

PHILIP WOOLASTON, for Minister of Justice.

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go14217

Indecent Publications Act 1963

Decision No. 44/88

Reference No.: IND 45/88

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 for a decision in respect of the following publications: *D-Cup Honeys No. 1, D-Cup Delights No. 1, Blonde Bombshells, 38 Plus, Bustin Out No. 5, Naughty Girls, 38 Plus* (International):

Chairman: Judge R. R. Kearney.

Members: R. E. Barrington, A. J. Graham, S. C. Middleton.

Hearing at Wellington on the 13th day of October 1988.

Appearances: M. J. Wotherspoon for Comptroller of Customs. P. B. Fenemor of Rocks Marketing Services—proposed importer and distributor and on behalf of Magman International Pty Ltd., export agents for Presurn Pty the publisher of these publications.

Decision

Mr Fenemor who appeared on behalf of the importer and Australian publisher also presented for the consideration of the Tribunal a memorandum of submissions prepared and presented by B. W. Morley, solicitor of Auckland, and that memorandum of submissions has been considered by the Tribunal in reaching its determination on the matters in question. The Tribunal found that memorandum of submissions most helpful as it also found the formal evidence presented by Michael Brian Shirley, the Managing Director of Magman International Pty Ltd.

These publications were commercially imported at Auckland in July 1988 with the intention that they should be placed before the Tribunal for classification and determination. in terms of that action the publications were presented to the Tribunal by the Collector of Customs as on a seizure basis and the importer having disputed forfeiture they have been referred to the Tribunal prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966. Mr Wotherspoon on behalf of the Comptroller supports an age restriction in respect of these publications other than *38 Plus* (International) and he also advised the Tribunal that he supported a serial restriction order in respect of the publications other than *38 Plus* (International) and such a restriction order is requested by the importer.

The Tribunal reserves its decision in respect of the publication *38 Plus* (International) and notes that neither the New Zealand importer nor the Australian publisher asked that that particular publication be before the Tribunal for consideration and determination.

After considering the evidence of Mr Shirley and the submission by Mr Morley, and having read each of the magazines in question, the Tribunal has reached a determination that there is material in these publications which would be injurious to younger readers and accordingly classifies each as indecent in the hands of persons under the age of 16 years. These other publications are in fact a serial publication within the terms of section 15A of the Indecent Publications Act, although each is given a different title. The Tribunal is satisfied that although there are different titles it is possible for the Customs Department and the other authorities which will be concerned with the administering of the Tribunal's decision to identify the publications which, from henceforth, will contain on the cover the distinctive logo of Presurn Pty Ltd. (New South Wales). Each of the publications

will also be clearly identified as being published by that company and accordingly the Tribunal makes a serial restriction order in respect of this series of publications classifying them as indecent in the hands of persons under the age of 16 years.

Dated at Wellington this 14th day of November 1988.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

go14364

Decision No. 45/88

Reference No.: IND 33/88

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 for a decision in respect of the following publication: *Genesis Letters* (Summer 1988):

Chairman: Judge R. R. Kearney.

Members: R. E. Barrington, A. J. Graham, S. C. Middleton.

Hearing at Wellington on the 13th day of October 1988.

Appearances: M. J. Wotherspoon for Comptroller of Customs. G. F. Ellis for importer, Gordon and Gotch (NZ) Ltd.

Decision

This publication was imported at Christchurch in June 1988 and the Collector of Customs having seized the magazine the importer has disputed forfeiture. The publication has been referred to the Tribunal prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

Earlier copies of this particular publication have been considered by the Tribunal and in Decision 15/87 the Winter 1984 edition of the publication was classified by the Tribunal as indecent in the hands of persons under 18 years of age. The Comptroller of Customs submits that a similar classification would be appropriate in this instance and that is supported by Mr Ellis on behalf of the importer.

The publication purports to present letters from readers of *Genesis* magazine interspersed with pictorial sequences of nude or semi-nude single female models. The Tribunal is satisfied that some of the material contained in the publication would be injurious to younger readers and accordingly classifies it as indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 15th day of November 1988.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

go14365

Decision No. 46/88

Reference No.: IND 31/88

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 for a decision in respect of the following publication: *Gem* Vol. 30, No. 2 (August 1988):

Chairman: Judge R. R. Kearney.

Members: R. E. Barrington, A. J. Graham, S. C. Middleton.

Hearing at Wellington on the 13th day of October 1988.

Appearances: M. J. Wotherspoon for Comptroller of Customs. G. F. Ellis for importer, Gordon and Gotch (NZ) Ltd.

Decision

This magazine was commercially imported through parcel post at Auckland on or about 24 June 1988 and was seized by the Collector of Customs. The importer having subsequently