

Customs at Auckland and the Auckland City Public Libraries has subsequently disputed forfeiture.

The Comptroller in his submission to the Tribunal states that the publication is an informative book containing detailed information on the various methods of birth control. The only reason why the Comptroller sees this book as requiring a classification from the Tribunal is because of the requirements of the Contraception, Sterilisation and Abortion Act 1977, the provisions of which may require a ruling that the publication is indecent in the hands of persons under the age of 16 years.

I have taken the opportunity to discuss this publication with the other members of the Tribunal and all are agreed that the publication is a professional one and that the only reason why an age restriction would be required is because of the inclusion of advice on contraception. An interim restriction order is accordingly made classifying this publication as indecent in the hands of persons under the age of 16 years.

Dated at Wellington this 29th day of May 1990.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go9795

Decision No. 18/90

Reference No.: IND 19/90

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: *Be Yourself*. Publishers: Penguin Books, Australia:

Interim Decision

This publication was imported on behalf of a local authority who proposed to place this book in libraries under its control subject to an age restriction.

The publication was seized by the Collector of Customs at Auckland and the importer has subsequently disputed forfeiture.

The publication is an informative book containing advice and guidance on social and sexual matters. The publication contains detailed contraceptive advice and based on the requirements of the Contraception, Sterilisation and Abortion Act 1977 this requires of the Tribunal that it place in due course an age restriction on this publication.

During the course of the hearing of the Tribunal at Wellington on 23 May 1990, I took the opportunity of discussing this publication with the other members of the Tribunal and all members agree that in due course this publication should be given a classification as indecent in the hands of persons under the age of 16 years.

I am satisfied that an age restriction on this present interim application is justified and accordingly I issue a section 14A restriction order declaring this publication to be indecent in the hands of persons under the age of 16 years.

Dated at Wellington this 29th day of May 1990.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go9796

Decision No. 19/90

Reference No.: IND 27/90

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of a referral by the Wellington District Court pursuant to section 12 (1) of the Indecent Publications Act

1963 in respect of the following publication: *Foxy Magazine*. Publishers: Foxy Magazine:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 23rd day of May 1990.

Appearances: No appearance by police prosecutor. No appearance by or on behalf of defendant.

Decision

This publication comes before the Tribunal as the result of the laying of an information CRN9085021306 in the District Court, Wellington on 23 November 1989 against the person named therein as defendant alleging that he did on the 7th day of July 1989 at Wellington have in his possession for sale an indecent document namely *Foxy Magazine*, a charge laid under the provisions of section 21 (1) (a) of the Indecent Publications Act 1963. The information has endorsed on it that the Attorney-General has given leave to the police to prosecute the defendant for the offence set out in the information.

On 23 March 1990 the publication, the subject of the prosecution in the Wellington District Court, was referred to the Tribunal in terms of section 12 (1) of the Indecent Publications Act 1963 to determine the question as to whether the publication is indecent within the meaning of the Act or is indecent in the hands of persons under a specified age or is indecent unless its circulation is restricted to specified persons or classes of persons or unless used for a particular purpose as the case may be.

The Tribunal was advised by an officer of the Tribunal that advice had been received from both the police and counsel representing the defendant that neither the police nor the defendant would be represented at the hearing before the Tribunal, the matter simply being left for determination by the Tribunal in terms of the Indecent Publications Act 1963.

The publication is in magazine form and is a glossy 71-page production. There are 6 pages of photographs of advertisers or in some cases photographs of their genitalia. Many of the photographs are unobjectionable being of clothed persons in normal poses. Other photographs are of naked or partly clad male or female persons in pose positions accentuating their genitalia. Two photographs in a section between pages 36 and 37 show in the 1 case a male and a female person in the act of sexual intercourse and in the other 2 female persons in the act of oral intercourse. On the inside of the back cover of the magazine there is a photograph of the trunk and upper legs of a female person showing her holding a vibrator against her vagina.

Within the magazine appear approximately 15 pages of advertisements many of which are of persons seeking parties for a variety of sexual activities whilst a considerable number of others are within the category of simple lonely hearts advertisements.

The remainder of the magazine is of written material covering a great variety of topics. Under a heading "Cancer & Aids Are A Piece of Cake To Heal And Prevent" there follows 12 pages dealing with a great variety of medical subjects and although it is not possible on a careful reading of all of that material to say precisely what the author is setting out to achieve, the theme appears to be one that most illnesses and diseases are readily treatable by vitamins or by some simple processes. The remainder of the magazine is filled up with a pot pourri of paragraphs most of which deal with women or children and in particular those persons in relation to their sexuality. There are a number of other paragraphs throughout the publication which defy any rational categorisation and all of this is preceded by an editorial on page 2 by the editor indicating that this is a first production of the magazine which informs the