

Decision No. 27/90  
Reference No.: IND 64/89

### Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Society for Promotion of Community Standards Incorporated for a decision in respect of the following publications: *Raunchy*, Issues 3, 5 and 10. Publisher: Raunchy Publishing, Victoria; *Private Lives*, Vol. 1, Issues 2, 5 and 6. Publishers: Aotearoa Publishing and Distribution Limited, Upper Hutt; *Key Club*, Issues 10 and 13. Publisher: Key Publishing, Auckland; *Key Contacts*, Issue No. 1. Publisher: Key Contacts, Auckland:

*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 28th day of November 1989 and the 20th day of February 1990.

*Appearances:* Reverend Gordon Dempsey for the Society for the Promotion of Community Standards Incorporated. Fritz Peterson, director of Aotearoa Publishing and Distributing Company Limited—publishers of *Private Lives*. G. A. Ireland, counsel for Aotearoa Publishing and Distributing Company Limited.

### Decision

In November 1989 P. M. Bartlett, in her capacity as director of the Society for Promotion of Community Standards Incorporated, was granted leave by the Minister of Justice for the society to submit all of the publications the subject of this decision to the Indecent Publications Tribunal for a decision as to whether they were indecent or not or for a decision on their classification. That leave was granted in terms of the provisions contained in section 14(2) of the Indecent Publications Act 1963.

The publications, having been circulated to and read by the members of the Tribunal, were set down for hearing at the public sitting of the Tribunal held in Wellington on 28 November 1989. Prior to that hearing the Tribunal had received written notice from Alan J. Douglas, managing director of Aztec Publishing Limited, the publishers of *Taboo* magazine, in which he referred to his firm having received no official notification about *Key Club*, *Key Contacts* and *Raunchy* magazines. His letter concluded with these words:

"If it is true that these magazines have been slotted in at the last minute, would you please notify us so we can consider whether or not we wish to defend, and whether we even have enough time to do so. Thank you."

It was noticed that a copy of that letter had been sent to H. Romanuik of Messrs Yolland and Romanuik, solicitors of Auckland who presumably were the solicitors representing Aztec Publishing Limited.

On 27 November 1989 the secretary of the Tribunal received a letter from Messrs Yolland and Romanuik advising that they had been instructed by Key Publishing, Auckland in respect of the publications *Key Club*, *Key Contacts* and *Raunchy* and as they had not had the opportunity to prepare the matter for hearing they asked for an adjournment in respect of the hearing of those particular publications. A request was also received from Mr Peterson for consideration of the publication *Private Lives* being adjourned to a later sitting to enable full representations to be made on behalf of his company in respect of that publication. The Tribunal granted the application for adjournment in respect of all of those publications until the next sitting of the Tribunal.

It is appropriate that I should also refer to indecent publications file 66/89 which relates to the publication *Taboo* issues 1, 3 and 5 which issues are the subject of decision No. 88/89 dated 7 March 1990. Those publications were also

brought to the notice of the Tribunal as the result of leave granted to Miss Bartlett in her capacity as director of the Society for Promotion of Community Standards Incorporated and at the hearing considerable evidence was given by the Reverend Gordon Dempsey on behalf of the society and by P. B. Fenemor, the managing director of the distributing company for the magazine. Substantial written submissions were also received from Mr Douglas the managing director of Aztec Publishing Limited to whom I have earlier referred. I refer to that particular decision because much of what was written in that decision is relevant in respect to the publications presently under consideration. I also mention the publication *Taboo* because of the tie up between Aztec Publishing Limited and the publications *Key Club*, *Key Contacts* and *Raunchy*. In addition to Mr Douglas's letter to the Tribunal and the subsequent letter from the solicitors acting for his company, the Tribunal also received a fax from Mr Douglas, from Tweed Heads in New South Wales, on Aztec Publishing Limited letterhead, in which he apologised for not submitting a written defence, in respect of *Key Club*, *Key Contacts* and *Raunchy*, explaining that he had been prevented from doing so because of family reasons and concluding by stating:

"... I had fully intended defending all of these magazines but events short circuited my efforts."

The Tribunal is still uncertain as to the relationship between Mr Douglas and the magazines before it in respect of the present application but there is certainly a marked similarity in respect of these publications and the publication *Taboo*.

The matter then came back before the Tribunal for consideration at its sitting in Wellington on 20 February 1990 when substantial oral and written submissions were presented to the Tribunal together with a significant amount of evidence. In the formal hearing in respect of the publication *Taboo*, the Tribunal had presented to it, for its consideration, a public opinion poll conducted by the National Research Bureau Limited in respect of "New Zealander's Opinions Regarding New Indecency Definitions". That public opinion poll had been prepared for the society and was dated October 1989. That opinion poll was also referred to in the evidence and submissions given before the Tribunal in respect of the matter presently under consideration and the Tribunal is aware that Mr Ireland who appeared at the hearing, as counsel for the publishers of *Private Lives*, had previously had a copy of that opinion poll and that the Chief Film Censor, Arthur Everard, who was called as a witness by Mr Ireland in respect of the publication, *Private Eye* had also had the opportunity of considering that public opinion poll. That knowledge was inadvertently brought to the notice of the Tribunal as Mr Ireland's fax letter to Mr Everard, discussing Mr Everard appearing as a witness before the Tribunal together with copies of various documents, was sent to the Indecent Publications Tribunal by fax on 15 February 1990. Mr Everard had those documents faxed to him and he was advised that the letter and documents had been received by the Tribunal in error.

As one of the exhibits presented by the Society for Promotion of Community Standards Incorporated, a substantial extract from the publication *How Pornography Changes Attitudes* by David Alexander Scott was made available for the consideration of the Tribunal.

The 9 magazines, the subject to this decision, had been purchased from various retail outlets, most of which appeared to have been suburban dairies. Some of them, we were informed were placed in positions where they could have been within reach of children browsing in those dairies. I will now deal with each of the magazines in general outline.

### *Raunchy*

*Raunchy*, No. 3 is described on its front cover as "New Zealand's Hottest, No Nonsense Girlie Magazine!". It consists of a series of short articles, an editorial on molesters, a