

7. All parties notifying the Commission in terms of paragraph 2 of this notice will be advised in due course of the Commission's intentions as to any necessary consultation and as to the granting of leave.

D. J. KERR, Executive Officer.

Commerce Commission, P.O. Box 10-273, Wellington.

#### *The Standards Act 1965—Standard Specifications Proposed for Revocation*

NOTICE is hereby given that the New Zealand standard specifications listed in the Schedule hereto have been reviewed by committees of the Standards Council and have been recommended for revocation, pursuant to the provisions of the Standards Act 1965.

Any person who may be affected by the proposal to revoke these standard specifications, and who wishes to object to their revocation, is invited to submit comments to the Standards Association of New Zealand, Private Bag, Wellington, not later than 21 April 1977.

#### SCHEDULE

##### NUMBER AND TITLE OF SPECIFICATION

NZS. 2000:— (BS 3810:—) Glossary of terms used in materials handling—

- Part 3: 1970 (BS 3810: Part 3: 1967) Terms used in connection with pneumatic and hydraulic handling.
- Part 4: 1973 (BS 3810: Part 4: 1968) Terms used in connection with cranes.
- Part 5: 1973 (BS 3810: Part 5: 1971) Terms used in connection with lifting tackle.
- Part 6: 1973 (BS 3810: Part 6: 1973) Terms used in connection with pulley blocks.
- Part 7: 1973 (BS 3810: Part 7: 1973) Terms used in connection with aerial ropeways and cableways.

NZS 2178: 1967 (BS 3947: 1965) Liquid chlorine.

Proposed for revocation on the grounds of non-usage.

Dated at Wellington this 21st day of March 1977.

DENYS R. M. PINFOLD,

Director, Standards Association of New Zealand.

(S.A. 114/2/6)

No. 882

#### *Decision of the Indecent Publications Tribunal*

IN the matter of the Indecent Publications Act 1963, and in the matter of an application by the Secretary for Justice for a decision in respect of the publication *Down Under the Plum Trees*, written by Felicity Tuohy and Michael Murphy and published by Alister Taylor of Martinborough, and in re L applicants seeking to be joined as parties to those proceedings.

##### BEFORE THE INDECENT PUBLICATIONS TRIBUNAL

Messrs L. M. Greig (Chairman), D. M. Wylie, I. R. Cross, Miss W. M. Rolleston.

Hearing: 22 February 1977.

Appearances: Mr H. R. Sorenson for Secretary for Justice, Mr A. Taylor in person (with him Mr Rosenberg), Mr G. Joseph for third party.

##### DECISION

On 21 December 1976 the Secretary for Justice made application to the Tribunal in respect of this book. At the same time he applied *ex parte*, under section 14A of the Act, for an interim restriction order, the book having become available for sale in a number of book shops in the country. As is provided under the Act, this latter application was considered urgently, without hearing other parties, and an interim restriction order was made and later extended to expire on 22 March 1977.

The hearing of the main application took place on 22 February 1977 when the Tribunal heard the Secretary, the publisher, and the evidence then presented. In addition an application was made to be joined as parties by the parents of a child whose photograph appeared in the book without permission and that on this ground he was a person likely to be affected. The Tribunal was satisfied of the merit of this application in the particular circumstances and granted the application. Submissions and evidence were given on behalf of these jointed parties.

In the course of the hearing and in submissions delivered to us thereafter the Secretary for Justice endeavoured to

persuade us to limit the hearing of evidence. We have said before and repeat that, in our view, the usefulness or relevance of evidence is very limited but, pursuant to section 6 (1) of the Act, the ordinary rules of admissibility do not apply. In practice the Tribunal receives, in some cases including this one, a wide range of representations from members of the general public as well as from the parties and their witnesses. While the weight which we place on parts of the whole of the information before us varies the wide range of information does, in our opinion, assist us in dealing effectively with the matter before us.

*Down Under the Plum Trees* is described as "a resource on sex and social development" for the purpose of, according to the publisher, providing accurate sex information for children of about 12 and upwards and of encouraging discussion among young people and between students and teachers and parents and children. There are some 260 pages of text and photographs plus an index. It includes basic information found in sex manuals. The major part of the book consists of a series of reports of interviews said to record the speech of the person interviewed with an accompanying commentary. It describes and depicts sexual practices, including some which are unlawful, and while the legal position is set out the general tenor of the book is acceptance of all kinds of sexual activity for its own sake. One of the publishers' witnesses criticised the book for its lack of attention to the emotional and human relationships of sexual activity. The language used in the book is explicit.

In isolation parts of the book are plainly indecent. What we must decide is whether, taken as a whole, the book is indecent or not. In other words whether the indecent parts are redeemed by the rest.

Turning to the matters to be taken into consideration under section 11 (1) of the Act we have no hesitation in saying that there is little literary or artistic merit in the book. The style and language is monotonous and repetitive. It may have some social value but certainly has no medical, social or scientific importance.

It is both intended for and likely to be distributed among and read by younger people from about age 12 to age 18. The price at \$5.95 does not inhibit its purchase by the youngest in that age group.

The dominant effect of the book is to emphasise the value of physical aspects of sexual activity to the exclusion of other aspects. Another effect could be to diminish the influence and advice of parents, teachers, and others. There may be some educative value in a book like this but we were impressed by the fact that witnesses who supported the book felt that its best use would be in discussion with parents or professional advisers. Its beneficial aspects are therefore limited, particularly for the younger age group at whom the book is aimed.

It is this last aspect which has caused us the most difficulty. As reading for adults its distribution would not be contrary to the public good. Unrestricted distribution of the book would mean that while young people would read it and perhaps discuss it among themselves they would be unlikely to discuss it with adults. Because of the style and tenor of the contents it is a book which, if children are to read it, should only be available through parents and professional advisers. Without that control we conclude that the book does not meet the community standards of decency. It is the opinion of the majority of the Tribunal that the appropriate classification is indecent for those under 18 unless under instruction of parents or professional advisers.

##### *Dissenting Opinion of I. R. Cross*

Having regard for what I believe to be the intention of the law and also for the intention of the publisher and authors of *Down Under the Plum Trees*, I hold that the Tribunal has only two decisions open to it in dealing with the book—to allow it to be distributed without restriction or to apply a complete restriction upon it.

Section 11 (1) (c) of the Indecent Publications Act states that in making a decision the Tribunal should take into consideration the intended readers of a book. In his submission to the Tribunal on this point, the publisher states that the book "is aimed at an audience of young people". The authors, too, have declared that this was their intention and in their book directly address young readers. The publisher also informed the Tribunal: "I have evidence that it has been read in part by 8- and 10-year-olds, while even younger children have looked at the photographs."

Section 11 (3) of the Act states that "when the Tribunal decides that any picture-story book likely to be read by children is indecent in the hands of children under a specified age that picture-story book shall be deemed to be indecent in the hands of all persons."

Although it is open to argument whether *Down Under the Plum Trees* is a picture-story book in terms of the Act, the