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RECEIVED 13 JAN 1994

9.1.94

Dear DAVID WEBB

Sorry that this is a form letter but I have a lot to do and practically no time to do it in, a feeling I'm sure you are all too familiar with.

Between the afternoon of Tuesday 4th January and the end of Friday 7th, I was prosecuted in Southwark Crown Court for "Being knowingly concerned in the fraudulent evasion of the prohibition on obscene or indecent material contrary to the Customs and Excise management act 1876".

This was for importing Adult Only comic-books from the USA which, although line drawings, were considered under the same extreme guidelines as photographic material.

As far as I can see, the points of significance were the following:

That, despite the EEC Court ruling in 1986, Customs and Excise use the same test to non-EEC countries as they do to EEC ones.

That their test corresponds with the 1959 Obscene Publications Act test for material "which tends to deprave and corrupt those likely to view it". The guidelines result in seizure of sexually explicit material.

That the law regarding prohibition on imports from non-EEC countries is still the obscene or indecent test (a far stricter one), contrary to the erroneous publication of the 1876 Act in Stones Justice Manual, which states that the test to be applied universally is the deprave and corrupt one when dealing with condemnation proceedings on such material.

The effect of the above, as I can see it, is to shield the Obscene Publications Act guidelines from being challenged in Court on importations from non-EEC countries. If material is seized because it portrays acts of a sexual nature explicitly, a defence is that such material does not tend to deprave and corrupt. However, if prosecuted the obscene or indecent test is applied, practically assuring a conviction, because the law being applied is far harsher than even the strict Customs guidelines on seizure !

The above is akin to being breathalized under suspicion of being over

the alcohol limit of two and a half units, then charged with being over one unit. If you were just over the limit when breathelized, you would have a chance to prove that you had not exceeded the limit. But you would be unlikely to have a defence that you had not exceeded one unit.

My intended defence in this case was:

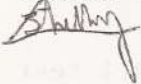
That the explicit depictions of sexual material in these comic-books does not tend to deprave and corrupt it's likely audience.

Unfortunatly, I was presented with an additional hurdle: I had to convince the Jury that it was more probable than not that I believed that the 1959 Act test applied when I imported the comics. Only the members who beleived this would then judge the material according to that test. The rest would apply the 1876 Act test.

Despite the above, the case resulted in a hung jury, meaning at least 3 out of twelve members were not conviced that these comics would deprave and corrupt their likely audience.

I invite any and all of you to the retrial, date not yet set. In the meantime, if you know any way of publicising this to our advantage, please do so to the best of your ability. No-one knew about the first trial, I want as many as possible to know about this one.

Yours Sincerely  
ADRIAN SHELLEY



(Duplicate letter  
Quito Tea 17/1/94)