

Hearing: At Wellington on the 11th day of July 1985.

Appearances: No appearance of importer, Benton Ross Publishers Ltd. K. Wild for Comptroller of Customs.

DECISION

THE Comptroller advised us that these two publications form part of a commercial shipment imported through the Port of Auckland in March 1985. They were not seized but were forwarded for the Tribunal's decision by the Comptroller at the request of the importer, pursuant to section 14 (1) of the Indecent Publications Act.

Curious Wine is a 160 page novel written by Katherine V. Forrest. It appears to have been first published in May 1983 and there have been two subsequent printings (June 1983 and March 1984). The publisher was Naiad Press Incorporated which appears to be based in Florida, U.S.A.

The Comptroller submitted that although the publication was a well written novel, the frequency of sexual activity was enough to warrant an age restriction. The department conceded that the scenes referred to were presented in a fairly restrained manner.

We feel that the department's concern may arise not so much with the content of the publication (which is relatively innocuous having regard to the standard of many of the novels that are referred to us). It may also be concerned by the fact that the story concerns a lesbian relationship between two women, and the book has been published by what appears to be a group associated with women's interests.

If so, we do not share the department's misgivings. Although the characters in the book may be shallow, and some aspects of the text may be crudely put, those faults may be ascribed to the author's amateur approach rather than to any lack of honesty of purpose.

We think the book is a genuine attempt to tell of the development of a relationship between two women and is comparatively well written despite criticism that might be made of Ms Forrest's style. The fact that the book is published by a special interest organisation is not important in this case—although on occasion it may be that the publisher's identity is a factor to be considered in assessing the book's honesty of purpose.

We therefore classify this publication as not indecent.

Yantras of Womanlove is an illustrated book co-authored by Tee Corrine and Jacqueline Lapidus and published by Naiad Press in 1982. In the foreword Ms Corrine advises that the word *Yantras* is taken from terminology used in yoga and means a diagrammatic representation of fields of energy.

The book contains introductory text of some 6 pages. The rest of the publication is taken up with a collection of black and white photographs with short accompanying text that depict in a fantastic or surreal way (hence the significance of the work *Yantras*) what the author calls:

"... the spirituality of sexuality, the transcendence that can take place when making love to ourselves and others..."

Although some of the photographs are very frank it does not appear to us that they are designed to cater to any prurient interest. The impact of the photographs has been considerably lessened by the manner in which the subject has been presented.

On at least two previous occasions the Tribunal has held that an impressionistic or fantastic presentation of nudity could lessen the effect of a sexual display which in other modes of presentation could be indecent. For example, in decision No. 1053 dated 16 March 1983 (concerning the twelve issues of *Penthouse* for the year 1982), the Tribunal stated:

"The November portfolio referred to is an article entitled *Realm of the Senses* and runs from page 76 to page 85 of the magazine. These pictures depict scenes between a number of models, but the photographs have been taken through frosted glass. It appears to us that the photographs have been taken in an artistic way, and not in a method calculated to arouse prurient interest. We think it is relevant to refer here to what was said by the Tribunal in decision No. 881 which concerned the February and July 1976 issues of *Penthouse*. The Tribunal said of a scene which depicted, albeit fantastically, a sadistic and lesbian episode:

"The presentation of nudity is not indecent if it is not prurient or salacious. Fantasy or fantastic presentation can lessen the indecency in sadism or other sexual matters which, in other ways of presentation, are obscene and pornographic."

We think that this portfolio of photographs falls clearly within that statement."

The only difficulty we had with the present publication was whether or not an age restriction should be placed on it. The Comptroller urged us to do so on the ground that although there was an abstract presentation the subject matter of women indulging in lesbian acts was still obvious. The Comptroller did not refer to

what we had previously said about the style of presentation and it may well have been that had he considered the publication in the light of those remarks, the department's attitude may have been different.

The difficulty in making a classification in respect of this publication has been caused by its unusual illustrations. If we had imposed an age restriction it would have been that the publication was indecent in the hands of persons under the age of 16. However, we felt that the impact of the publication was equivocal. Although it was frank we do not think that the book is likely to appeal to young readers because of the manner of presentation. Nor is it designed to appeal to prurient and lewd tastes, so the likelihood of corruption is small if no restriction was placed on it. Finally, the publication will retail at a price which will probably discourage its purchase by those who only have a casual interest in its subject matter. In those circumstances we think we should take the view which is more favourable to the freedom of expression. Accordingly, the book is classified not indecent.

Dated at Wellington this 25th day of July 1985.

Judge R. R. KEARNEY, Chairman.

Decision No. 6/85

IND 4/85

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:

Elizabeth:

Nights of the Rajah:

Parisian Frolics:

Venus School Mistress:

The Victorian Imagination: A Sampler, all published by the Grove Press Inc. New York.

Chairman: Judge R. R. Kearney.

Members: H. B. Dick, J. V. B. McLinden, R. Barrington, A. J. Graham.

Hearing: Wellington, 29th day of March 1985.

Appearances: No appearance of importer, Milford House Ltd. K. Wild for Comptroller of Customs.

DECISION

THESE sample copies were imported from Dunedin in October 1984 and have been referred to the Tribunal at the request of the importer for a decision as to their indecency. There was no appearance by the importing company before the Tribunal and no representation made in writing by it or on its behalf.

The first four books all purport to be recent reprintings of eighteenth or nineteenth century publications, which would originally have been part of the underground press of England and France.

Elizabeth is described by the publisher as an erotic reverie of a Victorian gentleman, but in reality is the story of a young girl's sexual awakening in Victorian England. It appears to have little honest purpose; the sexual descriptions are both unending and explicit.

Nights of the Rajah is a sequel to *The Amorous Memoirs of Captain Charles de Vane* (declared indecent by the Tribunal in decision 28/84), with the same hero continuing his adventures. It is basically a novel of de Vane's sexual exploits written from the point of view of a military adventurer in the latter half of the nineteenth century, but written with such a very thinly disguised plot that it provides no literary redeeming features.

Parisian Frolics reproduces four stories originally written in French between 1889-1894 translated into English in the early part of this century. It was certainly part of the erotica of La Belle Epoque, and is possibly as claimed in the Introduction in the British Museum Private Case Collection. However the stories had no literary features, and were little more than a camouflage for a series of explicit sexual episodes.

Venus School Mistress is a reprint of an eighteenth century collection of fiction, drama and verse set in the original type face. Its main theme is flagellation and flogging in a boarding school. At best it is a social document but we feel it lacks any real historical, social, or literary merit to declare it other than indecent. We are reinforced in this point of view by the impression that if this book was written now rather than over a century ago, the Tribunal would have little hesitation in finding it indecent.

The Tribunal certifies each of these four books as indecent.