

Decision

This publication was commercially imported through sea freight, Auckland on or about 28 March 1990 and was seized by the Collector of Customs. The importer having subsequently disputed forfeiture the publication has been referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

In the main the publication is a collection of letters from readers describing their sexual experiences. It also contains a number of photographs showing sexual intimacy between couples.

In expressing the view that this publication is similar in format to the publication *Australian Penthouse Sex Scenes*, No. 1, Mr Wotherspoon drew the Tribunal's attention to decision No. 92/89 in which the latter publication was classified as indecent in the hands of persons under the age of 18 years. Mr Wotherspoon also drew the Tribunal's attention to the publication *Australian Variations for Liberated Lovers* which, in decision No. 69/89 and 15/87, was classified as unconditionally indecent. Clearly Mr Wotherspoon was equivocal as to the classification which should be given to this publication.

For Gordon & Gotch (NZ) Ltd. Mr Ellis, in conceding that the magazine contains some photos of sexual intimacy, submitted however that they were not so gross and explicit as to be injurious to the public good. Mr Ellis argued that the magazine should be classified R18 because its content is low key and unobjectionable when compared to similar materials which have been so classified by the Tribunal. Because the photos of sexual intimacy are black and white and reasonably small in size Mr Ellis argued that they do not dominate the magazine and are somewhat similar to a number of issues of the magazine *Penthouse Forum* which in the past have been classified as indecent in the hands of persons under the age of 18 years. If the Tribunal was left in any doubt then Mr Ellis submitted that this publication should be given the benefit of that doubt. The Tribunal knows of no authority for this proposition and does not accept it as a valid submission. However the members of the Tribunal are in general agreement that the overall effect of this magazine cannot fairly be said to be injurious to the public good. The Tribunal is satisfied that this magazine contains material of a nature which would be injurious to younger readers and therefore classifies it as indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 19th day of July 1990.

P. J. CARTWRIGHT, Chairperson.

Indecent Publications Tribunal. 5
go11620

Decision No. 41/90
Reference No.: IND 21/90

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: *New Direction*, No. 178. Publisher: Gold Star Publications Ltd.:

Chairperson: P. J. Cartwright.

Members: R. E. Barrington, W. K. Hastings and S. C. Middleton.

Hearing at Wellington on the 28th day of June 1990.

Appearances: M. J. Wotherspoon on behalf of the Comptroller of Customs. No appearance by or on behalf of the importer.

Decision

Mr Wotherspoon's submission states that this publication was privately imported through parcels post, Wellington in

November 1988 and was seized by the Collector of Customs. The importer having subsequently disputed forfeiture the publication has been referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

New Direction, No. 178 is a glossy type publication containing stories, articles, jokes, cartoons, letters and a personal contact section. All the material is of a sexual nature. The magazine also contains multiple model scenes of men and women engaging in sexual activity.

In his submission Mr Wotherspoon informed the Tribunal that the Customs Department referred 7 issues of *New Direction*, including issue No. 178, to the Tribunal for classification in November 1987. Although 6 issues of *New Direction* were declared to be unconditionally indecent in Decision No. 19/88, Mr Wotherspoon informed the Tribunal that this decision did not include issue No. 178.

For the same reasons as stated by the Tribunal in decision 19/88 the Tribunal classifies this magazine as unconditionally indecent.

Dated at Wellington this 19th day of July 1990.

P. J. CARTWRIGHT, Chairperson.

Indecent Publications Tribunal. 5
go11619

Decision No. 40/90
Reference No.: IND 17/90

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: *Shaved*, Vol. 15, No. 1; *Shaved*, Vol. 15, No. 2; *Shaved Girl Review*, Vol. 1, No. 1; *Shaved Girl Review*, Vol. 1, No. 2; *Snatch*, Vol. 6, No. 1; *Split Beavers*, Vol. 7, No. 4; *The Girls Next Door*, Vol. 1, No. 1; *Tight Pussies*, Vol. 2, No. 1. All of the above titles published by American Art Enterprises:

Chairperson: P. J. Cartwright.

Members: R. E. Barrington, W. K. Hastings and S. C. Middleton.

Hearing at Wellington on the 28th day of June 1990.

Appearances: M. J. Wotherspoon on behalf of the Comptroller of Customs. No appearance by or on behalf of the importer.

Decision

These publications were privately imported through Auckland on 5 February 1990 and were seized by the Collector of Customs. The importer having subsequently disputed forfeiture, the publications were referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

Prior to the sitting of the Tribunal B. N. Cheeseman of Waverley International 1988 Ltd. had applied to the Chairman of the Tribunal to be joined as a party in respect of this application. His application was made on the grounds that he acts as distributor in New Zealand for the publisher and in the last 2 years has had various issues of the titles in this application classified by the Tribunal. Mr Cheeseman's application to be joined as a party to the proceedings in respect of this application was considered by the members of the Tribunal and oral notification of the grant of such application was made by the chairperson at the sitting of the Tribunal prior to the hearing of this application.

All of these magazines contain photographs of single female models with very little accompanying text. The photographs place undue emphasis on the female genitalia, with many models posed in contrived positions to accentuate that part of