

Decision No. 10/84
Reference No. IND 35/83

Before the Indecent Publications Tribunal

IN the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs in respect of the following publications:

The Best of Rubber Life, Volume 1, No. 2, published by Slimwear of America Inc., U.S.A.;

Rubber Quarterly, Volume 4, No. 7, published by Eros Publishing, U.S.A.;

Rubber Quarterly, Volume 4, No. 3, published by Night Bird Magazines, U.K.

Chairman: Judge W. M. Willis.

Members: H. B. Dick, L. P. Nikera, J. V. B. McLinden, I. W. Malcolm.

Hearing on the 30th day of March 1984.

Appearances: C. Hillman for Comptroller of Customs. No appearance of importer, B. E. Purdie, Bulls.

DECISION

THESE publications were privately imported through Palmerston North Parcel Post in October 1983. Forfeiture has been disputed by the importer so that the Tribunal has been asked to classify them. It is easier in this particular case to quote in full the submissions of the Comptroller.

"These magazines consist essentially of photographic material with a minor amount of text. The theme of the publications is the use of rubber clothing and accessories in a variety of sexual activities.

The Best of Rubber Life, Volume 1, No. 2, contains a lesbian sequence as well as heterosexual scenarios. In addition, there are strong elements of domination in both the text and photographs.

Rubber Quarterly, Volume 4, No. 3 appears to concentrate on female domination, with one section on transvestism, while Volume 4, No. 7 specialises in lesbian sequences.

It is considered that all three of these publications are similar to *'Rubber and Latex Girls'* and *'The Bitch Goddesses'* in that they present deviant aspects of sex for prurient purposes. *'Rubber and Latex Girls'* was declared unconditionally indecent by the Tribunal in Decision 1077 while *'The Bitch Goddesses'*, Volume 8, No. 1 and Volume 9, No. 4 were made unconditionally indecent in Tribunal Decision 997a of 23 June 1981."

In our view these publications are little different from those we have previously classified as indecent as stated in the Comptroller's submissions. They also will be classified as indecent for reasons previously given in earlier decisions.

Dated at Wellington this 30th day of April 1984.

Judge W. M. WILLIS, Chairman.

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Decision No. 11/84
Reference No. IND 25/83

Before the Indecent Publications Tribunal

IN the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs in respect of the following publication:

The Joy of Lesbian Sex, published by Crown Publishers Inc., New York, U.S.A.

Chairman: Judge W. M. Willis.

Members: H. B. Dick, L. P. Nikera, J. V. B. McLinden, I. W. Malcolm.

Hearing on the 30th day of November 1983.

Appearances: C. Hillman for Comptroller of Customs. No appearance of importer P. L. Bedford, Nelson.

DECISION

THIS publication is a single copy privately imported air freight through Nelson. It was seized on 29 June 1983 and forfeiture has been disputed by the importer. It is referred to the Tribunal for classification.

This is a hard covered book containing 220 pages and can be called *The Complete Guide to Lesbianism*. It is collated and produced as an explicit dictionary type book and contains black and white pencil sketches as well as some pages in full colour. The models are not the same throughout and vary from nude to partially clad women. The book is well written, informative and well presented.

The subject is sensitively handled under each heading and by comparison with other manuals on lesbianism is of a superior standard. Bearing in mind that lesbianism is not outside the law, the publication cannot be considered as indecent on that basis. However, in view of some of the sketches we think it preferable to classify it indecent in the hands of persons under the age of 18 rather than to classify it as indecent. It is classified accordingly.

Dated at Wellington this 30th day of April 1984.

Judge W. M. WILLIS, Chairman.

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Decision No. 12/84
Reference No. IND 1/84

Before the Indecent Publications Tribunal

IN the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs in respect of the following publications:

"Genesis", Volume 10, No. 12, Volume 11, Nos. 1, 2, 3, 4 and 5, published by Cycle Guide Publications, U.S.A.

Chairman: Judge W. M. Willis.

Members: H. B. Dick, L. P. Nikera, J. V. B. McLinden, I. W. Malcolm.

Hearing at Wellington on the 30th day of March 1984.

Appearances: C. Hillman for Comptroller of Customs. G. F. Ellis for Importer, Gordon and Gotch Ltd.

DECISION

THESE publications are sample copies commercially imported through Auckland Parcel Post in December 1983. We understand that it is not unusual for a distributor to have sent to him sample copies of books or magazines in the hope that the distributor may purchase. This happened here. The importer has requested that they be referred to the Tribunal for classification prior to distribution.

Mr Ellis appeared on behalf of the importer and submitted that the content, theme and general balance of material in each issue of *"Genesis"* under consideration was consistent and followed a pattern familiar to the Tribunal. He suggested that it most closely resembled *"Gallery"* which was considered in Decision 1080. We would comment that in some respects it bears a resemblance to *"Penthouse"*. The August issue is different from the others because it is an anniversary issue and is expanded from the normal 116 pages to 124. A comparison of the other 5 issues shows that they follow what might almost be called a disciplined pattern. At pages 24, 30, 49, 67, 81 and 96 the regular features are introduced. The August issue is very similar except for the introduction of the extra 8 pages. Mr Ellis said that the dominant effect of the publication is clearly the presentation of sexual themes. We must agree. We would, however, be inclined to reject his submission that there is a substantial balancing context of material on non-sexual matters. We accept that there are some articles of genuine merit. We quote the 3 mentioned by Mr Ellis namely *'Justice in America'* in the July issue, *'Crime and Corruption in the U.S.S.R.'* in the October issue, and *'El Salvador: The Cruel War'* in the December issue. It is the pictorial sections which we feel could be of most interest to the buyer of this publication. We must concede that it is well produced on glossy paper. The presentation of photographs is consistently of a high standard and in the main, there are none of the objectionable elements which we have found in *"Penthouse"* (see Decisions 1033, 1053 and 1054). We accept that in the September, October, November and December issues there are photographs (mostly in the section dealing with reviews of X-rated videos) which would probably fail the "tripartite test" developed in respect of *"Penthouse"*. However, there is only one such picture in each of the 4 issues. In the main, the photographs are reasonably restrained and are no worse than those which would appear in pictorial sections of *"Penthouse"* which have been classified with an age restriction nor are they dissimilar from those in *"Gallery"* which we have classified as indecent in the hands of persons under the age of 18. I think we should make the comment that this publication as well as *"Gallery"* is very close to the border-line, and could easily go beyond that border-line if care is not taken.

Mr Hillman agreed that *"Genesis"* was analogous to *"Gallery"* but suggested that because of the photographs in the September, October, November and December issues we might consider classifying the publication as indecent. While accepting that the photographs are of the type to which we have objected, they are very different in size, detail and number. We feel that having allowed *"Gallery"* to be sold with an age restriction, we must do the same for this publication. It is classified indecent in the hands of persons under the age of 18.

Dated at Wellington this 30th day of April 1984.

Judge W. M. WILLIS, Chairman.

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