

DECISION

We were informed by Mr Leloir that these 4 publications are sample copies imported by a commercial importer and seized at Auckland in September 1980. As the importer has disputed forfeiture, the Customs Department has referred these books to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1956.

Although each of the books are discussed individually, we should say at the outset of this decision that we have been concerned at what we regard as a lack of honesty of purpose by the publisher in relation to all these publications and to a further sex manual published also by Ben's Books Limited in London entitled *Beyond Sexual Harmony*, the subject of Decision No. 1010, before this Tribunal.

Sex in Marriage No. 14—This is a reissued paperback previously printed under the name *Love Three Ways*. It is 160 pages in length and its contents deal with a hotch potch of sexual matters, many of which concern deviant sex.

To call the publication part of a series about sex in marriage must surely be a misnomer because the publication bears little or no relevance to the normal relationships that one might expect to find with married couples.

As well as the misgivings the Tribunal has about the written content of the publication, we are also of the opinion that the 2 blocks of photographs collected in the text are additional evidence of its lack of honesty of purpose. There are some pictures we recognise there from magazines we have declared indecent on previous occasions and it could be said of all the illustrations that there has been no attempt to relate them to any part of the text. Many of the pictures are concerned with deviant aspects of sex and are completely unnecessary (unless there was a lack of honesty of purpose) to the content of the publication.

As Mr Leloir pointed out to us, this publication was originally published under the title *Love Three Ways*. There is only one way to deal with it and that is by classifying it indecent, as being injurious and likely to be corruptive to public good, so we therefore rule it to be indecent.

Woman's View of Sex in Marriage—This is a soft covered book measuring 210 mm × 150 mm and a little over 111 pages in length. Its content deal with general issues relating to intercourse, and so far as the text is concerned the Tribunal would agree with Mr Leloir who submitted that the publication had "a generally restrained and informative text...".

If this publication were limited to its text, there would be no question of the Tribunal considering it as indecent, although there might be an age restriction imposed because of the matters discussed in the publication. However, in addition to the text there are a large number of black and white photographs. These show different couples engaging in sexual play and in intercourse positions. The photographs are not related or "keyed" into the text. The Tribunal is left with considerable doubt as to the honesty of purpose of the publisher of the books because many of the same photographs appear in other sex manuals published by Ben's Books Ltd., and further because of the number of photographs. The different models used and the lack of relevance of many of the photographs to the text. This latter aspect of the publication has also caused the Comptroller some concern because he submitted that when one considered the publication overall, although there could be doubts as to the motive of the publisher, any difficulty could be overcome by an age restriction.

The Tribunal is not happy with such a compromise. Either this publication is what it purports to be, namely a sex manual to give couples and especially women assistance with their sexual relationships, or it is a vehicle for the publisher to print a series of photographs of a frank and explicit kind. It is this which leads us to doubt the honesty of purpose of the publisher. We would be very reluctant to reach a compromise by holding that although we doubted the publisher's honesty of purpose, nevertheless the publication was saved by the text. We do not think that would be a proper attitude to adopt especially regarding the position of other more responsible publishers of sex manuals.

There are many publications available for sale in New Zealand in which advice on sexual matters can be fairly obtained. We think it is undesirable and injurious to the public good if we let half honest publications compete in the sex manual field against other publications which present their message in a proper and informative way. For all these reasons we declare *A Woman's View of Sex in Marriage* to be indecent.

The Joy of Sexual Ecstasy—This is a soft covered publication 147 pages in length written by Gilbert Oakleigh, but we note not the subject of copyright by him. The publication refers to copyright vesting in Ben's Books Ltd. in 1975. As in the other sex manuals considered in this decision, the text could be called unexceptionable. As well as the text there are sketch drawings of many of the matters and positions discussed in the text. The real problem lies in the 49 colour plates which accompany the publication. Many

different models have been used in the pictures, and as already stated in reference to the other publications, some of the photographs reappear in the other sex manuals, the subject of this decision.

We also note that this book has been previously published under the name *Making Love in Colour*. We think that many of the photographs that are published are unnecessary and irrelevant, and that because of their number and of the different models used, that there is a similar lack of honesty of purpose in the book as with the other manuals published by Ben's Books Ltd.

We are often required to assess sex manuals that have accompanying pictorial illustrations. In many cases there is little difficulty in detecting honesty of purpose even where the accompanying photographs are frank and explicit. In appropriate cases the Tribunal does not even impose age restrictions in respect of the sex manual publications (see Decision No. 948).

However it is largely a matter of fact whether such illustrations are there for the purpose of assisting the reader or for another less laudable reason. In this publication we find that the purpose of the publisher lacks honesty and that the photographs have been included in this manual probably only as a feature to help sell the publication to persons who, had the photographs been omitted, would have had little interest in the publication.

For all these reasons we also classify *The Joy of Sexual Ecstasy* as being indecent.

Sex in Marriage No. 12—This is yet another paperback sex manual published by Ben's Books Ltd. It is 126 pages in length and has both text and accompanying photographs. The publication has an introduction to it by Gilbert Oakleigh in which he praises the effectiveness and the honesty of the publication. We place little weight on this introduction for Mr Oakleigh appears to have a close connection with Ben's Books Ltd., as he wrote a similar introduction to *Sex in Marriage No. 14*, (we note his name in that publication was spelt Oakley) which we have classified indecent. As well, he was the author of *The Joy of Sexual Ecstasy* which we have already considered. His publisher was Ben's Books Ltd.

We have considered this publication along with the previous 4. We find it impossible to distinguish the contents of this book from that of the others. It is the presence of the same type of photographs which appear to the Tribunal to contaminate the text. They are likely to attract the prurient without leading to the text. In the circumstances we have come to the conclusion that there is a lack of honesty of purpose and that the public good requires a classification of indecent.

D. J. WILLIS, D.J., Chairman.

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Decision No. 1012.
Reference No. Ind. 1/81.

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: *Merry Muses*, published by Howard Productions Pty. Ltd., Sydney:

Chairman: Judge W. M. Willis.

Members: Mesdames H. B. Dick, L. P. Nikera; Messrs J. V. B. McLinden, I. M. Malcolm.

Hearing: 5 February 1981.

Decision: 18 February 1982.

Appearances: Mr P. E. F. M. Leloir for Comptroller of Customs. No submissions by importer.

DECISION

THIS publication was imported commercially and seized at Auckland by the Customs Department in September 1980. As the importer has disputed forfeiture the Customs Department has referred the publication to the Tribunal for classification, prior to the commencement of condemnation proceedings, pursuant to the Customs Act 1966, with the recommendation that the book should be considered to be injurious to the public good and declared indecent.

Merry Muses is a paperback publication 110 pages in length, date of publication unknown. It is a collection of bawdy ballads, supported by a series of black and white photographs, supposedly attributed to Robert Burns, the Scottish poet. After a careful scrutiny of both *Merry Muses*, and a complete edition of *The Poetical Works of Robert Burns*, there is no evidence to support this con-