

That the book is a seriously written work by an author who has an established place in the field of English literature is not challenged. This particular book is well known; it has been much discussed; and it has been the subject of judicial consideration in England, Canada, and elsewhere. There has been a considerable conflict of judicial opinion as to whether it is indecent or obscene; but in each case the question had to be determined under the particular Statute there in force. Such decisions as there have been in other jurisdictions have therefore only a limited application to New Zealand since the Indecent Publications Act of 1963 is a considerable advance on any legislation in this field hitherto enacted here or elsewhere. In particular the New Zealand Statute contemplates five types of classification in respect of a publication, namely, whether it is indecent or not indecent, or whether it is indecent in the hands of persons under a specified age, or indecent unless circulation is restricted to specified persons or classes of persons, or whether used for a particular purpose.

It is beyond question that the book contains accounts of several acts of sexual behaviour described in language which is exceedingly frank and to some readers must be repellent. Nevertheless these very realistic descriptions of the relations between Lady Chatterley and her lover are not in our opinion, an undue exploitation of sex. Though the story is in the main concerned with the sexual relations of Lady Chatterley and her lover—the gamekeeper Mellors—there is no perversion depicted, merely that the union of these two persons was the fulfilment of natural instincts and urges. It is a trite observation that the task of the tribunal must be to consider the book as a whole—not whether particular words or passages are indecent. The tribunal has previously held, and holds, that indecency is not to be found in words as such, but in their use in indecent contexts or for discreditable purposes. The novel is a complex piece of writing which is not without literary merit. It certainly displays sufficient skill on the author's part to justify its being regarded as a work of art. Its main theme is the development of the relationship between Lady Chatterley and her lover Mellors in pursuance of the author's doctrine of sex and love. It deals as well with the effect of industrialisation and class barriers in England against which Lawrence opposes his ideal conception of love.

In other jurisdictions where the book has been considered judicially there has been a great difference of opinion as to whether the book is an undue exploitation of sex or whether it offends against community standards. The dominant consideration under the New Zealand Statute is whether the book deals with matters of sex (*inter alia*) in a manner which is "injurious to the public good". We have accordingly addressed ourselves in particular to this aspect.

Our conclusion is that though the author has described in great detail sexual behaviour in language which would be offensive to many nevertheless the passages are but an integral part of his general theme. The author has been held by persons having literary qualifications to be entitled to be regarded as an outstanding contributor to English literature and we do not think any significant number of persons would be deprived or corrupted by reading this book.

There is however a more difficult question. Under the Statute we are required to consider—as counsel for the Secretary for Justice urged—whether the book is indecent in the hands of persons under— it was suggested—18 years of age, and that since it would be difficult to ensure such a restriction being effective there should be a general ban on the paperback edition having regard to its form and proposed price of 5s. We have no hesitation in holding the book unsuitable for juveniles, not so much because of the language in which the sexual episodes are described as because, in our opinion, mentally immature minors would be incapable of appreciating the theme of the story and the purpose of the writer. As to how the book should be classified there is a difference of opinion among the members of the tribunal. Three members—the Chairman, Mr Schroder, and Mr Perry—think that on a realistic view and having regard to the circumstances existing, namely, the unrestricted circulation of the hard-back edition, it would be futile to classify the paperback edition as indecent in the hands of juveniles; that it might indeed operate as an incentive to minors to procure and read the book; that though by implication the tribunal's finding that the book is unsuitable reading for young persons must apply equally to the hard-back edition nevertheless that edition is being freely circulated, prominently displayed in book shops and is available to persons of all ages. But two members of the tribunal—Professor Gordon and Mrs Cochran—hold otherwise. They dissent upon the basis that the function of the tribunal is to provide

for adults as much freedom as possible both to read and to write, and to give protection where necessary to those who are still of immature years; that the tribunal is agreed that *Lady Chatterley's Lover* is unsuitable reading for juveniles; that the Statute provides for the classification of books to restrict sales to certain age groups, a provision which removes the necessity of banning completely a book which happens to be unsuitable for any given class of readers and allows the tribunal to respect the rights of adults as well as the best interests of school children. Their view is that the right granted by the Statute should be invoked, and that even with the diminished effect such action would now have, the sale of the Penguin edition should be restricted to persons of 17 years and over. They would have adopted the same classification in respect of the hard-back edition had that book been submitted. They think it is a matter for regret that the free circulation of the hard-cover edition should have prejudiced the issue, embarrassed the tribunal, and made it virtually impossible in a particularly clear instance to invoke the provisions of the Statute. The finding of the majority that because the Minister of Justice refused to allow the hard-back edition to be submitted to the tribunal it would therefore be futile to impose a restriction on the Penguin edition they regard as a policy of expediency rather than principle.

The majority view must of course govern the decision which is that the tribunal holds that the paper-back edition of *Lady Chatterley's Lover* published by Penguin Books is not indecent within the meaning of the Indecent Publications Act 1963.

K. M. GRESSON, Chairman.

7 April 1965.

Unclaimed Property—Notice of Election by the Public Trustee to Become Manager Under the Public Trust Office Act 1957, Part V

WHEREAS, after due inquiry, it is not known where the owner of the property mentioned in the Schedule hereto is or whether he is alive or dead: And whereas the gross value of the said property (as estimated by the Public Trustee) does not exceed £2,000 and for the purposes of subsection (2) of section 80 of the Public Trust Office Act 1957, the Public Trustee is satisfied that it is advisable that he should become the manager of the said property: Now therefore the Public Trustee, in exercise of the authority conferred upon him by the said subsection (2), hereby elects to be manager of the said property under Part V of the said Act.

SCHEDULE

ALL real and personal property belonging to George Addison Watt, of Wellington, post office employee.

Dated at Wellington this 5th day of April 1965.

B. A. FORD, Public Trustee.

Land in the Gisborne Land District Acquired as Permanent State Forest Land

NOTICE is hereby given that the land described in the Schedule hereto has been acquired under the Forests Act 1949 as permanent State forest land.

SCHEDULE

GISBORNE LAND DISTRICT—ROTORUA CONSERVANCY

PART Umuhaku 1A Block situated in Block VIII, Nuhaka North Survey District, Cook County: Area, 10 acres 3 roods, more or less. All certificate of title, Volume 40, folio 166. As shown on the plan marked 57/9, deposited in the Head Office of the New Zealand Forest Service at Wellington, and thereon edged red.

Dated at Wellington this 9th day of April 1965.

A. L. POOLE, Director of Forests.

(F.S. 6/2/106)

New Zealand Government Railways—Schedule of Civil Engineering and Building Contracts of £10,000 or More in Value

Name of Work	Successful Tenderer	Amount of Tender Accepted	
		£	s. d.
Installation of automatic fire sprinkler system, Otahuhu Workshops.	Reliance Fire Fighting Equipment Ltd., P.O. Box 12133, McNab Street, Penrose	27,498	0 0
Erection of Way and Works Depot and Amenities, Te Kuiti	Te Kuiti Builders Ltd., P.O. Box 52, Te Kuiti	14,513	6 10

A. T. GANDELL, General Manager.