

is a crime under the Crimes Act and for that reason the publication is classified as indecent.

Dated at Wellington this 13th day of September 1983.

District Court Judge W. M. WILLIS, Chairman.

3

Decision No. 1080  
Reference No. Ind. 20/83

*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 *Gallery* Volume 11, No's. 5, 6, and 7.

*District Court Judge:* W. M. Willis (Chairman).

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

*Messrs:* J. V. B. McLinden; I. W. Malcolm.

*Hearing:* Wellington on the 16th day of August 1983.

*Appearances:* Mr C. F. Hillman for Comptroller of Customs, Ellis for Importer, Gordon & Gotch (N.Z.) Limited, Wellington.

DECISION

THESE publications are sample copies supplied by the importer prior to placing an order. In his submission Mr Hillman said:

"The magazines consist of usual articles, jokes, nude, and semi-nude female model sequences common to this style of publication.

Although *Gallery* appears to have a literary standard slightly lower than that of *Penthouse*, it does not have the same emphasis on deviant sexual activities that the Tribunal noted in *Penthouse* in Decision 1053 of 16 March 1983.

These issues of *Gallery* are considered more analogous to *Oui* magazine, which was considered to be indecent in the hands of persons under 18 years of age in Decision 1002 of 30 July 1981."

Mr Ellis made very full submissions in respect of each issue and pointed out in his general submissions that the basic format of the magazine is similar to *Playboy*. *Playboy* has, of course, been held to be not indecent so that the Tribunal thinks the analogy should be with *Penthouse* rather than *Playboy*. The dominant effect is the presentation of sex, but this is balanced by articles, stories (fiction and non-fiction) and features of social and literary merit. They are not up to the standard of articles in *Penthouse*, but nevertheless, are of general interest. It is true that there are photographs of nude and semi-nude females, some in contrived or posed positions. There is however, an absence of a sado-masochism or deviant aspects of sex. As mentioned by Mr Hillman, there are no lesbian aspects. The Tribunal has had the occasion recently, to consider the publication *Oui*. In the Tribunal's view these publications are remarkably similar in format and style. They are therefore classified indecent in the hands of persons under the age of 18. Both the comptroller and the importer ask for a serial restriction order pursuant to section 15A. Such an order is made for a period of 2 years from the date of publication in the *New Zealand Gazette*.

Dated at Wellington this 13th day of September 1983.

District Court Judge W. M. WILLIS, Chairman.

3

Decision No. 1081  
Reference No. Ind. 21/83

*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:

*Improvised Munitions Handbook (TM 31-210)*. Publisher: Headquarters Department of the Army.

*Improvised Munitions Black Book Volumes 1 and 2*. Publisher: Desert Publications, Cornville, Arizona, 86325 U.S.A.

*Home Workshop Guns For Defence And Resistance Volumes 1 and 2*. Publisher: Paladin Enterprises Inc., Box 1307 Boulder Colorado 80306, U.S.A.

*Bare Kills*. Publisher: Paladin Enterprises Inc., Box 1307, Boulder Colorado 80306, U.S.A.

*District Court Judge:* W. M. Willis (Chairman).

*Mesdames:* H. B. Dick; L. P. Nikera.

*Messrs:* J. V. B. McLinden; I. W. Malcolm.

*Hearing:* On the 16th day of August 1983.

*Appearances:* Mr C. F. Hillman for Comptroller of Customs. No appearance for Importer.

DECISION

Mr Hillman informed the Tribunal that these publications had been seized from various individuals over the past 12 months. Forfeiture has not been disputed but both the Police and the Customs Department seek a classification by the Tribunal as it would be of great assistance in dealing with this type of publication. *The Improvised Munitions Handbook* is an official publication of the United States War Office. It was produced in 1969 and is stated to be "For official use only".

On page 5 of this statement is made:

"The manual contains simple explanations and illustrations to permit construction of the items by personnel not normally familiar with making and handling munitions".

The book also includes methods for fabricating explosives, detonators, propellants and similar items from indigenous materials, mainly from items which are obtainable without very much difficulty by any member of the public. *The Improvised Munitions Black Book Vols. 1 and 2* are in the main identical with the War Office publication and can be considered for the purpose of this decision as being identical.

*Home Workshop Guns for Defence Resistance Vols 1 and 2* give illustrations in the one case for making a submachine gun and in the other for making a hand gun. Both books are printed in the United States and they contain warnings that the manufacture of arms mentioned therein could be against United States law. Whatever may be the position in United States of America, section 3 of the Arms Act 1958 states:

"It shall not be lawful for any person to sell, or offer to sell, or have in his possession, in the way of his business, any firearms or ammunition or manufacture for sale any firearms unless he is the holder of dealer's licence issued to him by a Police Officer under this Act".

Plainly therefore the manufacture of firearms is illegal. The other 3 books may well be very useful for the army but a perusal indicates quite clearly that freely available they could be used by elements of the public who are concerned with achieving their ends through violence. *Bare Kills* while not an official publication has been dedicated to the United States Military Armed Forces and to the United States Marine Corps. In some detail it gives complete step by step instructions on how to kill with the bare hands. It is stated to be used for United States soliders and specials agents. That may well be so but once again in the hands of persons with violent dispositions it could be very dangerous.

It must be borne in mind that the word "indecent" is defined in section 2 of the Indecent Publications Act 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".

Publications which could very easily lead members of the public to criminal offending can properly be classified as indecent. All these books come within that classification and they are therefore declared as unconditionally indecent.

Dated at Wellington this 13th day of September 1983.

District Court Judge W. M. WILLIS, Chairman.

3

Decision No. 1082  
Reference No. Ind. 22/83

*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 publication. *Intime Schlafzimmer—Geheimnisse*, published by Clausen & Bosse, West Germany.

*District Court Judge:* W. M. Willis (Chairman).

*Mesdames:* H. B. Dick; L. P. Nikera.

*Messrs:* J. V. B. McLinden; I. W. Malcolm.

*Hearing:* At Wellington on the 16th day of August 1983.

*Appearances:* Mr C. F. Hillman for Comptroller of Customs. No appearance by importer, Mr P Sowa, Lower Hutt.