. Under Van Rooyen's leadership censorship in terms of the Publications Act was reduced to an extent which far exceeded the predictions of any observer of censorship in South Africa. Who, in 1980, would have imagined that the Freedom Charter or a dramatisation of the life of Steve Biko would be passed by censorship bodies established by a National Party government? Who would have envisaged the extent to which nudity would be tolerated in films and publications of "merit"? That the easing of censorship came to fruition during the State of Emergency is all the more remarkable. This process and

the corresponding exposure of South Africans to contemporary cosmopolitan culture and divergent points of view no doubt contributed to the white electorate's acceptance of F.W. de Klerk's attempts to establish dialogue with organisations which had been restricted previously. So why the reservations with regard to the achievements of Kobus van Rooyen and his Publications Appeal Board?

Despite the significant reduction in censorship during the Van Rooyen decade, censorship in South Africa remained, in Van Rooyen's words, "the strictest in the Western World".^[122] Even after the Cry Freedom decision the Board imposed 48 cuts, an age restriction of 2-21 and a screening limitation which excluded drive-ins as well as theatres with more than 200 seats on South African director Darrell Roodt's award winning film The Stick. The Board acknowledged the artistic merit of the film and compared it to American anti-war films such as Apocalypse Now and Full Metal Jacket. In the opinion of the Board the American films would have affected the moral of their domestic audiences if they had been released during the "wars" which they addressed. The Stick was accordingly found to be detrimental to South Africa's military involvement in Namibia and Angola, hence the excessive restrictions.^[123]

The Stick decision not only highlighted the residue of

"traditional conservatism" in the decisions of the Appeal Board towards the end of the Van Rooyen period, it also points to limits with regard to the Board's conception of aesthetic merit as a mitigating factor. The Stick was chosen to open the World Montreal Film Festival yet the PAB did not grant sufficient weight to its aesthetic merit to refrain from mutilating it with excisions. This raises various questions: Are the Board, the Committees of Experts and the Committees competent to assess aesthetic merit? Can the notion of aesthetic merit - a fragile concept which is under siege in contemporary philosophy - be transplanted from aesthetic theory into censorship decisions? Ought aesthetic merit to influence one's right to read a book or see a film?

Literature has a built-in retort to the utilisation of aesthetic merit in censorship deliberations. In Don Quixote, one of the first, if not the first, novels, Miguel de Cervantes Saavedra ridicules this abuse of literary criticism. In the belief that books were responsible for Don Quixote's delusions the curate and the barber decided to burn the contents of the noble knight's library. Gradually it dawned on the friends that a number of volumes did not merit a fiery end. Cervantes delights in the ensuing deliberations. He even has the friends consider his own Galatea:

That Cervantes has been a great friend of mine for many years, and I know that he is more

versed in misfortunes than in verse. His book has some clever ideas, but it sets out to do something and concludes nothing. We must wait for the second part he promised, and perhaps with amendment he will win our clemency now denied him. In the meantime, neighbour, until we see, keep him as a recluse in your room.^[124]

Their task concluded the barber and curate walled up the room where the books had been kept. Then comes what John Berryman has described as an amazing passage^[125]:

This was quickly done, and when two days later Don Quixote got up, the first thing he did was to go and look for his books, and when he failed to find the room where he had left them he went all over the house searching for it. Finally he went to the place where the door used to be, and felt for it with his hands, and ran his eyes over everything again and again, without saying a word.^[126]

It is clear from the Don's unexpressed and uncomprehending grief that censorship was not the remedy for his remove from reality. Moreover, through "fate and the laziness of the inquisition", some of the books which had been burnt "deserved to be treasured up among the eternal archives"^[127].

REFERENCES AND NOTES**CHAPTER SEVEN**

- 1 Musil, R. The Man without Qualities.
- 2 Cape Times. 2 April, 1980.
- 3 Ibid.
- 4 The Independent. 23 October, 1989.
- 5 Sunday Times. 11 March, 1990.
- 6 Weekly Mail. 15 March, 1990.
- 7 Ibid.
- 8 Star. 8 April, 1980.
- 9 Coetzee, J.M. Doubling the Point. Page 298.
- 10 Galloway, F. (ed.). S.A. Literature 1980. Page 80.
- 11 Dugard, J. "Censorship in South Africa the Legal Framework". What Happened to Burger's Daughter, or How South African Censorship Works. Page 72.
- 12 Rapport. 7 January, 1990.
- 13 Driver, D. "Control of the Black Mind is the Main Aim of Censorship". S.A. Outlook. June, 1980.
- 14 Ibid. Page 11.
- 15 Ibid.
- 16 Ibid.
- 17 Tomaselli, K. "Ideology and Censorship in South Africa Film". Critical Arts. Vol. 1, No. 2, 1980.
- 18 Ibid. Page 9.
- 19 Gordimer, N. "New Forms of Strategy - No Change of Heart". Critical Arts. Vol. 1, No. 2, 1980.
- 20 Paraphrase of Eco, U. The Name of the Rose. Page 79. In Eco the phrase refers to Brother Jorge of Burgos.
- 21 Gordimer. Op cit. Page 27.
- 22 Ibid.
- 23 Act No. 109 of 1978.
- 24 Human and Rousseau Uitgewers (Edms.) Bpk. v Snyman N.O. 1978 (3) S.A. 836 (T).
- 25 Gordimer. Op cit. Page 28.
- 26 Ibid. Page 31.
- 27 Weekly Mail. June 19 to June 25, 1987.
- 28 Weekly Mail. June 26 to July 2, 1987.
- 29 Gordimer, N. "Censorship and the Artist". Staffrider. Vol. 7, No. 2, 1988. Page 15.
- 30 Van Rooyen, J.C.W. Censorship in South Africa. Page 9.
- 31 Ibid. Page 16.
- 32 P.A.B. case 15/82.
- 33 P.A.B. case 54/86.
- 34 Van Rooyen. Op cit. Footnote to page 105.
- 35 Act No. 109 of 1978.
- 36 Van Rooyen. Op cit. Page 31.
- 37 Sunday Tribune. 29 January, 1984.
- 38 Silver, L. A Guide to Political Censorship in South Africa. Introduction.

- 39 P.A.B. case 61/83.
 40 Ibid.
 41 Ibid.
 42 P.A.B. case 12/83.
 43 P.A.B. case 52/84.
 44 Interview with J.C.W. van Rooyen. University of Pretoria. 25 September 1990.
 45 Race Relations Survey 1984. Page 883.
 46 P.A.B. case 43/82.
 47 Ibid.
 48 Van Rooyen. Op cit. Page 18.
 49 Ibid. Page 17.
 50 P.A.B. cases 36/87 and 37/87.
 51 P.A.B. cases 112/87 and 114/87, 115/87, 110/87 respectively.
 52 P.A.B. case 72/87.
 53 Interview with J.C.W. van Rooyen. Op cit.
 54 Sunday Express. 25 July, 1982.
 55 Sunday Tribune. 17 February, 1985.
 56 Ibid.
 57 Ibid.
 58 Sunday Tribune. 29 January, 1984.
 59 Citizen. 25 February, 1982.
 60 Sunday Tribune. 19 September, 1982.
 61 Publications Appeal Board and Directorate of Publications - Annual Report. 1977. R.P. 18/1978.
Department of the Interior and Immigration - Annual Report. 1978. R.P. 21/1979.
Department of Internal Affairs - Annual Report. 1980 - 1984. R.P. 46/1981; R.P. 43/1982; R.P. 31/1983; R.P. 47/1984; R.P. 38/1985.
Department of Home Affairs - Annual Report. 1985 - 1989. R.P. 51/1986; R.P. 48/1987; R.P. 61/1988; R.P. 56/1989; R.P. 63/1990.
 62 Ibid.
 63 Ibid.
 64 Silver, L. "The Statistics of Censorship". South African Law Journal Vol. 96, 1979, and Government Gazettes for 1983 and 1988. The percentage of submitted publications possibly prejudicial to state security in 1983 is an approximation derived from an average of the figures for July 1982 - June 83 and July 1983 to June 1984.
 65 Du Toit, A. "The Rationale of Controlling Political Publications". Coggin, T. (ed.). Censorship. Page 88.
 66 Silver, L. "The statistic of Censorship". South African Law Journal. Vol. 96, 1979. Page 124.
 67 Ibid. and Government Gazettes for 1983 and 1988.
 68 Publications Appeal Board and Directorate of Publications - Annual Report. 1977. R.P. 18/1978.
Department of the Interior and Immigration - Annual Report. 1978. R.P. 21/1979.

- Department of Internal Affairs - Annual Report.
1980 - 1984. R.P. 46/1981; R.P. 43/1982; R.P. 31/1983; R.P. 47/1984; R.P. 38/1985.
- Department of Home Affairs - Annual Report.
1985 - 1989. R.P. 51/1986; R.P. 48/1987; R.P. 61/1988; R.P. 56/1989; R.P. 63/1990.
- 69 Ibid.
- 70 P.A.B. Case 43/82.
- 71 Van Rooyen, J.C.W. Censorship in South Africa.
Pages 1 and 9.
- 72 Coetzee, J.M. "Censorship in South Africa".
English in Africa. 17 No. 1, 1990.
- 73 Ibid. Page 7.
- 74 Van Rooyen. Op cit. Page 2.
- 75 Ibid.
- 76 Ibid. Page 3.
- 77 Weekly Mail. June 19 to June 25, 1987.
- 78 Van Rooyen. Op cit. Page 16.
- 79 Ibid. Page 3.
- 80 Ibid. Page 106.
- 81 Ibid. Page 9.
- 82 Ibid. Page 3.
- 83 Coetzee. Op cit. Page 6.
- 84 Van Rooyen. Op cit. Page 13.
- 85 Ibid. Page 11.
- 86 Human and Rousseau Uitgewers (Edms.) Bpk. v Snyman
N.O. 1978 (3) S.A. 836 (T).
- 87 Van Rooyen, J.C.W. Op cit. Page 89.
- 88 Van Rooyen, J.C.W. 1963 - 1988: From
Absolutism to Differentiation. An Analysis of
the Changing Perceptions Informing the Work of
the Publications Appeal Board". South
African Law Journal. Vol. 106, 1989. Page 343.
- 89 Van Rooyen, J.C.W. Censorship in South Africa.
Pages 87 and 91.
- 90 Ibid. Pages 107.
- 91 Ibid. Pages 107 - 110.
- 92 Ibid. Page 105.
- 93 Hansard: Questions and Answers. 25 August, 1987.
- 94 Sunday Tribune. 28 September, 1986.
- 95 From certain perspectives, of course, any
juxtaposition of words, perhaps even letters,
and any image, or fragment of an image, has
"literary", "artistic" and "academic" value -
predictably the standards employed by the
censors were more conventionally middlebrow.
- 96 Van Rooyen, J.C.W. "1963 - 1988". Op cit.
Page 343.
- 97 Daily News. 25 May, 1988.
- 98 Ibid.
- 99 Interview with J.C.W. van Rooyen. Op cit.
- 100 Anchor Publishing Co. (Pty.) Ltd. and Another v
Publications Appeal Board 1987 (4) SA 708 (N).
- 101 Van Rooyen, J.C.W. "Notes and Comments". Op
Cit.
- 102 Sunday Tribune. 21 June, 1987.
- 103 Sunday Tribune. 24 January, 1988.

- 104 Sunday Tribune. 1 May, 1988.
105 Sunday Tribune. 31 July, 1988.
106 Ibid.
107 Cape Times. 30 July, 1988.
108 Rapport. 31 July, 1988.
109 Sunday Tribune. 31 July, 1988.
110 Ibid.
111 Ibid.
112 Ibid.
113 Interview with J.C.W. van Rooyen. Op cit.
114 Insiq. August/September, 1988.
115 Daily News. 13 February, 1990.
116 Ibid.
117 Ibid.
118 Ibid.
119 Rapport. 8 April, 1990.
120 Interview with Louis Pienaar. P.A.B. offices,
Pretoria. 24 September, 1990.
121 Business Day. 2 October, 1991.
122 Interview with J.C.W. van Rooyen. Op cit.
123 Daily News. 1 April, 1989.
124 Cervantes. Don Quixote. Page 62.
125 Berryman, J. The Freedom of the Poet. Page
149.
126 Cervantes. Op Cit. Page 64.
127 Ibid.

CONCLUSION : APARTHEID AND CENSORSHIP

In the England of 1688, said Daniel Defoe, there were men ready to go to war with Popery without knowing whether the Pope was a man or a horse.

J.M. Coetzee^[1]

In the introduction to this study the writer indicated that he would argue that the thesis which holds that censorship in South Africa has been in the interests of "apartheid" - the dominant position in the literature - is an inadequate explanation for the development of this censorship by demonstrating that:

1. The distinguishing features of censorship in South Africa pre-date apartheid.
2. Censorship has been a deeply divisive issue within Afrikaner Nationalism.
3. Censorship was not a manifestation of the "system of apartheid", or any "grand plan".
4. References to "apartheid" do not account for, on the one hand, the enactment of the Publications and Entertainments^[2] and the Publications Acts^[3] and, on the other, the changes in the application and interpretation of these Acts.

The evidence in support of the first point was provided in Chapter One where it was suggested that the decisive break between the censorship which developed in South Africa and that which occurred in the West took place in 1934. Henceforth the censorship of films, public

entertainments and publications in South Africa was administered by a single, statutory, government-appointed censorship body. This is a distinguishing feature of censorship in South Africa. Local publications were not included in this censorship but, as the writer noted in Chapter Two, the South African publishing industry was not sufficiently established for this to have been an issue prior to the late 1940s. As Pieter Geldenhuys has noted with regard to the censorship of the early 1930s:

Verfynings het met elke nuwe wet ingetree maar die basiese gedagte was van die begin af daar.^[4]

Chapters Two to Seven documented the evidence for the assertion that censorship has been a deeply divisive issue within Afrikaner Nationalism. From the moment when the censorship of locally produced publications became an issue in South Africa one can discern a dichotomy between, on the one hand, the position advocated by those Afrikaner Nationalists (most vocally spokesmen for the Dutch Reformed Churches) that favoured censorship as a means to shelter the family, the young and the church from subversion by "undesirable" developments in the modern world and, on the other, the restraint urged by, initially, N.P. van Wyk Louw and, later, by a substantial number of important Afrikaans writers, newspaper editors and intellectuals. The latter group was particularly concerned that an internal

ensorship would hamper the emergence of Afrikaans culture.

The writer argued, in Chapter Two, that this conflict of interests goes a long way towards explaining the fifteen year delay between the announcement by the Minister of the Interior, Dr. T.E. Dönges, that he was investigating the issue of an internal censorship and the enactment of the Publications and Entertainments Act in 1963. The writer has further suggested, in Chapter Four, that the calls for restraint from within Afrikaner Nationalism explain the initial reluctance of the Publications Control Board, established by the last mentioned Act, to prohibit an Afrikaans novel. After January 1974 a number of Afrikaans books were banned^[5]. The reaction from within the "Volk" to the prohibition of Etienne Leroux's Magersfontein, O Magersfontein! in 1977, as was detailed in Chapter Six, was such, however, that the authorities were obliged to moderate the application of censorship. This moderation of censorship came to fruition during the Van Rooyen period.

The third point - censorship was not a manifestation of the "system of apartheid", or any "grand plan" - follows from the evidence, presented in Chapter One, that censorship in South Africa has its origins in Cape Provincial legislation to regulate the exhibition of "cinematograph films" and the Customs Management Act of

1913^[6]. The censorship provisions of the latter Act were modeled on British legislation. Chapters Two and Three indicated that the Publications and Entertainments Act of 1963, which introduced the censorship of local publications, was not enacted in accordance with a pre-existing blue-print derived from a coherent ideology, but was a much delayed response to conflicting interests within Afrikaner Nationalism. If anything, the development of censorship in South Africa supports Deborah Posel's contention that the existence of a "grand plan" for "apartheid" legislation is a myth^[7].

Besides following directly from the above points, the suggestion that references to "apartheid" do not account for, on the one hand, the enactment of the Publications and the Publications and Entertainments Acts, and, on the other, the changes in the interpretation of these Acts, is supported by the evidence, presented throughout this study, that changes in censorship in South Africa were not so much the inevitable manifestation of an historical process as shaped by, often immediate, problems and priorities confronting the Government and the administrators of censorship.

Assuming that the writer's argument - that the thesis which hold that censorship has been in the interests of "apartheid" is an inadequate explanation for the development of censorship in South Africa - is accepted,

what remains of the dominant position? Does it have any value as a description of the material which was banned under the Publications Act and its predecessor? Stripped of its theoretical pretensions it remains untenable. Consider Harold Lasswell's definition of censorship. Censorship is a

[policy] of restricting the public expression of ideas, opinions, conceptions and impulses which have or are believed to have the capacity to undermine the governing authority or the social and moral order which that authority considers itself bound to protect.^[8]

This definition incorporates the possibility that those who formulate and implement state policy might be mistaken in determining that which has the capacity to undermine the governing authority or the social and moral order. This is seldom taken into account in the dominant position. When this realization does surface, it tends to take the form of the depiction of the censors as incompetent - the censors are ridiculed for believing that a certain item is harmful. That this may limit the viability of the assumption that censorship is in the interest of apartheid is not usually considered.

Two further objections can be lodged against the reading of the dominant position as a description of banned material. Firstly, the implementation of censorship in South Africa has been in terms of the provisions of the various Acts. The evaluation of material by these standards can have very different consequences to an

assessment based on the interests of the "apartheid" state and society. For instance a work which is neither blasphemous nor "harmful to relations between sections of the inhabitants, or ... the safety of the state, or the general welfare, peace and good order" could be deemed to be offensive to the religious feelings of a section of the inhabitants of the population. This was the opinion of Diemont J. when he decided that the Publications Control Board was justified in banning Kennis van die Aand.^[9] Similarly a work which would have no tangible influence on the interests of the "apartheid" state could fail the "average" or "likely" reader tests applied by the Publications Appeal Board.

Secondly, the definition and enactment of censorship in South Africa have been significantly more encompassing than could be described by reference to the interests of the "apartheid" state and society. Ironically it is the censorship of the later Van Rooyen period that comes closest to having been in the interests of the state and society. By this time the interests of the state and competing interests within society had become central to censorship decisions and the definition of these interests had been given intellectual content. The consequence was a dramatic reduction in censorship.

"Radicals" might argue that even if the thesis that

censorship has been in the interests of apartheid has no explanatory and little descriptive value, the maintenance of this position has been an appropriate strategy against censorship in South Africa. At best the radical position has been a blunt instrument. At worst the radical position has been no strategy against censorship at all. Nadine Gordimer's "decisive chalked text" - "We shall not be rid of censorship until we are rid of apartheid"^[10] - was an inadvertent admission of impotence. It would appear that when state policy is reduced to being a manifestation of a monolithic "apartheid", politics cannot but be a Quixotian adventure.

REFERENCES AND NOTES**CONCLUSION**

- 1 Coetzee, J.M. "The Mind of Apartheid : Geoffrey Cronjé". Social Dynamics. Vol. 17, No. 1, 1990. Page 1.
- 2 Act No. 26 of 1963.
- 3 Act No. 42 of 1974.
- 4 Geldenhuys, P. Pornografie, Sensuur en Req. Page 159.
- 5 André Brink's Kennis van die Aand was prohibited on 29 January 1974.
- 6 Act No. 9 of 1913.
- 7 Posel, D. "The Meaning of Apartheid before 1948". Journal of Southern African Studies. Vol. 14, No. 1, 1987.
- 8 Laswell, H. "Censorship". Encyclopedia of the Social Sciences.
- 9 Buren Uitgewers (Edms.) Bpk. en 'n ander v Raad van Beheer oor Publikasies 1975 (1) S.A. 379 (C).
- 10 Gordimer, N. "New Forms of Strategy - No Change of Heart". Critical Arts. Vol. 1, No. 2, page 27.

SOURCES

- Abraham, H. "Censorship". International Encyclopaedia of the Social Sciences. MacMillan and Free Press, New York, 1968.
- Adey, D. "Censorship, Class and Cliché". Malan, C. (ed.). Race and Literature. Owen Burgess, Pinetown, 1987.
- Adorno, T.W. Minima Moralia. Verso, London, 1987.
- Alpert, L. "Naughty Naughty". Downs, R. (ed.). The First Freedom. American Library Association, Chicago, 1960.
- Article 19. Information, Freedom and Censorship. Longman, Harlow (Essex), 1988.
- Alvarez, Pereyre, J. "Pyramids of Shame". Genève Afrique. Vol. xvi, No. 2, 1977 - 1978.
- Berryman, J. The Dream Songs. Faber and Faber, London, 1990.
- The Freedom of the Poet. Farrar, Straus and Giroux, New York, 1976.
- Binder, E. (ed.). Censorship and Apartheid in South Africa. PEN American Centre, New York, 1981.
- Boesak, A. "To Guard the Faith ...". Coggin, T. (ed.). Censorship. S.A.I.R.R., Johannesburg, 1983.
- Brink, A. "Censorship and the Author". Critical Arts. Vol. 1, No. 2, 1980.
- "Censorship and Literature". Coggin, T. (ed.). Censorship. S.A.I.R.R., Johannesburg, 1983.
- "Literature and Offence". Philosophical Papers. May, 1976.
- "Writers as Mapmakers". Index on Censorship. Vol. 7, No. 6, 1978.
- Budlender, G. "Preface". Coggin, T. (ed.). Censorship. S.A.I.R.R., Johannesburg, 1983.
- Die Burger. Cape Town. 1947 - 1990.
- Burgess, A. Homage to Qwert Yuiop. Abacus, London, 1986.
- Business Day. Johannesburg. 1991.

- Butler, J. et al (eds.). Democratic Liberalism in South Africa. David Philip, Cape Town, 1987.
- The Cape Times. Cape Town. 1947 - 1930.
- Carson, E. The Ancient and Rightful Customs
- Cervantes. Don Quixote. Translated by J.M. Cohen. Penguin, Harmondsworth, 1979.
- Chatwin, B. What Am I Doing Here? Picador, London, 1989.
- The Citizen. Johannesburg. 1982.
- Coetzee, A. "The Beginning of a Revolt". Paton, J. (ed.). The Grey Ones. Raven, Johannesburg, 1974.
- Coetzee, J.M. "Censorship in South Africa". English in Africa. Vol. 17, No.1, 1990.
- Doubling the Point. Harvard University Press, Cambridge (Mass.), 1992.
 - "The Mind of Apartheid : Geoffrey Cronjé". Social Dynamics. Vol. 17, No. 1, 1991.
- Coggin, T. (ed.). Censorship. S.A.I.R.R., Johannesburg, 1983.
- Contrast. Cape Town. 1964.
- Cope, J. The Adversary Within : Dissident Writers in Afrikaans. David Philip, Cape Town, 1982.
- Cronjé, G. 'n Tuiste vir die Nageslag. Publicité, Cape Town, 1945.
- Dagbreek. Johannesburg. 1953.
- Daily News. Durban. 1963 - 1990.
- Davenport, T. South Africa : A Modern History. 3rd Edition. MacMillan, Johannesburg, 1987.
- Dean, B. "Censorship and the Law". Philosophical Papers. Vol. 5, No. 1, 1976.
- Dekker, G. Afrikaanse Literatuurgeskiedenis. Nasou, Cape Town, 1958.
- De Klerk, W.A. The Puritans in Africa. Bok, Manzini, 1988.
- Downs, R. (ed.). The First Freedom. American Library

- Association, Chicago, 1960.
- Driver, D. "Control of the Black Mind is the Main Aim of Censorship". South African Outlook. June, 1980.
- Drukker, K. The Administration of Censorship in South Africa with Particular Reference to the Cinema. Honours thesis, University of Cape Town, 1984 (unpublished).
- Dugard, J. "Censorship in South Africa, the Legal Framework". Gordimer, N. et al. What Happened to Burger's Daughter, or How South African Censorship Works. Taurus, Johannesburg, 1980.
- Human Rights and the South African Legal Order. Princeton University Press, Princeton, 1978.
- Du Toit, A. "The Rationale of Controlling Political Publications". Coggin, T. (ed.). Censorship. S.A.I.R.R., Johannesburg, 1983.
- Eco, U. The Name of the Rose. Picador, London, 1984.
- Elphick, R. "Historiography and the Future of Liberal Values in South Africa". Butler, J. et al (eds.). Democratic Liberalism in South Africa. David Philip, Cape Town, 1987.
- Elster, J. "Further Thoughts on Marxism, Functionalism and Game Theory". Roemer, J. (ed.). Analytical Marxism. C.U.P., Cambridge (Cams), 1985.
- February, V.A. Mind Your Colour. Kegan Paul, London, 1981.
- Film and Entertainment. Vol. 3, No. 4, 1980.
- Foulcault, M. "The Juridical Apparatus". Connolly, W. (ed.). Legitimacy and the State. Basil Blackwell, Oxford, 1984.
- The History of Sexuality Volume One. Peregrine, Harmondsworth, 1984.
- Galloway, F. (ed.). S.A. Literature: 1980. Ad Donker, Johannesburg, 1982.
- Geldenhuys, P.B. Pornografie, Sensuur en Reg. Lex Patria, Johannesburg, 1977.
- Gilder, B. "Finding New Ways to Bypass Censorship". Index on Censorship. Vol. 2, No. 1, 1983.
- Gordimer, N. "Apartheid and censorship". Paton, J. (ed.). The Grey Ones. Ravan, Johannesburg,

- 1974.
- "Censorship and the artist". Staffrider. Vol. 7, No. 2, 1988.
 - "Censorship and the Primary Homeland". Reality. Vol. 1, No. 6, 1970.
 - "Censorship and the word". Bloody Horse. No. 11, 1980.
 - "English Language Politics and Literature in South Africa". Heywood, C. (ed.). Aspects of South African literature. Heinemann., London, 1976.
 - "New forms of strategy, no change of heart". Critical Arts. Vol. 1, No. 2, 1980.
 - "The South African Censor : No change". Index on Censorship. Vol. 10, No. 1, 1981.
 - "South Africa : Towards a Desk Drawer Literature". The Classic. Vol. 2, No. 4, 1968.
- Gordimer, N. et al. What Happened to Burger's Daughter, or How South African Censorship Works. Taurus, Johannesburg, 1980.
- Gordon, G. "The Right to Write". Index on Censorship. Vol. 4, No. 2, 1975.
- Grant, J. "The Silenced Generation". Index on Censorship. Vol. 6, No. 3, 1977.
- Gutsche, T. The History and Social Significance of Motion Pictures in South Africa 1895 - 1940. Howard Timmins, Cape Town, 1972.
- Hatchen, W. and Gifford, C. Total Onslaught. MacMillan, Johannesburg, 1984.
- Haysom, N. and Marcus, G. "Undesirability and Criminal Liability under the Publications Act". South African Journal of Human Rights. Vol. 1, No. 1, 1985.
- Hepple, A. Censorship and Press Control in South Africa. The Author, Johannesburg, 1960.
- Holterhoff, M. "Art of the 3rd Reich". Artforum. 25 November, 1986.
- The Independent. London. 1989.
- Insig. Nasionale Pers. August/September, 1988.
- Jacobsen's Index of Objectionable Literature. Jacobsen's, Pretoria, 1963 - 1992.

- Jonker, A. The Scapegoat of History. Central News Agency, South Africa, 1941.
- Jonker, I. Kantelson. Afrikaanse Pers-Boekhandel, Johannesburg, 1966.
- Jordan, R. "Withdrawal of Ban by the Publications Control Board". South African Law Journal. Vol. 98, Pt. 1, 1981.
- Joyce, J. Ulysses. Penguin, Middlesex, 1986.
- Kafka, F. The Trial. Penguin, Harmondsworth, 1985.
- Kahanovitz, S. and Manoim, S. Radically Undesirable. No imprint (NUSAS, early 1980s?).
- Kahn, E. "The Dirty Books we have Banned". Standpunte. Vol. 20, No. 4, 1967.
- "When the Lion Feeds - and the Censor Pounces : A Disquisition on the Banning of Immoral Publications in South Africa". South African Law Journal. Vol. 83, 1966.
- Kerkhof, I. "Music in South Africa : Censorship and Repression". Re-Records. London, Vol. 2, 1985.
- Kunene, D. "Holding the Lid Down : Censorship and the Writer in South Africa". South African Literature. November, 1986.
- Kuspit, D. "Diagnostic Malpractice". Artforum. 25 November, 1986.
- Laswell, H. "Censorship". Encyclopaedia of the Social Sciences. MacMillan, New York, 1930.
- Louw; N.P. van Wyk. "Sensuur of Pornografie"? Standpunte. Vol. 2, No. 4, 1947.
- Leroux, E. To a Dubious Salvation. Penguin, Harmondsworth, 1985.
- Magersfontein, O Magersfontein! : Die Dokumente. Human and Rousseau, Cape Town. 1990.
- Marquez, G.G. One Hundred Years of Solitude. Picador, London, 1983.
- Matthews, A. "Censorship, Access to Information and Public Debate". Theoria. University of Natal, Vol. 55, 1980.
- McDonald, I. "Defending Censorship Legislation in Terms of Society's Right to Protect Public

- Morals". Coggin, T. (ed.). Censorship. S.A.I.R.R., Johannesburg, 1983.
- Merrett, C. "The Academic Librarian and Political Censorship in South Africa". Wits Journal of Librarianship and Information Science. April, 1985.
- "Censorship and the Academic Process". Wits Journal of Librarianship and Information Science. No. 4, 1986.
- Mphahlele, E. Voices in the Whirlwind and Other Essays. Hill and Wand, New York, 1972.
- Musil, R. The Man Without Qualities. Picador, London, 1988.
- Natal Mercury. Durban. 1970 - 1990.
- Natal Witness. Pietermaritzburg. 1967 - 1993.
- The New Yorker. May 25, 1992.
- Nietzsche, F. Twilight of the Idols and The Anti-Christ. Penguin, Harmondsworth, 1984.
- O'Meara, D. Volkskapitalisme. Ravan, Johannesburg, 1983.
- Ondaantje, M. Running in the Family. Gollancz, London, 1983.
- Opperman, D.J. "Afrikaans". Standard Encyclopaedia of Southern Africa. Nasionale Opvoedkundige Uitgewery, Cape Town, 1970.
- Paton, J. "Censorship and the University". Paton, J. (ed.). The Grey Ones. Ravan, Johannesburg, 1974.
- Paton, J. (ed.). The Grey Ones. Ravan, Johannesburg, 1974.
- Personality. Republican Press, Durban. November 7, 1957.
- Posel, D. "The Meaning of Apartheid before 1948". Journal of Southern African Studies. Vol. 14, No. 1, 1987.
- Pretorius, W. "Nie vir Suid-Afrikaanse Lesers nie". De Kat. November, 1988.
- Rand Daily Mail. Johannesburg. 1963 - 1980.
- Rapport. Johannesburg. 1970 - 1990.

- Rose Innes, L. The Blues is the Screeches of the Censor's Pen. Honours thesis in African Studies, University of Cape Town, 1985 (unpublished).
- Royston, R. "A Tiny Unheard Voice, the Writer in South Africa". Index on Censorship. Vol. 2, No. 9, 1973.
- Silver, L. "Criticism of the Police : Standards Enunciated by the Publications Appeal Board". South African Law Journal. Vol. 95, 1978.
- A Guide to Political Censorship in South Africa. University of the Witwatersrand, Centre for Applied Legal Studies, Johannesburg, 1984.
 - "The Statistics of Censorship". South African Law Journal. Vol. 96, 1979.
 - "Trends in Publications Control : A Statistical Analysis". South African Law Journal. Vol. 100, 1983.
 - "Who are the Custodians"? South African Law Journal. Vol. 98, 1981.
- Silver, L. (ed). Publications Appeal Board Digest of Decisions. 1979 - 1990. University of the Witwatersrand, Centre for Applied Legal Studies, Johannesburg.
- South Africa (Republic). Department of Home Affairs - Annual Report. 1985 - 1990. R.P. 51/1986; R.P. 48/1987; R.P. 61/1988; R.P. 56/1989; R.P. 63/1990; R.P. 64/1991.
- South Africa (Republic). Department of the Interior - Annual Report. 1979. R.P. 21/1980.
- South Africa (Republic). Department of the Interior and Immigration - Annual Report. 1978. R.P. 21/1979.
- South Africa (Republic). Department of Internal Affairs - Annual Report. 1980 - 1984. R.P. 46/1981; R.P. 43/1982; R.P. 31/1983; R.P. 47/1984; R.P. 38/1985.
- South Africa (Republic). House of Assembly Debates. (Hansard). 1934 - 1990.
- South Africa (Republic). Official Yearbook No. 20 of the Union of South Africa - 1939.
- South Africa (Republic). Minutes of Evidence. Select Committee on the Subject of Undesirable Publications Bill. S.C. 11 - '62.

- South Africa (Republic). Publications Appeal Board and Directorate of Publications - Annual Report. 1975 - 1977. R.P. 118/1975; R.P. 16/1977; R.P. 18/1978.
- South Africa (Republic). Report of the Commission of Enquiry into the Publications and Entertainments Amendment Bill. A.B. 61-'73. R.P. 17/1974.
- South African (Republic). Report of the Select Committee on the Publications and Entertainments Bill. S.C. 7 - '73.
- South African (Union). Report of the Commission of Inquiry into Undesirable Literature. U.G. 42/1957.
- South African (Union). Report of the Select Committee on the Entertainments (Censorship) Bill. S.C. 6 - '31.
- Standpunte. Tafelburg, Cape Town. 1947 - 1975.
- The Star. Johannesburg. 1920 - 1993.
- Steinberg, S. Five Hundred Years of Printing. Penguin, Harmondsworth, 1961.
- Stewart, P.M. "Beyond the Mythology of Censorship in South Africa". Reality. July, 1990.
- Die Suid Afrikaan. Cape Town. October/November, 1990.
- Sunday Express. Johannesburg. 1982.
- Sunday Times. Johannesburg. 1963 - 1993.
- Sunday Tribune. Durban. 1971 - 1993.
- Survey of Race Relations. S.A.I.R.R., Johannesburg, 1965 - 1990.
- Suzman, A. "Censorship and the Courts". South African Law Journal. Vol. 89, 1972.
- Switzer, D. Legal Censorship in South Africa. Ph.D. thesis, University of the Witwatersrand, 1986 (unpublished).
- Tomaselli, K. The Cinema of Apartheid. Smyrna, New York, 1988.
- Ideology of Censorship in South African Film".

- Critical Arts. Vol. 1, No. 2, 1980.
- Die Transvaler. Johannesburg. 1953 - 1990.
- Tribe, D. Questions of Censorship. Allen and Unwin, London, 1973.
- The Unesco Courier. Unesco, November, 1977.
- Die Vaderland. Pretoria. 1953 - 1990.
- Van Der Vyver, J. "General Aspects of the South African Censorship Laws". Coggin, T. (ed.). Censorship. S.A.I.R.R., Johannesburg, 1983.
- Van Rensburg, F.I.J. Sensuur. Perskor, Johannesburg, 1990.
- Van Rooyen, J.C.W. "Appelraad oor Publikasies". De Rebus Procuratoriis. February 1976.
- Censorship in South Africa. Juta, Kenwyn, 1987.
 - "1963 - 1988: From Absolutism to Differentiation. An Analysis of the Changing Perceptions Informing the Work of the Publications Appeal Board". South African Law Journal. Volume 106, 1989.
 - Publikasiebeheer in Suid-Afrika. Juta, Cape Town, 1978.
- Die Volksblad. Bloemfontein. 1980.
- Weekly Mail. Johannesburg. 1987.
- Welsh, D. "Censorship and the Universities". Philosophical Papers. Vol. 5, No. 1, 1976.
- Wolpe, H. "Capitalism and Cheap Labour-power in South Africa : From Segregation to Apartheid". Economy and Society. Vol. 1, No. 4, 1972.
- "Towards an Analysis of the South African State". International Journal of the Sociology of Law. No. 8, 1980.
- Worcester Advertiser. Worcester. 1894.
- Yudelman, D. The Emergence of Modern South Africa : State, Capital and the Incorporation of Organised Labour on the South African Gold Fields, 1902 - 1939. David Philip, Cape Town, 1984.

ACTS AND ORDINANCES

- Cape of Good Hope. Customs Management Act No. 10, of 1892.
- Cape of Good Hope. Obscene Publications Act No. 31, of 1892.
- Cape of Good Hope (Province). Cinematograph Film Ordinance No. 21 of 1917.
- Cape of Good Hope (Province). Public Entertainments (Censorship) Ordinance No. 9, of 1926.
- Cape of Good Hope (Province). Public Entertainments Ordinance No. 1 of 1920.
- Orange River Colony. Police Offences Ordinance No. 21 of 1902.
- South Africa (Union). Customs Act No. 35 of 1934.
- South Africa (Union). Customs Act No. 55 of 1955.
- South Africa (Union). Customs Tariff Amendment Act No. 40 of 1934.
- South Africa (Union). Entertainments (Censorship) Act No. 28 of 1931.
- South Africa (Union). Post Office Administration and Shipping Discouragement Act No. 10 of 1911.
- South Africa (Union). Post Office Consolidation Act No. 44 of 1958.
- South Africa (Republic). Customs Amendment Act No. 91 of 1962.
- South Africa (Republic). Customs and Excise Act No. 91 of 1964.
- South Africa (Republic). Customs Management Act No. 9 of 1913.
- South Africa (Republic). General Laws Amendment Act No. 62 of 1963.
- South Africa (Republic). Internal Security Act No. 76 of 1982.
- South Africa (Republic). Protection of Information Act No. 84 of 1982.
- South Africa (Republic). Public Safety Act No. 3 of 1953.

- South Africa (Republic). Publications Act No. 42 of 1974.
- South Africa (Republic). Publications Act No. 44 of 1979.
- South Africa (Republic). Publications Act No. 79 of 1977.
- South Africa (Republic). Publications Act No. 109 of 1978.
- South Africa (Republic). Publications and Entertainments Act No. 26 of 1963.
- South Africa (Republic). Publications and Entertainments Amendment Act No. 85 of 1969.
- South Africa (Republic). Publications and Entertainments Amendment Act No. 32 of 1971.
- Transvaal. Criminal Law Amendment Act No. 38 of 1909.
- Transvaal (Province). Public Entertainments Ordinance No. 1 of 1920.

SUPREME COURT CASES

- Anchor Publishing Co. (Pty.) Ltd. and another v Publications Appeal Board 1987 (4) S.A. 708 (N).
- Bureñ Uitgewers (Edms.) Bpk. en 'n ander v Raad van Beheer oor Publikasies 1975 (1) S.A. 379 (C)
- Central News Agency v Publications Control Board 1969 (4) S.A. 1 (C).
- Commissioner of Customs v Joffe. 1934, W.L.D. 8.
- Duckworth v Publications Control Board. 1971 (4) S.A. 436 (D).
- Human and Rousseau Publishers (Pty.) Ltd. v Snyman, N.O. 1978 (3) S.A. 836 (T).
- Lindberg v Publications Control Board. 1968 (4) S.A. 311 (W).
- Marshall Cavendish Ltd. v Publications Control Board. 1969 (4) S.A. 1 (C).

- Pillay v Publications Control Board. (3) 1971 (2) S.A. 243 (N).
- Publications Control Board v Central News Agency Ltd. 1977 (1) S.A. 717 (A.D.).
- Publications Control Board v Gallo (Africa) Ltd. 1975 (3) S.A. 665 (A.D.).
- Publications Control Board v Republican Publications (Pty) Ltd. 1972 (1) S.A. 288 (A.D.).
- Publications Control Board v William Heinemann, Ltd., and Others. 1965 (4) S.A. 137 (A.D.).
- R v Clark. 1957 (2) S.A. 122 (N).
- R v De Jong. (1894) 11 S.C. 326.
- R v Shaw. 1910 C.P.D. 426.
- Republican Publications (Pty.) Ltd. v Publications Control Board. 1970 (1) S.A. 577 (C).
- Republican Publications (Pty.) Ltd. v Publications Control Board. (4) 1971 (2) S.A. 529 (C).
- Republican Publications (Pty.) Ltd. v Publications Control Board. 1972 (3) S.A. 562 (D).
- Republican Publications (Pty.) Ltd. v Publications Control Board. (2) 1971 (2) S.A. 162 (D)
- Republican Publications (Pty.) Ltd. v Publications Control Board. (3) 1971 (2) S.A. 243 (N).
- Republican Publications (Edms.) Bpk, v Raad van Beheer oor Publikasies 1973 (4) S.A. 549 (D).
- S v Morony. 1978 (4) S.A. 389 (A.D.).
- S v Roodt 1983 (3) S.A. 382 (T).
- S.A. Magazine Co. v Publications Control Board 1966 (2) S.A. 148 (T).

INTERVIEWS

- Pienaar, L. Publications Appeal Board Offices, Pretoria, 25 September 1990 (Unpublished).
- Van Rooyen, J.C.W. University of Pretoria, 25 September 1990 (Unpublished).