

R. R. KEARNEY, Chairman.
Indecent Publications Tribunal.
go22702

Decision No. 4/89
Reference No.: IND 53/88

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. 3 (November 1988):

Chairman: Judge R. R. Kearney.

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

Hearing at Auckland on the 8th day of December 1988.

Appearances: M. J. Wotherspoon for Comptroller of Customs, G. F. Ellis, counsel for publishers and distributors.

Decision

This magazine was commercially imported through parcels post at Auckland on or about 7 September 1988 and it was subsequently seized by the Collector of Customs. The importer having subsequently disputed forfeiture the publication was referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

The magazine consists essentially of photographs which have as their theme large breasts. The photographs are all of single female models but there is as mentioned by the Comptroller of Customs in Mr Wotherspoon's submission an emphasis on genitalia in a number of the photographs. Previous issues of this publication have been classified as indecent in the hands of persons under the age of 18 years in decisions 6/86 and 46/88 and both Mr Wotherspoon and Mr Ellis request that the Tribunal grant this particular publication that same classification.

In addition to that submission Mr Ellis also asked the Tribunal to consider granting a serial order in respect of the publication, it now having had those 3 particular issues the subject of the earlier decisions and this decision before it for consideration.

The Tribunal is unanimous in its decision that this particular issue should be given a classification of indecent in the hands of persons under the age of 18 years as clearly it contains material which would be injurious to younger readers. That which caused the Tribunal concern was whether the publication warranted a serial order in terms of section 15A of the Indecent Publications Act. There are aspects of the magazine which have been of concern to the Tribunal and the Tribunal does not find that there is such a consistency in the material published as would enable it at this time to grant the serial order sought. The Tribunal would be happy to reconsider that particular application when further copies of the publication are available for consideration by the Tribunal.

As earlier indicated the Tribunal classifies this particular edition of the publication *Gem* as indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 3rd day of May 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go22704

Decision No. 5/89
Reference No.: IND 55/88

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: *Friction*, November 1988; *The Best Colt Men*, Issue 1:

Chairman: Judge R. R. Kearney.

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

Hearing at Auckland on the 8th day of September 1988.

Appearances: M. J. Wotherspoon for Comptroller of Customs, G. A. Ireland, counsel for the Lawrence Publishing Company (NZ) Ltd.

Decision

These publications were commercially imported in September of 1988 through the port of Auckland. The Collector of Customs at Auckland seized these issues and the importer having subsequently disputed forfeiture the publications have been referred to the Tribunal prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

The Best Colt Men, Issue 1

This publication is similar to other *Colt* publications and consists of photographs of nude or semi-nude males and there is very little text. In decision 34/88 of 14 October 1988 the Tribunal issued a serial restriction order ruling that all *Colt* publications are indecent in the hands of persons under the age of 18 years. This particular issue was however imported prior to the serial restriction order coming into force and accordingly is not covered by that order. The Tribunal is satisfied that the publication contains material which would be injurious to younger readers and classifies it as indecent in the hands of persons under the age of 18 years.

Friction, November 1988

In respect of this publication Mr Ireland on behalf of the importer requests that consideration be given by the Tribunal to granting a serial restriction order within the age restriction of 18 years. In addition to this particular publication the Tribunal also had before it the December 1988 issue and the same request has been made by Mr Ireland in respect of that particular file that a serial order be granted.

The Tribunal finds no difficulty in reaching its unanimous decision that both publications of *Friction* before it contain material which would be injurious to younger readers and accordingly it classifies this particular edition of November 1988 as indecent in the hands of persons under the age of 18 years. The Tribunal has given very careful consideration to Mr Ireland's request for a serial restriction order but it is not satisfied that there is a consistency in the publication of the kind which would justify the making of such an order at this time. There are some aspects for example of the November 1988 which cause the Tribunal concern and these in particular relate to the drawings which appear throughout the publications. Accordingly the application for the serial order is refused.

Dated at Wellington this 3rd day of May 1988.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go22705

Decision No. 6/89
Reference No.: IND 4/89

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: *Golden Girls*, No. 5; *Bra Busters*, No. 2; *Naked Nymphs*, *Oui*, April 1974; *Oui*, January 1975; *Gem*, October 1986; *Gem*, April 1988; *Joy Stickers*, No. 5; *Genesis*, November 1985; *Genesis*, December 1985; *Genesis*, January 1986; *Genesis*, August 1986; *Genesis*, March 1987; *Genesis*, April