

*Decisions of the Indecent Publications Tribunal*

No. 168-171

IN the matter of the Indecent Publications Act 1963, and in the matter of an application by Robert Stanley Temple, of Hikurangi, bookseller, for decisions in respect of the following magazines—

*Nudism Today*, Vol. III, No. 6;  
*Nude Living*, Vol. VI, No. 3, February 1967;  
*Sundial*, Vol. V, No. 5, March 1967; and  
*Nude Lark*, December 1966

all published by Elysium Incorporated, Los Angeles, California.

## DECISIONS OF THE TRIBUNAL

No submissions were made on behalf of Mr Temple, whose solicitors advised us that although he has disposed of his book-seller's business he still wishes a decision from the Tribunal in respect of these magazines.

The Tribunal refers to its decision of 12 September 1969, published in *New Zealand Gazette* of 18 September 1969, at page 1798.

The magazines listed above are journals of nudist societies in the United States. None of them contains any material of a lubricious nature. The photography is restricted to nudism alone. The poses are not improperly suggestive.

The Tribunal therefore declares that these magazines are not indecent.

F. McCARTHY, Deputy Chairman.

28 October 1969.

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No. 172-175

IN the matter of the Indecent Publications Act 1963, and in the matter of an application by Roy Frank Whitaker, of Napier, wholesaler, for decisions in respect of the magazines—

*Modern Man*, editions December 1968, January 1969, and February 1969;  
*Modern Man Quarterly*, Spring 1969, Vol. 53 (902);  
*Tiger*, No. 8 (902), Spring 1969; and  
*Modern Sunbathing Quarterly*, Vol. 51 (902), Spring 1969

published by Publishers Development Corporation, Skokie, Illinois, U.S.A.

## DECISIONS OF THE TRIBUNAL

MR Whitaker appeared in support of his application. Although he has pointed out that some "remainders" of these magazines have apparently been admitted into the country without question, he agreed that these "remainders" were not the volumes of these magazines which we are now considering. We cannot concern ourselves with the distribution of these "remainders". We have not seen them and they are not before us.

The Tribunal refers to its decision published in the *New Zealand Gazette* of 18 September 1969, at page 1798. All these magazines are of the "girlie" type.

In the Tribunal's view, all these magazines clearly fall within the category "wherein the illustrations are no longer intended to inform and attract but to disturb and to pervert".

We do not propose to deal with the contents of each magazine in detail, as we feel no good purpose would be gained by so doing. Suffice it to say the photography almost without exception is objectionably suggestive; while the text, with one or two exceptions, deals exclusively with sex, sex perversion, and eroticism in a manner which in our view is injurious to the public good. They all clearly fall within the connotation of "indecent" in section 2 in our view. The saving provisions of section 11 do not apply.

The Tribunal classifies all these magazines as indecent.

F. McCARTHY, Deputy Chairman.

28 October 1969.

*Decisions of the Indecent Publications Tribunal*

No. 176, 177

IN the matter of the Indecent Publications Act 1963, and in the matter of an application by the Secretary for Justice for decisions in respect of two magazines—

*Pin-up International*, Vol. I, No. 3, and  
*Girls of the World*, Vol. I, No. 7

both published by Top Sellers Ltd., London.

## DECISIONS OF THE TRIBUNAL

THESE are both "girlie" magazines. We refer to the Tribunal's decision published on 18 September 1969 in the *New Zealand Gazette*, at page 1798, and we apply the criteria we set forth in that decision.

*Pin-up International* is, we consider, a magazine in which, although there is undoubtedly emphasis on the female form, for the most part there is not the same measure of suggestiveness as in the more objectionable magazines of this type—although there is some. We feel, however, that, despite this, its distribution should be limited to persons of the age of 18 and over.

We therefore classify this magazine as indecent in the hands of persons under the age of 18 years.

The magazine *Girls of the World*, however, we feel is quite different and comes within that category of publication where photographic pose and text bring it within the connotation of the word "indecent" under section 2 of the Act.

We classify this magazine as indecent.

F. McCARTHY, Deputy Chairman.

28 October 1969.

*Decision of the Indecent Publications Tribunal*

No. 178

IN the matter of the Indecent Publications Act 1963, and in the matter of an application to the Tribunal by the Secretary for Justice to consider *Maskerade*, 1969 edition; published by the Students' Association of the Massey University.

## DECISION OF THE TRIBUNAL

UPON the hearing of this application, Mr R. C. Savage, of the Crown Law Office, appeared for the Secretary for Justice. Mr J. H. Williams, of Counsel, appeared for the publishers, the Students' Association of the Massey University.

Before proceeding to deal with the subject matter of this application, the Tribunal finds it necessary, again, briefly to state its views as to the process by which it should arrive at its decision. Mr Savage, of Counsel for the Secretary for Justice, argues, as he did on the hearing of the application to the Tribunal in respect of the Waverley Publishing Co. Ltd. (*New Zealand Gazette* of 25 July 1968, p. 1251) that we should first consider the dictionary meaning of the word "indecent"; then, if that provided insufficient grounds for declaring the document indecent, we should have recourse to section 2 to see if it should be declared indecent within the extended sense which he claims that section provides; finally, if the document failed to survive either the first or the second test and was on the face of it indecent, we should then consider whether the provisions of section 11 (2) would save it from being so classified. In support of his argument he cited *Pickens v. Franssen* [1964] N.Z.L.R. 606. No doubt this case governs the method of approach which has generally to be pursued; but the later decision of the Full Court, in *Robson v. Hicks Smith and Sons Ltd.* [1965] N.Z.L.R. 1113, which was an appeal under the Indecent Publications Act 1963, and dealt specifically with the meaning to be ascribed to the word "indecent" where used therein, indicates that section 2 was not intended to be interpreted in the restricted way suggested by Mr Savage. Haslam J., at page 1119, says:

The use of the comprehensive verb "includes" may be explained by the presence in the definition of topics outside the customary meaning of the word "indecent" in conventional speech, viz., horror and the like. . . . It may be sufficient to suggest that the revised definition of "indecent" indicates the fact that the Act is designed to liberalise certain restrictions that previously existed, while retaining a proper measure of control of a social mischief. . . .

Also Woodhouse J., at page 1122, after setting out the definition in section 2 says:

This is not a comprehensive definition, and on this ground we were invited to hold that the term "indecent" was used in the Act with its ordinary meaning. But in my opinion there are two principal reasons against this submission. In