

Tribunal to consider the matter afresh in the light of the findings made by the member of this Court. This being the unanimous view of the Court the appeal is allowed and the magazines are remitted to the Tribunal for rehearing of the whole of the matter."

The matter came on for hearing before the Tribunal on 11 April 1988 and detailed legal submissions were made both by Mr Ellis on behalf of the publisher and importer and Mr Sing and Mr Wotherspoon on behalf of the Comptroller of Customs. Extensive evidence was given by D. G. Halliday, the managing director of Galaxy Publications, and the Tribunal was greatly assisted in its determination of the matter by those submissions and that evidence.

Having considered these matters afresh in the light of the findings made by the full Court of the High Court the Tribunal is unanimous in its finding that these publications because of their explicit photographs of female nudes would be injurious to younger readers and accordingly classifies each of these publications as indecent in the hands of persons under the age of 18 years.

The Tribunal is by a majority of 4 to 1 satisfied that the publications *Knave* and *Fiesta* should be the subject of the issue of a serial order in terms of section 15A of the Indecent Publications Act 1963 and orders accordingly. Mrs Barrington is not satisfied that such a serial order should be issued in respect of these publications and she will record in a separate decision her reasons for that.

Dated at Wellington this 29th day of April 1988.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal. 1
907237

Decision No. 7/88

Reference No.: IND 16/88

Application for an Ex Parte Interim Restriction Order

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of an application pursuant to section 14A of the Indecent Publications Act 1963:

In respect of the following publication:

10. Title: *One to One*, Parts 1, 2 and 3. Publisher: *Orbis Publishing Ltd.*

11. Title: *Penthouse*, May 1988, Vol. 9, No. 5. Publisher: *Penthouse International Ltd.*

Interim Restriction Order

Gordon and Gotch (NZ) Ltd. proposes to import and distribute a series of publication with the title *One to One*. The publication will be sold on the basis of one part per week and the distributor intends to conduct a media advertising campaign to attract attention to the publication. Mrs Barrington, Mr Graham, Dr Middleton and I having considered the 3 parts of this particular publication and having heard by Mr Ellis on behalf of the importer and intended distributor and Mr Wotherspoon on behalf of the Comptroller of Customs are satisfied that this is a serious publication but that it contains sexually explicit material of a kind which would be injurious to younger readers. I accordingly make an interim restriction order in respect of Parts 1, 2 and 3 of *One to One* and classify it as indecent in the hands of persons under the age of 16 years.

Penthouse, May 1988, Volume 9, No. 5 was the latest volume of that publication to arrive in New Zealand and like the other series of *Penthouse* considered by me in respect of an interim restriction order application this particular volume has been considered by the other 3 members of the Tribunal named above and by me and we are in agreement that I should make an interim restriction order in respect of *Penthouse*, May

1988, Volume 9, No. 5 with the classification that it is indecent in the hands of persons under the age of 16 years.

Dated at Wellington this 29th day of April 1988.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal. 1
907238

Decision No. 8/88

Reference No.: IND 22/88

Application for an Ex Parte Interim Restriction Order

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of an application pursuant to section 14A of the Indecent Publications Act 1963:

In respect of the following publications:

1. Title: *Penthouse Forum*, Issues January, April, May 1988. Publisher: Forum International Ltd.

2. Title: *Genesis*, Issues March, April, May 1988. Publisher: Atrium Multi-Media Corp.

3. Title: *Gallery*, Issues March, May 1988. Publisher: Montcalm Publishing Corp. (U.S.A.).

4. Title: *Park Lane*, No. 17. Publisher: Not Known.

5. Title: *Parade*, Issues 72, 73, 74, 75, 76 1988. Publisher: Not Known.

6. Title: *Parade Winter Special 1987*. Publisher: Not Known.

7. Title: *Glamour Girls*, Issues 11, 12, 13. Publisher: Not Known.

8. Title: *Mayfair*, Vol. 22, No. 8, Vol. 22, No. 11. Publisher: Fisk Publishing Co. Ltd.

9. Title: *The Best of Mayfair*, No. 7. Publisher: Fisk Publishing Co. Ltd.

Interim Restriction Order

Pursuant to section 14A of the Indecent Publications Act 1963, G. W. Ludlow, the Assistant Comptroller of Customs, applied on behalf of the Comptroller of Customs for an interim restriction order in respect of the above publications. In the normal course such an application would have been considered by me as chairman of the Tribunal without the need to refer the matter to other members. I have however because of the importance of this interim order had the application considered by 3 other members of the Tribunal who were in Wellington on 28 April 1988. I also arranged for Mr Wotherspoon who was representing the Comptroller of Customs in respect of this application and G. F. Ellis, counsel representing the importer and intended distributor Gordon and Gotch (NZ) Ltd. to appear before the other 3 members of the Tribunal and me on 28 April 1988.

In submissions made by Mr Wotherspoon and Mr Ellis it was revealed to the Tribunal that former issues of these publications or similar publications have been readily available on the New Zealand market with an R18 restriction. Some of the publications have in fact previously been the subject of a serial order in terms of section 15A of the Indecent Publications Act 1963.

The Tribunal was informed by Mr Wotherspoon and Mr Ellis that the above publications were seized by the Comptroller of Customs as either the previous serial orders had expired or no serial orders had been made in respect of these particular publications. The Tribunal members present were informed that each of the publications would be the subject of a substantive application for classification at the next sitting of the Tribunal and that they would be advertised accordingly.

After conferring with Mrs Barrington, Mrs Graham and Dr Middleton, the 3 other members of the Tribunal who were presented with me when the submissions were made by Mr