

other material in the form of literature or otherwise is already freely circulating or available."

and, again, on the same page:

"All these statutory considerations presuppose, in my opinion, that the Tribunal will have available to it a suitable mirror of contemporary standards and affairs, and will evaluate these matters themselves and also the overall issues before it with a balanced and proper understanding of those contemporary standards."

As members of the community, we are conditioned by its standards and would not find it possible, if we wished, to disregard them; yet we should state clearly our conclusion that the statute itself modifies the view that if a document is simply "highly indelicate" or "immodest" by current standards, it is therefore indecent within the meaning of the Act.

This is indicated by the fact that subsection (2) of section 11 provides that, notwithstanding the considerations the Tribunal is required to take into account under subsection (1) of the section, where the publication of any book or the distribution of any sound recording would be in the interests of art, literature, science, or learning, and would be for the public good, it shall not be classified as indecent. In addition to the task of classifying books and sound recordings imposed upon the Tribunal by section 10 (b), the duty is also cast upon it, in the case of books and sound recordings coming under subsection (2), of also deciding, first, if they would be in the interests of art, literature, science, or learning, and, secondly, if they would be for the public good. These are considerations overriding those set out in subsection (1) and go far beyond requiring the Tribunal to consider such material merely in terms of whether it is "highly indelicate" or "immodest". The definition of "indecent" in section 2 also requires the Tribunal, in carrying out its classifying functions under section 10 (b), to go beyond the ordinary dictionary meaning of the word.

If it is suggested that, judged by the yardstick of community standards, a document is highly indelicate or immodest and should therefore be held to be indecent in terms of the Act, we are unable to accept this narrow interpretation. To do so would be to ignore the provisions of subsection (2) of section 11 and the extended meaning of the word "indecent" in section 2, which, in our view, show that it was not the intention of the Act that anything which is no more than highly indelicate or immodest should be held to be indecent.

This Act proceeds upon a basis different from that of earlier Acts governing indecency in literature and, by section 3, it sets up a Tribunal of five members.

By section 10 it entrusts to this Tribunal the function of determining the character of any book or sound recording submitted to it for classification. This task is to be undertaken in the light of subsection (1) of section 11, which sets out six criteria to be held in mind, and of subsection (2) of section 11, the effect of which has been mentioned above.

In our view the committing of this determination to a Tribunal, together with the requirement in subsection (2) (b) of section 3 that at least two members shall have special qualifications in the field of literature or education, makes it clear that the Tribunal is required to arrive at its judgment partly by subjective processes, or at the least is not precluded, in arriving at its judgment, from having recourse to its own views on the matter. The words of Woodhouse J., quoted above, reinforce this view. In simple words, we assert that the Tribunal may say: "As members of the community chosen to make the decision, we think it is not fitting that this book should circulate through the community"; we do not have to substitute such a formula as: "Whatever our views, we think on balance that more people would think this book indecent in terms of the Act than would not". That the statute so specifically directs our attention to overriding considerations of public interest and aesthetic value enormously strengthens this view.

The standards which at present appear to be acceptable to the community are, of course, constantly changing. We are aware also that these vary from group to group within the community.

We do not think the public interest requires suppression merely on the grounds of unorthodoxy, either in argument or in presentation, and we do not think that the community desires it.

We are aware of the present tendency towards the acceptance of more liberal standards and we are also aware of the dangers of too rapid change. It is our view that the Act as well as the community requires us to keep a balance between necessary protection and individual liberty.

With these considerations in mind we proceed to classify the documents before us.

All those in the first group we declare to be not indecent: they come within the first category.

All those in the second group are within the second category, and we declare them to be indecent in the hands of persons under 18 years of age.

The books in the third group we place in the third category, and these we declare to be indecent within the meaning of the Act.

We now discharge the interim order prohibiting publication of the names of parties or titles of publications.

L. G. H. SINCLAIR, Chairman.

15 July 1968.

Decision of Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963 and in the matter of an application to the Tribunal for a decision in respect of the book *Why was He Born so Beautiful and Other Rugby Songs*, an anthology published by Sphere Books Ltd., London.

DECISION OF THE TRIBUNAL

THIS book has been submitted to the Tribunal, by leave of the Minister of Justice, for classification. Submissions were made in writing by Mr Thom, of Counsel for the publishers.

This is an anthology of bawdy songs, said to be popular among players of Rugby union football. Some are diverting; many are crudely indecent. The question for the Tribunal is not whether footballers should amuse themselves by bawling these songs off the field, but whether their text should be given a wider circulation in what may be called the decent licence of print; and the Tribunal decides that it should not. It is accordingly declared to be indecent.

L. G. H. SINCLAIR, Chairman.

15 July 1968.

Decision of Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963 and in the matter of an application for a decision in respect of the book *The Story of Venus and Tannhauser*, by Aubrey Beardsley, published by Universal Publishing and Distributing Corporation, New York.

DECISION OF THE TRIBUNAL

THIS book has been considered by the Tribunal upon the application of the Comptroller of Customs. No submissions were received from the Comptroller, nor on behalf of the publishers.

The bibliographical history of this book is a curious one, now completed in this shoddy paperback issue, introduced by Paul G. Gillette in a long essay, and illustrated by many badly printed reproductions of drawings and decorations by this master draughtsman of the nineties. His style on the drawing board was elaborated by his pen, but not with advantage. This phantasy, though erotic, only in a few phrases and incidents reaches indecency; and it does not seem to the Tribunal that these are likely to corrupt any reader inclined to taste the elaborations of Beardsley's style. It is accordingly decided that the book is indecent in the hands of persons under 18 years of age.

L. G. H. SINCLAIR, Chairman.

15 July 1968.

Industrial Conciliation and Arbitration Act 1954—Proposed Cancellation of Registration of Industrial Union

PURSUANT to section 86 of the Industrial Conciliation and Arbitration Act 1954, it is hereby notified that the registration of the Kaiapoi Waterfront Workers Industrial Union of Workers, Registered No. 2153, situated at 51A Peraki Street, Kaiapoi, will, unless cause to the contrary is shown, be cancelled on the expiration of 6 weeks from the date of the publication of this notice in the *Gazette*.

Dated at Wellington this 8th day of July 1968.

H. G. DUNCAN,

Registrar of Industrial Unions, Department of Labour.

The Standards Act 1965—British Standards, Revisions, and Amendments Available for Comment

PURSUANT to the provisions of the Standards Act 1965, notice is hereby given that the British standards, revisions, and amendments listed in the Schedule hereto may be considered for adoption as New Zealand standard specifications or for endorsement as being suitable for use in New Zealand. All persons who may be affected by them and who desire to comment thereon may, on application, obtain copies on loan from the Standards Association of New Zealand, Private Bag, Wellington C. 1.

Requests should specify that copies are required for comment purposes.

The closing date for the receipt of comment is 16 August 1968.

Dated at Wellington this 16th day of July 1968.

G. H. EDWARDS, Director,

Standards Association of New Zealand.

(S.A. 114/2/1)

SCHEDULE

LIST OF BRITISH STANDARDS

New Issues	B.S.	Title
3962:—		Methods of test for clear finishes for wooden furniture—
	3962:Part 2:1968	Resistance to wet heat.
	3962:Part 3:1968	Resistance to dry heat.