

## Decision No. 875

*Decision of the Indecent Publications Tribunal*

IN the matter of the Indecent Publications Act 1963, and in the matter of a reference by the Magistrates Court, Wellington, for a decision in respect of the following publications: *The Collected Adventures of Harold Hedd*, No. 1, and *Adventure with Harold Hedd*, No. 2—both published by Last Gasp Eco-Funnies, Berkeley, California.

## BEFORE THE INDECENT PUBLICATIONS TRIBUNAL

Messrs L. M. Greig (Chairman), D. M. Wylie, I. R. Cross, and Miss W. M. Rolleston.

Hearing: 19 July 1976.

*Appearances:* Mr P. E. Leloir for Comptroller of Customs, Mr L. M. Hupert for Hupert Book Distributors Ltd.

## DECISION

These two comics are intended for an audience well beyond the normal juvenile one; their obvious appeal is to what Americans call the college generation. Although there is some degree of emphasis on sex and violence this really takes second place to satirical comment on contemporary society. We can see no harm in their circulation to adults and to the mature teenager. This is following fairly closely a previously established conclusion of the Tribunal. In its decisions numbers 767-786 given on 14 December 1973 (*New Zealand Gazette* 1974, Vol. 1, p. 19-20) the Tribunal in dealing with a large group of comics was able to divide them into three groups, of the third of which it was noted: "The sexual contact is minimal and lacks the blatancy of other comics in this set. Indeed there is little which could be considered harmful to the more mature reader." The Tribunal stated that this group "could, if it were possible be allowed restricted circulation". The Harold Hedd comics generally belong with the third group so identified on that occasion.

Their form, however, does present us with a problem. The provisions of s. 11 (3) of the Act refer to "any picture story-book likely to be read by children", and in effect require us either to give a complete clearance or to impose a complete ban—the middle ground of an age restriction is not available to us for this type of publication. The two now before us clearly fall within the intention of the legislature in placing this subclause in the Act of bringing comics under closer scrutiny. It may be questioned whether such publications as the Harold Hedd comics would be likely to be read by children, but their whole appearance is outwardly similar to the ordinary comic produced specifically for children and therefore likely to be picked up and read by them.

This type of comic publication—the so-called "underground comic"—was little known even in its home, the United States, when the Act was passed 13 years ago, and the Tribunal regrets that it is now restricted in its dealing with comics clearly intended for an adult market, and a sophisticated one at that. The Tribunal accordingly finds *Collected Adventures of Harold Hedd*, No. 1, and *Adventure with Harold Hedd*, No. 2, to be indecent.

Dated this 30th day of November 1976.

L. M. GREIG, Chairman.

(Reference No. 19/2/24)

## Decision No. 876

*Decision of the Indecent Publications Tribunal*

IN the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publications: *Men Only*, Vol. 40, No. 11 and 12 and Vol. 41, No. 1, and *Club International*, U.K. Vol. 4, No. 12, all published by Paul Raymond Publications Ltd. of London.

## BEFORE THE INDECENT PUBLICATIONS TRIBUNAL

Messrs L. M. Greig (Chairman), D. M. Wylie, Mrs L. Edmond, and Miss W. M. Rolleston.

Hearing: 2 November 1976.

*Appearances:* Mr P. E. Leloir for Comptroller of Customs.

## DECISION

In March 1974, the Tribunal declared indecent Vol. 8, No. 10 of the magazine, *Mayfair* (Decision 798). In May 1974, four issues of the magazine *New Exclusive* were declared indecent (Decision 816).

In reaching the latter decision, the Tribunal said... "The text, photographs, and advertisements in the magazines concentrate on presenting sex in a crude and prurient way...

There is nothing in the magazines to complicate the simple, direct appeal they make to vicarious indulgence in their parade of poses and possibilities. The overall effect is to debase sex in a way which the Tribunal judges to be harmful."

Having re-examined the magazines to which decisions 798 and 816 refer and having compared them with the four magazines now before the Tribunal, we can find little difference in balance of content and tone between the two sets of magazines. The comment made in decision 816 applies equally to these four magazines.

The Tribunal classifies these four magazines as indecent.

Dated this 30th day of November 1976.

LAURENCE M. GREIG, Chairman.

(Reference No. 19/2/28)

## Decision No. 877

*Decision of the Indecent Publications Tribunal*

IN the matter of the Indecent Publications Act 1963, and in the matter of an application by the Secretary for Justice for a decision in respect of the following publications: *Forum* (New Zealand Edition) Vol. 3, No. 10, 11, and 12, and Vol. 4, No. 1, published by Seven Seas Publishing Pty. Ltd., Wellington.

## BEFORE THE INDECENT PUBLICATIONS TRIBUNAL

Messrs L. M. Greig (Chairman), D. M. Wylie, I. R. Cross, Mrs L. Edmond, and Miss W. M. Rolleston.

Hearing: On the 12th and 19th days of October 1976.

*Appearances:* Mr D. P. Neazor and Mr P. J. Cullen for Secretary for Justice. Mr P. J. Downey for Seven Seas Publishing Pty. Ltd.

## DECISION

These 4 magazines are consecutive issues of the New Zealand edition. *Forum* is published in England, America, Australia, France, and Belgium/Holland on a basis which allows a free interchange or republishing of articles appearing in any edition. The New Zealand edition is nearly all republished from English, American, and Australian editions. There is therefore very little editing in the accepted sense. The issue may be said to reflect rather the policies and ideas of the overseas editions than the New Zealand edition. The magazine has been distributed in New Zealand for about 5 years and in its present format, as a New Zealand edition, for over 4 years. It was previously considered by the Tribunal in 1972 (Decisions 518 and 519) when 2 issues of the English edition were classified as indecent in the hands of persons under 18 years.

These 4 issues have been submitted to us by the Secretary for Justice and in a lengthy hearing we have heard evidence from New Zealand and United Kingdom witnesses and have received full submissions from the parties and from the Society for the Promotion of Community Standards Inc. and the Concerned Parents Association.

While we have heard and given careful consideration to the evidence presented to us we express our reservations as to the usefulness or relevance of a great deal of that evidence in making our decision. No doubt evidence can be useful and relevant in considering some of the matters listed in section 11 (1). In this case expert medical and psychological witnesses can guide us in matters of medical, social, or scientific character or importance and general evidence may be of some use in assessing the purpose and motives of the persons associated with the publication and distribution of the magazine. In the end however it is the Tribunal which must exercise its own judgment and experience in determining the character and classifying the magazines or books before it. Evidence by others as to the desirability of censorship, the standards of the community here or elsewhere and the witnesses views as to indecency generally or in relation to the book in question are unacceptable and indeed impertinent if considered as an endeavour to replace the function of the Tribunal.

In the end evidence given by Doctors Bremner, Sparrow, and Miss Colgan is of some assistance though limited to a small part of our considerations. On the other hand the evidence of Mr Hodson and the Rev. Mr Varah given as it was with little New Zealand experience is of very little value and even if the honesty of purpose of those men is not in doubt, it is the honesty of purpose of the book or magazine, which is referred to in section 11 (1) (f). This is to be gathered from the magazine itself, read as a whole, rather than from what may be unexceptionable honesty of purpose in the writers or publishers.