

1). The prohibition in Wool. R 35, 1963 was not retrospective in effect and accordingly the items in exhibit "A" were not subject to a prohibition.

a). At least the formulation of the relevant provisions is equivocal, ~~but~~ but there are factors which point to it not having been the intention to penalise possession of publications lawfully printed, ~~and~~ published and disseminated.

(i) The form of the prohibition itself is clearly prospective. - printing, publishing or disseminating.

Note: possess past numbers, or print, publish, disseminate or possess future copies.

(ii). cf section 3 - something lawful becomes unlawful - words: "continues to be a member."

[Note "continues to possess"]

(iii). ~~Unlikely intent~~ There is a  strong presumption against construing statutes so as to impose new obligations in relation to transactions already past

Presumption against retrospectivity. - against imposition new duties - re past transactions off interference with vested rights

Director of Public Prosecutions v. Lamb 1941 (2) K.B. at p. 105.

R. v. Oliver 1944 (1) KB at 76-7

Had Legislature intended to penalise ~~the~~ continued possession of literature accumulated quite lawfully over ten years, would have done so in clear terms. - or to impose duty to search out & destroy - ~~the~~

See too R. v. Sillas 1959 (4) SA 305 at 309. (H).

(iv). In any event, penal provisions should be strictly construed.

G & L.

~~With regard to the mischief aimed at:~~

(v). The President could have banned publication at any time during 10 years ~~at~~ at least.

Chose not to - unlikely Part, intended to penalise someone for possession of publication which President chose not to prohibit.

or Golden City Post) e.g. say: someone bought out before times - started printing ~~objectionable~~ trend - objectionable.

Wanted to stop: intended to cast duty on all - old papers lying around? Or penitence -

those: come into possession - copies printed, published or disseminated in future - illegally.

"Conceal" relates to publications brought out unlawfully - sent through post or dropped in letter boxes - Police need, bare exhibits, public lectures on danger of bomb, University historians etc. could want for special purposes - as dagga - permit, medical.

Six months: nothing to indicate why - could be public had been receiving, or people had been using for purposes mentioned - ~~that~~ already banned & distributed after ban.


How distinguish date? Problem - how distinguish name. Contents. ~~other~~

## An sentence:

Quite unreasonable - send first offender, 38 year old journalist, to jail for this offence,

a). Ord. living under house arrest - 24 hour a day - administrative action: in order to prevent certain activities - extremely wide restriction. Prevented from publishing or being quoted - couldn't have done anything with cuttings.

b). Arrested - search: hundreds of ~~para~~ books, pamphlets papers gone through - seized by - a drawer collecting dust is a file of cuttings - ranging 1954 - 1962. Stopped.

 c). File had

1. How came into possession: p. 13. A et seq.

2. Thought quite legal 12-A. First case refers (Magistrate didn't mention) I know.

Ignorance of law - not a defence; should be a mitigating factor.

Reasonable belief - legal. Any event - laws re publications - welter of confusion & difficulty - if layman makes mistake - blame should be sympathetic - not use him as a sacrifice to warn others.

3). No sinister purpose - his possession - didn't purposely continue to keep for reference. Guilty of neglect - not deliberate misconduct.

4). Oler would have imposed - suspended sentence - except worried - effect publicity.  
K-roper: susped - warn - in future.

5). Wrong to say mitigating factors not so compelling to warrant suspended sentence. should be other way round.

6). Remember too - acid. in effect severely restricted - ~~political activities~~ administrative action - work activities - reverse form of 24 hr. a day house arrest. band even be here to hear appeal. 15 days solitary confinement (15 A).

~~and~~ + 5 weeks awaiting trial.

Trial dragged on 5 months.

7 days - suspended.

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