

**THE
OBJECTIONABLE LITERATURE ACTS, 1954 to 1967**

Objectionable Literature Act of 1954, 3 Eliz. 2 No. 2

Amended by

Objectionable Literature Act Amendment Act of 1967, No. 27

An Act to Prevent the Distribution in Queensland of
Objectionable Literature

[Assented to 20 April 1954]

1. Short title. This Act may be cited as "The Objectionable Literature Act of 1954."

Collective title conferred by Act of 1967, No. 27, s. 1 (3).

As to the validity of this Act, see note to s. 3.

2. Commencement of this Act. This Act shall come into operation on a date to be fixed by the Governor in Council by Proclamation published in the Gazette.

Commenced 13 May 1954; Proclamation: Gazette 15 May 1954, p. 208.

3. Interpretation of this Act. This Act, including every Proclamation, Order in Council, and regulation made hereunder, shall be read and construed so as not to exceed the legislative power of the State to the intent that, where any enactment hereof or provision of any such Proclamation, Order in Council, or regulation would but for this section have been construed as being in excess of that power, it shall nevertheless be a valid enactment or provision to the extent to which it is not in excess of that power.

This Act is not *ultra vires* or invalid or unconstitutional as it does not infringe s. 92 of the Commonwealth Constitution, title COMMONWEALTH AND STATES, Vol. 4, p. 226. See *Literature Board of Review v. H.M.H. Publishing Company Inc.*; *Ex parte H.M.H. Publishing Company Inc.*, [1964] Qd. R. 261.

4. Savings and exemptions. (1) Unless otherwise expressly provided, the provisions of this Act (including all Proclamations, Orders in Council, regulations, and orders made or purporting to be made hereunder and for the time being in force) shall be in addition to and not in substitution for or diminution of the provisions of any other Act, or of any Order in Council, regulation, rule, ordinance, by-law, or other instrument thereunder, and nothing in this Act shall affect or prevent the exercise of any functions, powers, authorities, or jurisdiction conferred or imposed upon any person by any other Act or any Order in Council, regulation, rule, ordinance, by-law, or other instrument thereunder, or prevent the enforcement and recovery of any penalty, whether by way of imprisonment or fine, or any forfeiture which is enforceable or recoverable under any other Act or any Order in Council, regulation, rule, ordinance, by-law, or other instrument thereunder.

(2) Nothing in this Act shall apply with respect to any newspaper containing only public news, intelligence, or occurrences, or political matter, or any remarks or observations therein, or advertisements which are not objectionable under and within the meaning of this Act, or only a combination of any of these, or with respect to any publication of a medical, pharmaceutical, legal, or other professional character bona fide intended only for circulation among members of the profession concerned, or any publication intended only for bona fide political purposes, or which represents in good faith and with artistic merit any work of recognised literary merit, or any scriptural, historical, traditional, mythical, or legendary story only.

Moreover the Governor in Council may from time to time by Order in Council exempt any literature from the operation of this Act and while that Order in Council remains in force such literature shall be exempted accordingly:

Provided that in any proceedings whatsoever it shall lie on the person alleging the fact to prove that any literature the subject of the proceedings falls within the provisions of this subsection or, as alleged, is exempted hereunder from the operation of this Act.

5. (1) Meaning of terms. In this Act, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say:—

“Board”—The Literature Board of Review constituted under and for the purposes of this Act;

“Chairman”—The chairman of the Board: The term includes any acting chairman of the Board;

“Description”—Used in relation to any literature, includes class, kind, or sort;

“Distribute”—Includes sell, and also includes circulate or deliver (whether gratuitously or for money, or publicly or privately), or leave in any public place or expose in any way to public view;

“Literature”—Any publication of any description; Without limiting the generality of the foregoing, the term includes any book, pamphlet, or paper, or any review, magazine, newspaper, or other writing published periodically, or any other publication whatsoever (including what is popularly known as a “comic” or “comic-strip”), comprising any words or any picture or pictures or partly comprising any words and partly comprising any picture or pictures;

“Minister”—The Attorney-General or other Minister of the Crown for the time being charged with the administration of this Act;

“Objectionable”—In relation to literature or any part of any literature, regard being had to the nature thereof, the persons, classes of persons, and age groups to or amongst whom that literature is or is intended to be or is likely to be distributed and the tendency of that literature or part to deprave or corrupt any such persons (notwithstanding that persons in

other classes or age groups may not be similarly affected thereby), objectionable for that it—

- (i) Unduly emphasises matters of sex, horror, crime, cruelty, or violence; or
- (ii) Is blasphemous, indecent, obscene, or likely to be injurious to morality; or
- (iii) Is likely to encourage depravity, public disorder, or any indictable offence; or
- (iv) Is otherwise calculated to injure the citizens of this State;

“Officer”—The secretary or any other officer appointed under and for the purposes of this Act;

“Part”—Used in relation to any literature, includes any picture, article, item, paragraph, or any portion whatsoever of the literature, whether appearing wholly or partly on the outside of or within the covers, if any, thereof;

“Person”—Includes a body corporate;

“Picture”—Includes any print, photograph, lithograph, drawing, sketch, picture, figure, or other representation, and any reprint, facsimile, copy, colourable imitation, or other reproduction whatsoever of any picture;

“Prescribed”—Prescribed by this Act;

“Proclamation”—A Proclamation made under this Act;

“Regulations”—Regulations made under this Act;

“Secretary”—Secretary to the Board: The term includes an acting secretary;

“Sell”—Includes barter, exchange, offer or attempt to sell, and supply or receive for sale, or have in possession for sale or apparently for sale, or expose for sale, or send, forward, convey, or deliver for sale or on sale, or cause, suffer, or allow to be sold or to be offered for sale;

“This Act”—This Act and all Proclamations, Orders in Council, regulations, and prohibitions made or issued or purporting to be made or issued hereunder and for the time being in force.

(2) **Derivatives.** Derivatives of any term to which a meaning is assigned by this section shall in this Act, unless the context otherwise indicates or requires, have a corresponding meaning.

Literature—For literature to which the Act does not apply, see s. 4 (2).

Objectionable—For a case in which the Full Court upheld an order of the Literature Board of Review prohibiting “Playboy” magazine, holding that it unduly emphasized matters of sex, there being a palpable over-presentation of such matters, see *Literature Board of Review v. H.M.H. Publishing Company Inc.; Ex parte H.M.H. Publishing Company Inc.*, [1964] Qd. R. 261.

As to the meaning of “undue emphasis”, see *Literature Board of Review v. Invincible Press; Ex parte Invincible Press and Truth and Sportsman Limited*, [1955] St. R. Qd. 525, at pp. 543, 544 (per Stanley, J.), applied in the *H.M.H. Publishing Company Case, supra*.

See also *Transport Publishing Co. Pty. Ltd. v. Literature Board of Review* (1956), 99 C.L.R. 111, where the High Court held a number of comic books of the “Real Love” type not to be objectionable within the definition. See that case also, for comments on the admissibility and value of expert opinion evidence.

Literature is not objectionable within the meaning of the Act merely because it falls within one or more of the categories contained in the definition of

“objectionable” in s. 5 (1). It must also be established, *inter alia*, as a fact that the literature has a tendency to corrupt or deprave, *Literature Board of Review v. Invincible Press; Ex parte Invincible Press and Truth and Sportsman Limited*, [1955] St. R. Qd. 525.

6. (1) The Literature Board of Review. For the purposes of this Act there shall be constituted a Board to be called “The Literature Board of Review” (in this Act referred to as the “Board”).

(2) **Membership.** (a) The Board shall be deemed to be constituted forthwith upon the first appointment of the members thereof and may be constituted at any time after the passing of this Act, and shall consist of a chairman and four other members.

(b) The chairman and every other member of the Board shall be appointed from time to time by the Governor in Council by notification published in the Gazette.

(3) **Deputy chairman.** (a) The Governor in Council may from time to time appoint, by notification published in the Gazette, any member (other than the chairman) of the Board to be the deputy chairman thereof and that member shall, subject to this Act, hold the office of deputy chairman of the Board from the date of his appointment thereto and until he ceases to be a member of the Board, upon the conclusion of his term of appointment as member or otherwise, and be eligible for reappointment as deputy chairman if reappointed as a member.

(b) Subject to the appointment of an acting chairman under subsection seven of this section, the deputy chairman may act in the office of chairman of the Board whenever the chairman is prevented by absence, illness, or otherwise from performing the duties of the office of chairman or during such time as a vacancy exists in the office of chairman and when he so acts shall have and may exercise all of the functions, powers, and authorities, and shall perform all of the duties, and shall enjoy the immunities, of the chairman.

The fact that the deputy chairman has exercised any function, power, or authority, or has performed any duty of the chairman shall, until the contrary is proved, be conclusive evidence that that deputy chairman lawfully exercised that function, power, or authority, or lawfully performed that duty, as the case may be.

(4) **Term of office, etc.** (a) The office of chairman, or deputy chairman, or a member of the Board shall—

(i) Commence on the date of his appointment thereto; and

(ii) Subject to this subsection, become vacant at the conclusion of his term of appointment as member.

(b) The chairman, deputy chairman, and every other member of the Board shall, subject to paragraph (c) of this subsection, hold office during the pleasure of the Governor in Council for such a term not exceeding three years as is specified in his notification of appointment and be eligible for reappointment.

(c) The chairman, deputy chairman, or any other member of the Board may resign his office as chairman, deputy chairman, or, as the case may be, member (and in the case of the chairman or deputy chairman may in addition resign his office as member) by writing under his hand addressed to the secretary of the Board and such resignation shall be complete and shall take effect from the time when it is received by the secretary.

(5) **Where officers of Government Departments appointed.** Any persons who, being officers of any of the Departments of the Government of this State, are appointed at any time as members of the Board (including any such person who at any time is appointed chairman or deputy chairman of the Board) may hold such appointments in conjunction with the offices for the time being respectively held by them in the Departments concerned.

(6) **Allowances, etc.** If at any time the Governor in Council considers that all or any of the members of the Board are entitled to any allowances or fees or allowances and fees for their services, he may determine those allowances, or fees, or, as the case may be, allowances and fees as he may think fit, and the Governor in Council may from time to time revoke or amend as he thinks fit any such determination, and any member with respect to whom any such determination is made shall, while that determination remains in force, be entitled to payment in accordance therewith.

Any such determination with respect to any member may differ according to class of payment or rate or both class and rate from any such determination with respect to any other member.

(7) **Appointment of deputies.** If the chairman, deputy chairman, or any other member of the Board is at any time prevented by absence, illness, or otherwise from performing the duties of his office, the Governor in Council may, by notification published in the Gazette, appoint another person, whether a member of the Board or not, to act as a deputy of that member during such time as he is so prevented from performing such duties, and the deputy while so acting, shall have and may exercise all of the powers, functions, and authorities, and shall perform all of the duties, and shall enjoy the immunities of the chairman, deputy chairman, or member, according to whose deputy the appointee is, and the provisions of this Act shall apply with respect to such deputy as if he were the person for whom he acts.

The fact that any deputy appointed under this subsection has exercised any function, power, or authority, or has performed any duty of the person for whom he acts shall, until the contrary is proved, be conclusive evidence that that deputy lawfully exercised that function, power, or authority, or lawfully performed that duty, as the case may be.

As to Board meetings, see s. 7.

For general functions of the Board, see s. 8.

As to officers of the Board, see s. 9.

As to prohibition of literature by the Board, see s. 10.

The Board may retain literature, s. 12.

It is an offence not to sell literature to the Board, s. 13.

For evidentiary provisions relating to the Board, see s. 18.

For protection of the Board, see s. 19.

7. (1) Proceedings of Board meetings. The Board shall meet at such times and places and conduct its business in such manner as may be prescribed or, in so far as not prescribed, as it may from time to time determine.

(2) **Quorum.** Not less than three members of the Board of whom the chairman or deputy chairman shall be one, shall form a quorum at any meeting of the Board.

(3) **Chairman.** The chairman shall preside at all meetings of the Board at which he is present.

If the chairman is absent from any duly convened meeting the deputy chairman shall preside at the meeting.

The person presiding at any meeting of the Board shall have a vote and when there is an equal division of votes upon any question and more than three members take part in such division shall have a second or casting vote.

(4) **Validity of acts done by the Board.** The validity of acts done by the Board or by the chairman or deputy chairman or any other member of the Board shall not be affected by any error or defect in the appointment of any such person or (provided that four members are in office and that the vacancy in the full number of members has not existed for longer than one month) by reason of there being any vacancy in the number of members at the time.

Further as to the Board, see notes to s. 6.

8. General functions, etc., of the Board. Subject to this Act, the Board shall—

- (i) Examine and review literature with the object of preventing the distribution in Queensland of literature which or any part of which is objectionable:

Provided that the Board shall not at any time examine or review any part of any literature consisting solely of public news, intelligence, or occurrences, or political or religious matter, or any remarks or observations therein;

- (ii) Furnish to the Minister, when and as often as may be required, a report generally upon, or, as may be requested, any information in relation to, all or any matters affecting or having relation to the object for which the Board is constituted or to the Board's carrying out, and giving effect to, the provisions of this Act; and
- (iii) Have such other functions, powers, authorities, and duties as are conferred or imposed upon it by this Act, and shall generally do all or any such acts and things as may be necessary for the exercise and discharge of its functions, powers, authorities, and duties, and for the carrying out, and giving effect to, the provisions of this Act.

The Board shall prepare and submit to the Minister, not later than the thirtieth day of September in each year, a report on the exercise and performance by the Board of its functions, powers, authorities, and duties under this Act during the twelve months ended on the preceding thirtieth day of June, and the Minister shall lay before Parliament a copy of every such report.

For literature to which this Act does not apply, see s. 4 (2).

Further as to the Board, see notes to s. 6.

In *Literature Board of Review v. H.M.H. Publishing Company Inc.; Ex parte H.M.H. Publishing Company Inc.*, [1964] Qd. R. 261, it was held that the Board's failure to give notice to the publisher of the proceedings before it and to allow the publisher the opportunity of being heard prior to the Board making its order, did not amount to a denial of natural justice because of the appeal provision in the Act.

9. Appointment of officers. (1) For the purposes of this Act, the Governor in Council may from time to time by notification published in the Gazette appoint a secretary to the Board and such other officers as he deems necessary for the effectual execution of this Act and may, whenever he deems it necessary, likewise appoint any person to act temporarily as secretary to the Board or in the room of any other officer who is absent or for any reason is unable to carry out his duties for the time being.

(2) Where any officer of any Department of the Government of this State is appointed to any such office he may, if the appointment is not a full-time appointment, hold such office in conjunction with the office for the time being held by him in that Department.

(3) Unless otherwise indicated or provided, nothing in this Act shall prejudice or in any way affect the application of the provisions of "The Public Service Acts, 1922 to 1950," and of the regulations thereunder, to any officer appointed under and for the purposes of this Act.

Act referred to:

Public Service Acts, 1922 to 1965, title PUBLIC SERVICE.

Further as to the Board, see notes to s. 6.

10. (1) Power of the Board to prohibit the distribution of literature. The Board may by its order prohibit the distribution in Queensland of any literature for that that literature or some part thereof is, in the opinion of the Board, objectionable.

(2) A person shall not, in Queensland—

(i) Distribute; or

(ii) Either in writing or otherwise howsoever promise, offer, represent, or advertise that he will distribute (whether the actual distribution is to be in Queensland or elsewhere),

any literature at any time when the distribution in Queensland of that literature is prohibited by an order of the Board.

(3) **Prohibitions, etc., of the Board.** (a) An order of the Board prohibiting the distribution in Queensland of any literature—

(i) Shall apply with respect to all copies of that literature including, in appropriate cases, all copies of every edition, part, number, or series thereof;

(ii) May specify that literature by such means of distinguishing the same as the Board may think suitable; and

(iii) May be later revoked by order of the Board if the Board is satisfied that the literature has been reconstructed so as to be no longer objectionable or if the Board, at its discretion in the case of a writing published periodically, accepts an undertaking by the publisher to eliminate from it in future all parts of it which in the opinion of the Board are objectionable and gives to the Board evidence satisfactory to it of his intention to observe such undertaking;

Provided that the revocation by the Board of an order prohibiting the distribution in Queensland of any literature shall not prejudice or otherwise affect howsoever the power of the Board at some later time to reimpose by its further order the prohibition with respect to that literature if the Board is then of the opinion that the literature of any part thereof is objectionable.

(b) A copy of every order made by the Board and of every order rescinding, setting aside, or quashing any order of the Board shall be published in the Gazette.

(c) Subject to this Act, an order of prohibition made by the Board shall be in force on and from the date of the publication in the Gazette of a copy thereof until (if that order is revoked, rescinded, set aside, or quashed), but not including, the date when a copy of the order revoking, rescinding, setting aside, or quashing that order of prohibition is published in the Gazette.

(d) The Board may, by advertisement or otherwise, give such notice of any order made by it as it deems necessary to inform the public thereof, but a plea that, except for notice in the Gazette, the Board has given no notice or insufficient notice of any order of prohibition made by it shall not authorise, justify, or excuse anything which is an offence under this Act.

(e) The Board, if it considers it desirable so to do, may cause a copy of any order made by it to be served on any person—

- (i) By the delivery of the same to such person personally; or
- (ii) By leaving the same at or by forwarding the same by post in a prepaid letter addressed to such person at his usual or last-known place of abode or business.

Where any such order is served by forwarding the same by post in a prepaid letter as aforesaid, it shall unless the contrary is proved be deemed to have been served at the time at which the letter would be delivered in the ordinary course of post.

(f) Every order made by the Board and every copy or notice of any such order, shall be sufficiently authenticated if signed on behalf of the Board by the chairman or by the secretary and when so signed shall, in the absence of proof to the contrary, be deemed to have been duly made or given by the Board.

(4) Where any order of prohibition by the Board is revoked (otherwise than upon an appeal under section eleven of this Act), "The Acts Shortening Acts" shall apply as if that order were an Act and notwithstanding the provisions of any other Act to the contrary.

Act referred to:

Acts Shortening Acts; see now Acts Interpretation Acts, 1954 to 1962, title ACTS OF PARLIAMENT, Vol. 1, p. 82.

As to whether the Board must give notice to the publisher of proceedings before it, see note to s. 8.

For what literature is "objectionable", see the cases noted to s. 5.

Prohibited literature may be seized, s. 14.

Further as to the Board, see notes to s. 6.

The failure of the Board, when prohibiting a publication, to specify the category, does not amount to a denial of natural justice, nor does it deprive a prospective appellant of his rights of an appeal under Justices Acts, 1886 to 1965, s. 269, title JUSTICES, Vol. 8, p. 191. See *Literature Board of Review v. H.M.H. Publishing Company Inc.; Ex parte H.M.H. Publishing Company Inc.*, [1964] Qd. R. 261.

The fact that the order of the Board prohibiting a periodical magazine purports to apply to parts, numbers or series of the magazine which have not been published at the time of the order, does not make the order *ultra vires*, *ibid.*

11. Appeals. A person who feels aggrieved by an order made by the Board in respect of any literature may appeal by way of Order to Review

as if that order were an order made by justices sitting as a court of petty sessions and Part IX of "The Justices Acts, 1886 to 1949," shall, with and subject to all necessary adaptations of the provisions thereof, apply and extend accordingly.

The Court or Judge before whom such an order to review is returnable shall determine as an issue in the appeal the matter of whether or not the literature in question or some part thereof is objectionable under and within the meaning of this Act and, in respect of that determination, shall not be bound by the opinion of the Board.

Act referred to:

Justices Acts, 1886 to 1968, title JUSTICES, Vol. 8, p. 105.

For Part IX of Justices Acts, 1886 to 1968, title JUSTICES, see *ibid.*, ss. 209-241, Vol. 8, pp. 191-206.

Court of petty sessions—Now Magistrates Court; see Justices Acts Amendment Act of 1964, s. 2 (4), title JUSTICES, Vol. 8, p. 250.

Appeal from the Literature Board of Review by way of order to review does not lie as of right. The applicant must show by affidavit to the judge a *prima facie* case of error or mistake in law or fact or an absence of jurisdiction, *Literature Board of Review v. Transport Publishing Co. Pty. Ltd., Ex parte the company*, [1955] St. R. Qd. 466, at p. 475.

In *Literature Board of Review v. H.M.H. Publishing Company Inc.; Ex parte H.M.H. Publishing Company Inc.*, [1964] Qd. R. 261, it was held that, as the court is not bound by the opinion of the Board and is under a duty to consider all categories within which a publication may reasonably be said to fall, the failure of the Board to specify the category does not amount to a denial of natural justice. Nor does such a failure deprive a prospective appellant of his rights of an appeal under Justices Acts, 1886 to 1968, s. 209, title JUSTICES, Vol. 8, p. 191.

Before the court, the onus is on the Board to shew that the literature is objectionable, and the standard of persuasion is the ordinary civil standard, *Literature Board of Review v. Invincible Press; Ex parte Invincible Press and Truth and Sportsman Limited*, [1955] St. R. Qd. 525; *Literature Board of Review v. Transport Publishing Co. Pty. Ltd.; Ex parte Transport Publishing Co. Pty. Ltd.*, [1955] St. R. Qd. 466.

The court has power under Justices Acts, 1886 to 1968, s. 213 (1), title JUSTICES, Vol. 8, p. 194, to admit further evidence on any appeal where it thinks fit to do so, but the Court decided in *Literature Board of Review v. Invincible Press; Ex parte Invincible Press and Truth and Sportsman Limited*, [1955] St. R. Qd. 525, not to make use of the power.

12. Retention of literature. Any literature submitted to the Board may be retained and dealt with under this Act.

As to disposal of such literature, see s. 15.

Further as to the Board, see notes to s. 6.

13. Offence not to sell literature to officers. A seller of any literature shall not refuse or otherwise fail, upon offer of the price usually chargeable therefor, to sell that literature to any officer or any member of the Board or any member of the Police Force.

Further as to the Board, see notes to s. 6.

14. Seizure of prohibited literature, etc. (1) Any member of the Police Force or officer may, at any time when any premises whereon any person carries on the business of distributing any literature by wholesale or retail is open for business—

- (i) Enter and inspect those premises;
- (ii) Inspect and examine any literature found by him thereon;
- (iii) Seize, remove, and detain any literature found by him thereon the distribution of which in Queensland is prohibited under this Act.

(2) Subject to this subsection a claimant to any literature seized under subsection one of this section may apply in writing to a court of petty sessions for an order for the return of that literature to him.

The application may be made to a court in the petty sessions district in or within twenty miles of the boundaries whereof the literature was seized.

A copy of the application and notice of the time and place when and where it will be heard and determined shall be given to the Secretary at least three clear days before that hearing is commenced.

If the court is satisfied that the literature is required for evidence in a prosecution for an offence against this Act or some other Act or law and that the prosecution for that offence is proceeding with due diligence, the court shall refuse to make an order but, in the event of so refusing, may adjourn the matter.

(3) Upon convicting any person for an offence under this Act or any other Act or law in respect of any literature seized under subsection one of this Act, the convicting court shall order that such literature be forfeited to Her Majesty.

(4) If, in respect of any literature seized under subsection one of this section, no person is duly prosecuted for offending against this Act or some other Act or law, or such a prosecution is dismissed, that literature shall be returned to the person from whom it was seized or to such person as he may have nominated by sufficient notice in writing.

A court of petty sessions is now a Magistrates Court, Justices Acts Amendment Act of 1964, s. 2 (4), title JUSTICES, Vol. 8, p. 250.

A petty sessions district is now a Magistrates Courts district, *ibid.*, s. 2 (1).

15. Disposal of literature. All literature forfeited to Her Majesty under this Act, or retained by the Board, shall be destroyed or otherwise disposed of as the Minister may from time to time direct.

Any such forfeiture, or destruction or other disposal shall not confer upon any person any right to compensation.

Literature may be retained by the Board under s. 12.

Further as to the Board, see notes to s. 6.

16. Police to assist. Every member of the Police Force shall assist in the enforcement of this Act, and shall make such inquiries as the Minister or the Board may require, and where any offence against this Act comes to the knowledge of any member of the Police Force he shall forthwith report the matter in writing to the Board which shall take such action consistent with this Act as it thinks fit.

17. (1) Offences. (a) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act.

(b) Every person who aids, abets, counsels, or procures, or is in any way knowingly concerned in the commission of, or who offers to commit, an offence against this Act shall be deemed to have committed that offence and shall be punishable accordingly.

(2) **General penalty.** Any person guilty of an offence against any provision of this Act shall be liable, if no specific penalty is provided for that offence, to a penalty not exceeding two hundred dollars, or, in the

case of a second or any subsequent offence, to a penalty not exceeding one thousand dollars.

(3) **Summary proceedings.** All offences against this Act may be prosecuted in a summary way under "The Justices Act, 1886 to 1949," on complaint by the chairman or secretary or by any person authorised by the Board.

(4) **Time for commencement of prosecutions.** A prosecution for an offence against this Act may be instituted at any time within twelve months after the commission of the offence or within six months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.

(5) **Bodies corporate.** When a body corporate commits an offence against this Act the manager, managing director, or other governing officer, by whatever name called, of such body corporate shall, subject as hereinafter in this subsection provided, also be deemed to commit such offence and shall be liable to the penalty prescribed, and proceedings may be taken either against the body corporate or against that manager, managing director, or other governing officer, or against both the body corporate and the manager, managing director, or other governing officer, and if proceedings are taken against the manager, managing director, or other governing officer, he shall be liable to be convicted for the offence committed by the body corporate unless the court is satisfied that he had no knowledge of the commission of the offence and could not by using all due diligence have prevented its commission.

(6) Any penalty or punishment to which any person convicted under this Act may be liable upon his conviction shall be in addition to any forfeiture under this Act.

Decimal currency references substituted pursuant to section 7 of Decimal Currency Act of 1965.

Act referred to:

Justices Acts, 1886 to 1968, title JUSTICES, Vol. 8, p. 105.

As to reckoning of time, see Acts Interpretation Acts, 1954 to 1962, s. 38, title ACTS OF PARLIAMENT, Vol. 1, p. 99.

18. Evidentiary. (1) In any proceeding under or for a purpose of this Act—

- (i) It shall not be necessary to prove the authority of the chairman or of any other member of the Board, or of the secretary or any other officer to do any act;
- (ii) A signature purporting to be that of the chairman or of any other member of the Board, or of the secretary or any other officer shall be taken to be the signature it purports to be and shall be deemed to have been duly placed on any document until the contrary is proved;
- (iii) A certificate under the hand of the chairman or secretary that a document annexed to the certificate is a true copy of any order or notice made, given, or served under or for the purposes of this Act shall be evidence, and in the absence of evidence in rebuttal shall be conclusive evidence, of the matters certified to.

Judicial notice shall be taken of every publication made under or for the purposes of this Act in the Gazette.

(2) In determining whether or not literature alleged in any proceeding under or for a purpose of this Act to be the subject of an order of prohibition made by the Board, is the literature subjected to that order, the court shall disregard any and every reconstruction (whether by way of alteration in title, change of subject characters, story, or other features, or otherwise howsoever) of that literature made on or after the date when the order became effective and while that order remains in force, and evidence proving or tending to prove any such reconstruction shall be admissible.

(3) The provisions of this section shall not lessen or affect any onus of proof otherwise falling on the defendant.

Further as to the Board, see notes to s. 6.

Subsection (2). See hereon *Jones v. Gordon & Gotch (Australasia) Ltd., Ex parte Jones*, [1958] Qd. R. 302, where this difficult subsection was considered by the Full Court, which dismissed with costs an appeal by way of order to review against a dismissal of a complaint.

19. Protection of the Board, etc. No matter or thing done by the Minister or the Board, or by any other person acting with the authority of the Minister, or the Board, or by any member of the Board or any officer or any member of the Police Force, in good faith and without negligence for the purpose of executing this Act or in the execution or carrying out of his or its functions, powers, authorities, and duties under this Act, shall subject the Crown, the Minister, Board, person acting with the authority of the Minister or the Board, member, officer, or member of the Police Force to any liability in respect thereof.

Further as to the Board, see notes to s. 6.

19A. Protection of members of National Literature Board of Review. No action shall be brought in Queensland against any person who is or at any time was a member of the National Literature Board of Review established for the purposes of the Commonwealth Act known as the Customs Act 1901 as amended by subsequent Acts in respect of any opinion expressed by him as a member of such Board upon any book, pamphlet, magazine or periodical submitted for the opinion of such Board for the purposes of the said Commonwealth Act or of this Act or any other enactment of this State relating to blasphemous, indecent or obscene literature or of the law of any other State or a Territory of the Commonwealth relating to blasphemous, indecent or obscene literature.

Inserted by Act of 1967, No. 27, s. 2.

20. Application of fees and penalties. All fees, penalties, and other moneys imposed, paid, or recovered under this Act shall be paid into and form part of the Consolidated Revenue Fund.

21. Contracts. Every contract with respect to the distributing of any literature, whether made before, on, or after the coming into operation of this Act, shall be deemed to contain a provision that if, by reason of any order of prohibition with respect to that literature made under this Act by the Board, any of the parties to that contract would in carrying out that contract or any part thereof commit an offence against this Act, then he shall be excused from carrying out the contract or part as aforesaid; and every other term, provision, or condition of that contract or of any other agreement between the parties shall be read subject to such provision.

22. Regulations. (1) The Governor in Council may from time to time make regulations providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act.

Without limiting the generality of the foregoing provisions of this section, regulations may be made for or in respect of all or any of the following purposes, matters, and things—

- (i) Prescribing, regulating, and controlling any matters and things relating to the functions, powers, authorities, proceedings, and duties of the Board;
- (ii) Prescribing, regulating, and controlling any matters and things relating to appeals against orders made by the Board;
- (iii) Prescribing, regulating, and controlling the functions, powers, and duties of officers and of members of the Police Force, or of either of such classes of persons, under and for the purposes of this Act;
- (iv) Prescribing penalties for any offences against the regulations, including penalties for assaulting, obstructing, threatening, insulting, or intimidating any officer, any member of the Board, or any member of the Police Force in the exercise of his powers or in the discharge of his duties under this Act, or attempting so to do;
- (v) Prescribing all or any matters required or permitted by this Act to be prescribed.

(2) Regulations may be made at any time after the passing of this Act.

23. Publication of Proclamations and regulations, etc. (1) Every Proclamation, Order in Council, and regulation made under this Act shall—

- (i) Be published in the Gazette;
- (ii) Upon its publication in the Gazette, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;
- (iii) Take effect from the date of such publication unless, in the case of any such regulation, a later date is specified in that or any other regulation for its commencement when in such event it shall take effect from that later date; and
- (iv) Be laid before Parliament within fourteen sitting days after such publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(2) If Parliament passes a resolution of which notice has been given at any time within fourteen sitting days after any such Proclamation, Order in Council, or regulation has been laid before Parliament disallowing such Proclamation, Order in Council, or regulation or part thereof, that Proclamation, Order in Council, or regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the making of a further Proclamation, Order in Council, or regulation.

(3) In this section the term "sitting days" means days upon which Parliament actually sits for the despatch of business.

