

class or group. But the issue of whether something is demeaning is not currently available to the Tribunal to apply in reaching a decision.

Matters which the Tribunal is to take into consideration are contained in section 11 of the Indecent Publications Act 1963. Two matters are appropriately considered against *Private Lives*, namely:

“The dominant effect of the book or sound recording as a whole” [section 11 (1) (a)], and

“Whether the book or the sound recording displays an honest purpose and an honest thread of thought or whether its content is merely camouflage designed to render acceptable any indecent parts of the book or sound recording.” [section 11 (1) (f)].

The cover of *Private Lives* advertises itself as “The Adult Contact Magazine” and at most 8 of the final 80 pages of each issue provide information for advertisers who wish to make contact with others. The dominant effect of the publication is not that of a contact magazine, but rather results from the coloured sexually explicit photographs and other black and white photographs of the magazine. The honesty of purpose of the magazine must be questioned.

It is increasingly hard for the Tribunal to argue that such material as *Private Lives* is injurious to the public good *per se* given the case law post *Lawrence* and post *Comptroller of Customs v. Gordon and Gotch (NZ) Ltd.* without developing new precedents; but because the law on what is indecent in publications, films and videos is in such a mess, and in so great a need of a comprehensive overhaul by the legislators, now is not the time to further modify the criteria and set new benchmarks. Accordingly the decision is that these publications are classified as unconditionally indecent.

Dated at Wellington this 9th day of July 1990.

R. E. BARRINGTON, Member.

Indecent Publications Tribunal. 5  
go11606

Decision No. 29/90

Reference No.: IND 41/90

### 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: *Shaved Pussies*, Vol. 1, No. 2. Publisher: 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 importer.

### Decision

Prior to consideration of this application the chairperson of the Tribunal had received an application from B. N. Cheeseman of Waverley International 1988 Ltd. to be joined as a party to these proceedings pursuant to regulation 6 of the Indecent Publications Regulations 1964. Mr Cheeseman's application was made on the grounds that he was likely to be affected because he acted as distributor in New Zealand for the publisher and in the past 2 years has had various issues of this title classified by the Tribunal. The application was considered by those members present at this sitting of the Tribunal and, immediately after this application was called the chairperson informed those present that the application to be joined as a party to the proceedings had been granted by the Tribunal.

This publication was privately imported through Napier on or about 15 February 1990 and was seized by the Collector of

Customs. The importer having subsequently applied for waiver of forfeiture the publication has been referred to the Tribunal for a decision as to its classification.

The magazine contains 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 the female anatomy. As was pointed out by Mr Wotherspoon similar type publications have been considered by the Tribunal in the past and classified as indecent in the hands of persons under the age of 18 years (reference decision No. 47/89). Mr Cheeseman made a similar submission.

The Tribunal agrees that there is content in this publication which would be injurious to younger readers and classifies it as indecent in the hands of persons under the age of 18 years. The Tribunal adds the further restriction on its sale or distribution that it not be publicly displayed.

Dated at Wellington this 19th day of July 1990.

P. J. CARTWRIGHT, Chairperson.

Indecent Publications Tribunal. 5  
go11607

Decision No. 30/90

Reference No.: IND 39/90

### 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: *Hustler Humor*, Vol. 13, Issue 3. Publisher: H. G. Publications Inc.; *Oriental Lovers*, No. 5. Publisher: London Enterprises Ltd.; *Oriental Pussy*, Vol. 2, No. 4. Publisher: 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 importer.

### Decision

These publications were privately imported through parcels post, Auckland on or about 4 April 1990 and were seized by the Collector of Customs. The importer having subsequently disputed forfeiture the publications have been referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

The 2 classes of publications in this application will be dealt with separately by the Tribunal.

*Hustler Humor*, Vol. 13, Issue 3

As the name suggests this publication consists mainly of cartoons with a few written jokes, all of which are of a sexual nature. Mr Wotherspoon drew the Tribunal's attention to similar type joke books which were considered by the Tribunal in decision 10/87 and classified as indecent in the hands of persons under the age of 18 years.

A significant proportion of the cartoons and the written materials are of a racist and sexist nature. This publication is in very poor taste. The Tribunal is satisfied that this publication should be classified as indecent in the hands of persons under the age of 18 years and orders accordingly.

*Oriental Lovers*, No. 5 and *Oriental Pussy*, Vol. 2, No. 4

These publications contain photographs of single female models with very little accompanying text. The photographs place undue emphasis on the female genitalia with the models posed in contrived positions to accentuate that part of the