

EXECUTIVE SUMMARY

1. Brief Description of item(s)

Annotated Penguin paperback copy of D. H. Lawrence, *Lady Chatterley's Lover* (LCL) in hand-stitched bag, with two folios of manuscript notes. Copy belonged to Sir Lawrence Byrne, Presiding Judge in the 1960 trial of LCL for obscenity. Annotations mainly by Dorothy Byrne, wife. Part of text block detached from spine; item otherwise in reasonable condition for its age.

2. Context

Regina v Penguin Books took place at the Central Criminal Court, London, between 20 October and 2 November 1960. Penguin was accused of publishing an obscene article contrary to the 1959 Obscene Publications Act.

D. H. Lawrence's final novel, *Lady Chatterley's Lover*, was first published in Florence in 1928 and Paris in 1929. It was not published unexpurgated in Britain for fear of prosecution. In 1960, Penguin decided to publish the unexpurgated work. Penguin's chairman, Allen Lane, saw the publication as a test of the 1959 Act. The Act had been designed to protect literature while strengthening the law against pornography. Potentially obscene works had now to be considered in their entirety, and they could be defended in terms of their contribution to the public good.

The trial attracted intense publicity. 35 defence witnesses (see Appendix 2) protested the book's merit and refuted the prosecution's suggestion that the work was no more than a string of sexual encounters between the two main characters. Penguin's reputation as a publisher of high standing was also emphasised. The jury found Penguin not guilty. Within three months of publication, over three million copies of the book had been sold.

The trial quickly assumed a wider significance. For social commentators, creative writers, and historians, it became a symbol of the permissive, liberal values of the new decade. These values and their long-term consequences have been the subject of commentary and debate ever since.

A BBC drama about the trial, 'The Chatterley Affair', was broadcast in 2006. The book itself has been adapted many times for stage, film, and television.

Provenance From the country home, in Britain, of Christopher Cone, who purchased the item at auction at Sotheby's (13th December 1993, lot 137). Until that date, it was in the possession of the Byrne family.

3. Waverley criteria

We consider the item to meet Criterion 1. It occupies a central place in one of the most famous trials of modern British history, as an independent and

eloquent witness to a trial that had a far-reaching impact on society, literature, and law.

DETAILED CASE

1. Detailed description of item(s) if more than in Executive summary, and any comments.

The item is a paperback book in a bag. The book is a first impression of D. H. Lawrence, *Lady Chatterley's Lover* (Penguin Books: Harmondsworth), 1960. See Appendix 1. Two folios of manuscript pencil notes, written on Central Criminal Court writing paper, are attached by paperclip to the inside back cover. The notes are a list of page numbers in sequence, some bracketed together, with short content-summaries against each. The blue-grey fabric bag is hand-stitched, secured by a long blue ribbon around its centre.

The book bears pencil annotations on c118 pages. There is one underlining (p. 258) in blue crayon. Kinds of annotation include: side-lining (single, reinforced, and intersecting lines), underlining (blocks of text; single lines; single words), marginal crosses, and occasional notes.

The annotations are the work of more than one hand. The principal hand is Dorothy Byrne's, who has worked through the book and made a list of the pages that she has annotated. A second hand is, we assume, the judge's. He has annotated several pages that do not appear on his wife's list (for example, pp 196, 197, 270, 316, 317). His annotations are likely to have been made during the trial, because several of the passages thus marked feature in the cross-examinations. Some examples are: 'bowels and womb' references (p. 140); 24th Psalm reference (p. 219); chastity reference (p. 316).¹

The annotations suggest the personalities behind them. Dorothy Byrne's side-lines and marginal crosses are delicately drawn and rather shaky. Their unofficial, private nature is plain. The judge's side-lining is firm: all the reinforced lines seem to be his. They are the notes of a person keeping track of proceedings: a scribbled marginal line here, an underlined word there. In keeping with his role as presiding judge, not prosecutor, his annotations are not extensive. Dorothy Byrne's discreet interventions acquire extra interest in the light of the prosecution case: famously, Mervyn Griffith-Jones would propose that the sexual content of the book made it unsuitable for wives to read.

Two annotated copies of this printing of the book are in the files of the Director of Public Prosecutions (The National Archives: DPP/2/3077). Two proof copies are in the case papers of Penguin's solicitor, Michael Rubinstein (University of Bristol Special Collections: DM 1679).

¹ All feature on Day Two, Cross-examination of Graham Hough. See *The Trial of Lady Chatterley: Regina v Penguin Books Ltd*, ed. by C. H. Rolph (Harmondsworth: Penguin, 1961), re-issued 1990.

2. Detailed explanation of the outstanding significance of the item(s).

The object occupies a central place in a drama that captured the public imagination. It evokes the occasion. Public interest in the trial was feverish; the bag was designed to avoid attention as the judge carried the book to and from court each day. It also evokes a social world. This was an age of the wife as helpmeet: Dorothy Byrne made the notes for her husband, stitched the bag, and sat with him throughout the trial. In addition, it has a domestic quality, quite at odds with its Old Bailey setting. The bag's fabric (curtain or light furnishing?), its wobbly stitching and its ribbon, the pencil notes on the official stationery of the Central Criminal Court, the array of scribbles and shaky lines on the book itself: all these give the object a uniquely personal character.

The Lady Chatterley trial was a sensation. As a courtroom drama, with its cast of well-known authors, clerics, and literary scholars, its class tensions, and its explicit references to sex, it could hardly be bettered. Penguin's acquittal came to be viewed as a watershed moment: the point when the repressive upholders of tradition were decisively routed and a new era of social permissiveness was ushered in. Both at the time and in retrospect, the trial seemed to have fired the starting pistol for the 1960s. Several of its young star performers, such as Richard Hoggart, Jeremy Hutchinson, and George Gardiner, would go on to become significant figures in the new age.

Historians tend to agree that the pivotal status of the trial has been exaggerated. Public attitudes towards morality and authority were already beginning to change before Chatterley. The flow of change was not unimpeded: other prosecutions under the Obscene Publications Act followed and were sometimes successful. As late as 1971, the publishers of *Oz* were found guilty under the Act before being acquitted on appeal. But the trial was undoubtedly significant. In the popular imagination, it remains a defining symbol for the radical social change of the 1960s.

The 1960s shaped the country that we live in now. The decade saw a raft of legal reforms that reflected changes in social attitudes. There were new laws on the death penalty (1965), flogging, abortion, and homosexuality (all 1967), state censorship of plays (1968), and divorce (1969). Like the Chatterley case, these reforms were prominently supported by experts and intellectuals outside the political classes. Culturally, it was a time of mass consumerism, pursuit of personal happiness, and up-ending of class distinctions. All are completely embedded in our culture today. As one historian, trying to explain the persistent interest in the period, observes, 'we have never really left the sixties. We have simply repeated them.'²

The trial was significant in the history of publishing. Allen Lane had famously founded Penguin books in 1936 to bring literature to the masses: 'to produce a book which would sell at the price of ten cigarettes'. Chatterley was sold at

² Andrew Marr, *A History of Modern Britain* (Macmillan: London, 2007), p. 263.

3s 6d. The fact that the public could easily afford the book was a strong factor in its prosecution.³ Once the case had been won, publishers launched a paperback revolution. Sexually explicit literature, which before had been available only in expensive editions, now appeared in paperback. Works by James Baldwin, J. P. Donleavy, Simone de Beauvoir, and Vladimir Nabokov reached a mass audience for the first time. The trial paved the way for less literary bestsellers, such as Harold Robbins's *The Carpetbaggers* (1961) and Erica Jong's *Fear of Flying* (1973). Eventually, it led to publication of books with no literary pretensions at all. Once the pornographic *Inside Linda Lovelace* (1974) had been acquitted of obscenity in 1977, it seemed that nothing printed would be deemed obscene.

The trial was significant legally. First, it showed, as few trials had done before, the independence of the jury. Ideals of independence notwithstanding, until Chatterley, juries had usually done what the judge told them to. From the outset, Mr Justice Byrne's own opinion was plain. His heavily-laden interventions, his quiet undermining of the witnesses' expert status, and his insinuations about Penguin's motives, belied his neutral role. The jury's decision was therefore all the more important. Secondly, the trial showed that the Obscene Publications Act was indeed workable. As legal commentators noted, the 'test case' had passed the test. *Regina v Penguin* has acted as a precedent ever since.

Today, the trial continues to provoke strong reaction. For Geoffrey Robertson, its message is that literature does no harm.⁴ Peter Hitchens sees its consequences as irreversibly malign: 'it destroyed shame and hypocrisy, two things essential to a decent society'.⁵ The trial's influence, however, is not disputed. No history of twentieth-century Britain could be written without it.

For a few days in 1960, the Central Criminal Court was the focus of national attention. Directing proceedings was the presiding judge, consulting his personal copy of *Lady Chatterley's Lover*, his supportive wife beside him. Penguin's acquittal would help to bring about permanent social change; it also had far-reaching literary and legal significance. The book in its bag is at the centre of this dramatic moment in our national history. We consider that its departure from the UK would be a misfortune.

³ As John Sutherland notes, 'the authorities could tolerate obscenity, erotica and even pornography – so long as it wasn't in paperback'. *Offensive Literature: Decensorship in Britain, 1960-1982* (London: Junction Books, 1982), p. 19.

⁴ 'The Trial of Lady Chatterley's Lover', *The Guardian*, 22 Oct. 2010.

⁵ 'Chatterley on Trial', *First Things* (Feb. 2018).

<https://www.firstthings.com/article/2018/02/chatterley-on-trial> accessed 20th March 2019.

Works consulted

Grant, Thomas, *Jeremy Hutchinson's Case Histories* (London: John Murray, 2015)

Marr, Andrew, *A History of Modern Britain* (London: Macmillan, 2007)

Rolph, C. H. ed, *The Trial of Lady Chatterley: Regina v Penguin Books Ltd* (Harmondsworth: Penguin, 1961), re-issued 1990

Sutherland, John, *Offensive Literature: Decensorship in Britain, 1960-1982* (London: Junction Books, 1982)

Appendix 1: full bibliographic description

Upper cover:

[in orange] PENGUIN BOOKS | [rule] |[in black:] LADY | CHATTERLEY'S |
LOVER | [Lawrence device] | D. H. | LAWRENCE | [rule]| COMPLETE AND
3/6 UNEXPURGATED [price in orange]

Verso of upper cover: text begins "Lawrence wrote of *Lady Chatterley's
Lover...*" [includes text about cover device]

Half-title: PENGUIN BOOKS | 1484 | LADY CHATTERLEY'S LOVER | D. H.
LAWRENCE | [Penguin logo]

Verso of half-title blank

Title-page: D. H. LAWRENCE |[rule] | *Lady Chatterley's Lover* | PENGUIN
BOOKS

Title-page verso:

Penguin Books Ltd, Harmondsworth, Middlesex | AUSTRALIA: Penguin
Books Pty Ltd, 762 Whitehorse Road, | Mitcham, Victoria | [short rule] | First
printed 1928 | This complete text first published in | Great Britain 1960 | Made
and printed in Great Britain | by Western Printing Services Ltd | Bristol |

5-316 [pages of text numbered]; [317 – last page of text, unnumbered] [318-
320 blank]

Leaf bound in with spine of paperback stuck on recto (Spine text: [set top to
bottom] D. H. Lawrence | [Penguin logo] | *Lady Chatterley's Lover* | [set left to
right] 1484); verso of leaf blank

Inside lower cover: D. H. LAWRENCE [list of books etc.]

Lower cover: [in orange] PENGUIN BOOKS | [in black] rule | [Photograph of
DHL] [Biographical information about DHL] | rule | [in orange] PENGUIN
BOOKS

Appendix 2: Participants in the trial

Presiding Judge: Laurence Byrne

Counsel for the Prosecution: Mervyn Griffith-Jones, assisted by Alastair Morton

Counsel for the Defence: Gerald Gardiner, assisted by Jeremy Hutchinson and Richard Du Cann

Defendant: Penguin Books [Directors present: Allen Lane and Hans Schmoller]

Dorothy Byrne, wife of Presiding Judge, also present

Witness for the Prosecution

Stephen Webb, Board of Trade

Charles Monahan, Detective Inspector

Witnesses for the defence (in order of their appearance)

Graham Hough, Lecturer, University of Cambridge

Helen Gardner, Lecturer, University of Oxford

Joan Bennett, Lecturer, University of Cambridge

Rebecca West, writer

John Robinson, Bishop of Woolwich

Vivian de Sola Pinto, Professor, Nottingham University

William Emrys Williams, Editor-in-Chief, Penguin Books

Stephan Hopkinson, Vicar of St Katherine Cree, London

Richard Hoggart, Lecturer, Leicester University

Francis Cammaerts, Schoolteacher, Alleyne's Grammar School, Stevenage

Sarah Beryl Jones, Schoolteacher, Keighley Girls' Grammar School

Veronica Wedgwood, writer

Edward Francis Williams, writer

Edward Morgan Forster, writer

Roy Jenkins, Labour MP

Walter Allen, writer

Anne Scott James, magazine editor

James Hemming, educational psychologist

Raymond Williams, extra-mural Tutor, Oxford University

Norman St-John Stevas, writer and barrister

Jack Lambert, journalist and writer

Allen Lane, Chairman, Penguin Books

Richard Milford, Church of England clergyman

Kenneth Muir, Professor, Liverpool University

Stanley Unwin, publisher

Cecil Day-Lewis, writer

Stephen Potter, writer

Janet Adam Smith, writer and journalist

Noel Annan, Provost of King's College, Cambridge

Donald Tytler, Director of Religious Education, diocese of Birmingham

John Connell, journalist

Dilys Powell, film critic
Kenneth Young, Editor, Yorkshire Post
Alastair Hetherington, Editor, Guardian
Bernadine Wall, recent graduate, Cambridge University