

grounds of literary or artistic merit, or social or scientific character which would lead us to regard it as other than indecent."

That decision was given on 22 April 1976. Just of 3 years later on 12 July 1979 the Tribunal ruled in respect of *Sex Encyclopaedia* and 4 other sex manuals:

"Each is a form of sex manual which comprise photographs of forms of sexual intercourse together with a text which more or less compliments the photography.

While there are variations in presentation and impact among the books they may properly be considered together as being generally restrained and natural. The Tribunal does not perceive in these books a prurient or dishonest purpose. The dominant effect is rather a sensible and serious presentation of modes of social behaviour.

In submissions to us reference was made to Decisions 432-435 made in March 1972. While we adhere to the general principles there set out, the Tribunal considers that there has been some change in the standards of community opinion since then. While some age restriction is appropriate there is not, in our opinion, any need in respect of these books to distinguish among them."

The Tribunal classified the publications on that occasion as R16.

It appears to us that by 1979 the Tribunal had adopted a more liberal standard in relation to the classification of sex manuals. We feel that this publication falls generally within the description provided by the Tribunal of the manuals considered in Decision No. 826. However because of the frank and explicit nature of the photographs we feel that a higher age restriction is appropriate in the case of this manual. The reason for this is that the publication could be purchased by immature readers for reasons that had more to do with their prurient interest in the publication, than its merits as a sex manual.

For all the above reasons we classify *Sexual Knowledge* indecent in the hands of persons under the age of 18 years.

*Sexual Harmony* by Tuppy Owens is a sex manual approximately 64 pages in length. It measures 290 mm × 215 mm.

The one unusual feature of this publication is that it came before the Tribunal in 1972. In Decision No. 433 of 13 March 1972 the Tribunal classified *Sexual Harmony* as indecent in the hands of persons under 18 years of age. We have had the advantage of comparing the publications and it seems that the major differences are:

- (a) the name of the author has changed;
- (b) there is no longer a publisher and a copyright printed in the later publication;
- (c) although the photographs are the same in the later publication, they are generally of a poorer standard of production, and some of the colour plates in the earlier edition have been replaced by black and white plates.

Mr Hillman for the Comptroller of Customs submitted that due to these changes the "Tuppy Owens" version constituted a new publication and that Decision 433 did not apply to it. It was also submitted that because of the content of the publication the Tribunal might consider it indecent.

It looks to us as though someone may have pirated the publication and put it out under a different name. We are sceptical of the importer's explanation that it appears the author changed her name. We think that this is speculation. However we do accept that this book has circulated in New Zealand on a restricted basis since 1973 and apart from some technical deterioration, the content of the publication is essentially the same. Rather than enter into any refined analysis as to whether this publication is the same as that which was considered by the Tribunal in Decision No. 433, we think it is easier to give another ruling. We do not think it is appropriate to depart from the previous classification given to the other publication.

We accordingly rule *Sexual Harmony* to be indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 9th day of September 1983.

District Court Judge W. H. WILLIS, Chairman.

Decision No. 1077  
Reference No. Ind. 13/83

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 decision in respect of the following publications:

*Rubber and Latex Girls*

*Young Sporting Girls* Published by Bens Books of London.

Judge: W. H. Willis (Chairman).

Mesdames: H. B. Dick, L. P. Nikera.

Messrs: J. V. B. McLinden, I. W. Malcolm.

Hearing: 16 August 1983.

Appearances: C. F. Hillman for Comptroller of Customs.

Written submissions for importer, Love Artshop, Wellington.

#### DECISION

WE were informed by the Comptroller of Customs that these publications were imported commercially through Hamilton parcels post on 19 December 1982, and were seized by the Customs Department on the 22nd day of that month. The importer Mr Armstrong, subsequently disputed forfeiture of the goods and the department therefore referred the publications to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

*Rubber and Latex Girls* is a paperback published by Bens Books Ltd. Its physical dimensions are approximately 135 mm × 215 mm. The contents comprise 9 pages of text at the start of the book, followed by a large number of black and white photographs of various models.

The text deals with a couple who enhance their sex life by the use of rubber clothing. This section is followed by numerous photographs of 2 nurses apparently having an anatomy lecture in a hospital setting. Some of the pictures are completely innocuous. Other are obviously designed to titillate the reader's interest. That series is followed by approximately 26 pages of various models in lesbian, SM and "rubber gear" shots. Those photographs undoubtedly depict deviant aspects of sex, and are highly contrived.

Mr Hillman, on behalf of the Comptroller of Customs, submitted that because of the content of the publication the Tribunal might consider them indecent.

The importer, Mr Armstrong, complained that the book had previously been imported by him with the knowledge of Customs but without objection on those occasions. Apparently he could not understand what he saw as the department's inconsistent attitude. We are afraid that we must give this complaint limited weight. We have said on previous occasions that the Customs Department does not have any power to make a formal ruling or to impose formal guidelines on the classification of books that are imported. That is solely a matter for the Tribunal. No doubt on some occasions the department's conduct could be of significance but we do not feel that this is such a case.

Turning now to the matters we are required to consider under section 11 (1), we feel this publication lacks any literary or artistic merit. We think the likelihood of corruption can be contrasted to the lack of benefit that the book would bring to any of its readers. We think the final section of the book depicting the single and multiple model photographs referred to earlier, firmly establishes that the dominant effect of the publication is to portray aspects of sex that can only appeal to a prurient interest and accordingly we find that the publication is injurious to the public good. *Rubber and Latex Girls* must therefore be classified as unconditionally indecent.

*Young Sporting Girls* is another paperback imported by Mr Armstrong and published by Bens Books Ltd., London. It measures approximately 135 mm × 210 mm. The publication consists of a large number of black and white photographs of two young female models. They have been photographed in various poses, and in varying degrees of nakedness. Although there are full frontal shots of nudity there are relatively few which have been contrived to emphasise the genital area. There is also a series of eight photographs of a model in schoolgirl's clothing at the end of the book. These photographs are contrived, but we do not feel that they affect the relatively restrained tone of the publication. We think that this book of photographs is similar to the publications *Nudes Afloat* and *Bushland Seduction* considered by the Tribunal in Decision No. 962. On that occasion the Tribunal said:

"... it appears to the Tribunal that where pictorial matter consists of simple nudity without undue emphasis on genital areas, an age restriction of some sort should be the classification attached to them. In these particular cases, although there is a good deal of photography related to the genital area few, if any, are really contrived and in most cases, consist merely of frontal nudes."

In that decision these publications were classified as indecent in the hands of persons under the age of 18 years.

For all the above reasons we would therefore classify *Young Sporting Girls* as indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 9th day of September 1983.

District Court Judge W. H. WILLIS, Chairman.