

Sections 88 to 90 inclusive, Block XI, Waihou Survey District: area, 9 acres and 16.6 perches, more or less. (S.O. Plan 42687.)

Sections 24 to 29 inclusive, Block XV, Waihou Survey District: area, 21 acres 3 roods 13.0 perches, more or less. (S.O. Plan 42689.)

Dated at Wellington this 10th day of September 1969.

DUNCAN MACINTYRE, Minister of Lands.

(L. and S. H.O. 15/244/14; D.O. 8/5/245)

*Authorisation of the Exchange of Part of a Reserve for Other Land*

PURSUANT to the Reserves and Domains Act 1953, the Minister of Lands hereby authorises the exchange of that part of the reserve for recreation purposes described in the First Schedule hereto for the land described in the Second Schedule hereto.

FIRST SCHEDULE

NORTH AUCKLAND LAND DISTRICT—TAKAPUNA CITY

*Reserve to be Exchanged*

PART Section 1 (being part land shown as Lot 1, D.P. 58032) situated in Block III, Rangitoto Survey District: area, 11.5 perches, more or less. Part certificate of title, Volume 14B, folio 1350. As shown on the plan marked L. and S. 13/3A deposited in the Head Office, Department of Lands and Survey at Wellington, and thereon edged red.

SECOND SCHEDULE

NORTH AUCKLAND LAND DISTRICT—TAKAPUNA CITY

LOT 2, D.P. 58032, being part Allotment 190, Takapuna Parish, situated in Block VIII, Waitemata Survey District: area, 11.5 perches, more or less. All certificate of title, Volume 14C, folio 70.

Dated at Wellington this 12th day of September 1969.

DUNCAN MACINTYRE, Minister of Lands.

(L. and S. H.O. 13/3; D.O. 8/3/494)

*Decisions of the Indecent Publications Tribunal*

Nos. 157, 158

IN the matter of the Indecent Publications Act 1963, and in the matter of applications to the Tribunal, with leave of the Minister of Justice, for decisions in respect of the magazines *Penthouse* Vol. 4, No. 3, published by Penthouse Publications Limited, London, and *Exclusive* Vol. 1, No. 11, published by T.S.A. Publications Limited, Guildford, Surrey, England.

DECISIONS OF THE TRIBUNAL

WE are required to classify under the Act, volume 4, number 3 of the magazine *Penthouse* and volume 1, number 11, of the magazine *Exclusive*, both published in 1969.

We make our classifications within the context of the following observations:

The over-riding consideration must be the public interest. The public interest does not require that the Tribunal should attempt to make the community's reading tastes a model of propriety, or in any way to improve them; nor, on the other hand, does it require that we should work to create more liberal standards. Decisions of that sort are for Parliament: our function is to interpret and apply the Act as it has been given to us, although in doing so some regard must in all be given to changing community standards.

We do not consider ourselves empowered to declare a document indecent without keen regard to the fact that such a declaration means that if that document is handled in any of the ways enumerated in the Act, the handling will constitute a criminal offence. An inconsiderable infringement of propriety or assault on accepted standards of good taste would not alone justify a classification of indecent; a restriction when imposed means not simply we feel that circulation would contribute nothing to the public interest but that it would actively contravene that interest and be in breach of the Act.

One of the aims of the statute is to protect from untoward influences those who may be in need of such protection, especially children as the Act implies in its reference to age groups, e.g., sections 10 (b) and 11 (1) (c). In this context the words of section 11 (1) (e) among others are in point: "Whether any person is likely to be corrupted by reading the book or hearing the sound recording and whether other persons are likely to benefit therefrom". From their very nature these questions are not easy to resolve.

Corrupt is a strong and dramatic word, meaning, by derivation, to rend or tear apart. The Oxford English Dictionary gives it several meanings, of which the first three may be quoted: The first is to spoil or destroy (flesh, fruit, or other organic matter) by physical dissolution or putrid decomposition; to turn from a sound into an unsound, impure condition; to cause to "go bad"; to make rotten or rotting (Archaic). The second is to render unsound or impure by contamination of putrid matter; to infest, taint, render morbid. The third meaning is to render morally unsound or "rotten"; to destroy the moral purity or chastity of; to pervert or ruin (a good quality); to debase, defile.

Particularly in the case of young persons, corruption as we see it is usually a continuing process: we do not consider that the words of the statute mean that we are confined to considering whether any person may be corrupted absolutely and immediately by exposure to a single document. We believe our function, as far as this particular criterion is concerned, is to consider whether such an exposure is in our view likely to contribute to any person's corruption, giving that word its full and proper meaning, and weighing against our conclusion our assessment of whether other persons are likely to benefit from publication.

With a qualification in the case of picture-story books, or comics, the Act deals with periodicals and books in exactly the same way, and in each case the document under consideration must be looked at as a whole.

A periodical or magazine by its nature is likely to be of a less consistent or homogeneous character than a book, particularly a monograph. In a magazine there is no central theme of narrative or argument, and material of very different kinds may be assembled within its covers.

To consider a periodical as a whole in cases where features of different kinds are included, some more repugnant to the Act than others, at times requires the introduction of a quantitative factor in making the assessment.

Not only the probable impact of the indecent material must be considered, but also the amount of it that is included, and the whole weighed against its possible value and the value of the other material that goes to make up the particular issue.

Among difficult periodicals are those that are loosely termed "girlie magazines", the titles and contents of which largely assume a readership largely comprising adult or adolescent males or "men only".

The proprietors of these journals, with good or bad taste and with sincere or recklessly mercenary motives, set out to make the young male familiar with the details of the female anatomy and the attraction of the female form. Society, we believe, recognises that this in itself is healthy and unexceptionable.

Some of these journals treat sex in a light-hearted but not unpleasant way, and this is healthy and natural. Text and illustrations combine towards an end which is socially acceptable in most quarters, and this we cannot imagine to be harmful.

Some magazines go further and advocate philosophies and practices which are not socially acceptable in New Zealand, but on which there can be honest difference of opinion. Companionate marriage is an example. We do not believe it to be in the public interest that there should be a ban on the advocacy of the unorthodox, that those who consider that different mores would benefit society should not be allowed to plead their case temperately and logically, nor even that they should not be allowed considerable latitude in doing so. We are commissioned as arbiters not of morality but of decency, of decency as it is understood in New Zealand while bearing in mind that in the modern world New Zealand is by no means entirely isolated.

It is at the point where the illustrations in girlie and other magazines are no longer intended to inform and attract but to distort and to pervert, when the text is not intended to develop an honestly entertained thesis but to make money regardless of any social consequences, that we believe the public interest requires us sometimes to prohibit circulation altogether, sometimes to restrict it to those who may with reasonable safety be relied upon to handle the material with discrimination and without undue risk or personal harm. A trivial and cynical treatment as opposed to a genuinely satirical treatment, or cheap plagiarism of better works, will sometimes be evidence that a document falls within a class which offends against the statute: a free interspersing of lubricious jests or use of captions of an offending nature may point in the same direction.

In our classification of certain nudist or naturalist magazines we have attempted to express this interpretation of our application of the law. The principles there enunciated do not differ from those which we apply to girlie magazines, and are in our view entirely in accord with the Act.

The two periodicals before us, *Penthouse* and *Exclusive*, are in our opinion both exceptionable on the grounds we have tried to outline. *Penthouse*, in this issue—we have already had to pronounce on others—was represented to us by counsel as