

*Sexy M*—is a similar publication but has a text in German, French, English and Dutch. Once again nude males and females are depicted engaged in a variety of sexual acts.

The *Waverley Publishing Company Limited v Comptroller of Customs 1980* 1 NZIR 631 Jeffries J said at page 646:

“... However I think that a book or sound recording is likely to be indecent and injurious to the public good if:

- (1) It is predominantly concerned with the prurient and lewd aspects of sex; and
- (2) The exact subject-matter is described, depicted or expressed in a patently offensive manner so as to concentrate attention and reaction on the prurient and lewd aspects of sex; and
- (3) The work looked at in its entirety had negligible literary or artistic merit, and is otherwise not redeemed by its medical, legal, political, social or scientific character or importance.
- (4) The likelihood of corruption far outweighs possible benefit.
- (5) The sincerity of purpose which produced the item is gravely in question . . .”

In the Tribunal's view under each of these headings these publications must be considered indecent and they are classified accordingly.

W. M. WILLIS, District Judge, Chairman.

Decision No. 1047

Reference No. Ind. 16/82

*Before 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:

“1984” Nos. 9 and 10 and “1984” Nos. 11 to 23, published by Warren Publishing Company, New York:

Judge W. M. Willis (Chairman), Mesdames H. B. Dick, L. P. Nikera, Messrs J. V. B. McLinden, I. W. Malcolm.

Hearing: 21 July 1982.

Decision: 29 October 1982.

Appearances: Mr J. M. McNeice for Comptroller of Customs. Importer, Mr E. M. Lee in person.

DECISION

SINGLE copies of these publications were imported privately through parcels post and seized at Wellington on 30 April 1982. Forfeiture has been disputed so that they are referred for classification prior to condemnation proceedings.

According to submissions made on behalf of the Comptroller of Customs these are science fiction comic books consisting of approximately 60-70 pages of comic strips with a minimum amount of text. They depict horror, violence and sex and according to the submissions of the Comptroller “they would have considerable appeal to children”. The Tribunal thinks this is rather an unfortunate way of making the submission but in view of the manner in which some of the drawings are depicted children would doubtless be drawn towards them. It is suggested that the selling price would be \$3-\$4 each (within the range of children) while the advertising content appears to be aimed at children because of advertisements for such items as model kits, posters and battle jackets. Mr Lee appeared in person and could see no reason why the publications should be subject to these proceedings. He indicated that he would have no hesitation in allowing his children to read them. It is, the Tribunal thinks, necessary to explain to Mr Lee that its functions are determined by Statute and for his benefit certain portions of the Indecent Publications Act 1963 are cited. In section 2 “Indecency” is defined as including:

“describing, depicting, expressing, or otherwise dealing with matters of sex, horror, crime, cruelty, or violence in a manner that is injurious to the public good.”

Contrary to what the Tribunal suspects is the public's view of indecency, it is not limited to matters of sex.

Section 11 reads:

“Matters to be taken into consideration by Tribunal or Court—

(1) In classifying, or determining the character of any book or sound recording the Tribunal shall taken into consideration:

- (a) The dominant effect of the book or sound recording as a whole;

(b) The literary or artistic merit, or the medical, legal, political, social, or scientific character or importance of the book or sound recording;

(c) The persons, classes of persons, or age groups to or amongst whom the book or sound recording is or is intended or is likely to be published, heard, distributed, sold, exhibited played, given, sent or delivered;

(d) The price at which the book or sound recording sells or is intended to be sold;

(e) Whether any person is likely to be corrupted by reading the book or hearing the sound recording and whether other persons are likely to benefit therefrom;

(f) Whether the book or the sound recording displays an honest purpose and an honest thread of thought or whether its content is merely camouflage designed to render acceptable any indecent parts of the book or sound recording.

(2) Notwithstanding the provisions of subsection (1) of this section, where the publication of any book or the distribution on any sound recording would be in the interests of art, literature, science, or learning and would be for the public good, the Tribunal shall not classify it as indecent.

(3) When the Tribunal decides that any picture-story book likely to be read by children as indecent in the hands of children under a specified age that picture-story book shall be deemed to be indecent in the hands of all persons.

(4) Where any Court is required to classify or determine the character of any document (other than a book) it shall take into consideration with such modifications as are necessary, the matters set out in subsections (1) and (2) of this section.”

In the view of the Tribunal these publications have no literary, artistic merit. The price is within the range of children. It appears to the Tribunal that they lack honesty of purpose, that no person is likely to benefit from them and that there is a likelihood of corruption. In any event, the Tribunal considers that these picture story books are likely to be read by children and therefore pursuant to section 11 (3) they must be considered indecent, notwithstanding the view that it might otherwise be inclined to impose an age restriction. They are all classified indecent.

W. M. WILLIS, District Judge Chairman.

Decision No. 1044

Reference No. Ind 4/82

*Before 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 publication:

*Ordeal*, published by W. H. Allen and Co. Ltd., London:

Judge W. M. Willis (Chairman), Mesdames H. B. Dick, L. P. Nikera, Messrs J. V. B. McLinden, I. W. Malcolm.

Hearing: 1 April 1982.

Decision: 28 October 1982.

Appearances: Mr Leloir for Comptroller of Customs. No appearance of importer, Wholesale Book Distributors.

DECISION

WE were informed by Mr Leloir that a single copy of this paperback was imported by Wholesale Book Distributors and seized at Auckland in September 1981. As the importer has disputed forfeiture the Customs Department has referred the publication to the Tribunal for classification.

*Ordeal* is a paperback book 206 pages in length. It appears (from the date of copyright) to have been written in 1980, and was first published in its present form in Great Britain by W. H. Allen and Co. Ltd. in 1981.

The book is stated to be the autobiography of Linda Lovelace (of *Deep Throat* notoriety). Although an autobiography, Lovelace was assisted in writing the publication by a co-author, one Mike McGrady, who appears to be a well-known reporter in the United States.

The book is an extremely unpleasant narrative of Lovelace's life in the hands of her lover, who subsequently became her husband/business manager. Concern arises about the classification of the publication because the book contains many references to perverse sexual practices Lovelace says she carried out when she was acting under the duress of her then husband.