

Holiday Issue 1989, the Tribunal has given a decision in respect of the publication *Genesis*, 1989, Vol. 17, No. 5, classifying that particular issue as unconditionally indecent, but for the reasons expressed in that decision not on that occasion cancelling the serial restriction orders.

In his submission Mr Wotherspoon for the Comptroller of Customs, mentioned that the issue presented to the Tribunal does not comply with the undertaking for the overprinting of the video review segment of the magazine, a section which contains pictures of heterosexual and female sexual activity and which undertaking to overprint resulted in the Tribunal granting a serial restriction order, classifying the publication *Genesis* as indecent in the hands of persons under the age of 18 years. Mr Wotherspoon also drew to the Tribunal's attention a segment entitled "Maybelline and Lucille" on pages 40-45 of the publication which includes multiple model scenes of sexual activity between 2 females. In his submission to the Tribunal Mr Ellis firstly invited the Tribunal (as he has on a number of occasions) not to classify the publication as indecent simply because one of the legs of the tripartite test had been breached. He also invited the Tribunal to consider whether in fact the activity displayed in the "Maybelline and Lucille" feature is of such a nature that it should come within the prescription of multiple sexual activity of models in that leg of the tripartite test. Mr Ellis also advised the Tribunal that the publication of this particular volume intended for sale did have the video review section overprinted and he provided a copy of that overprinting for the consideration of the Tribunal. For the same reasons expressed in the contemporaneous decision earlier referred to, the Tribunal finds this publication unconditionally indecent and so classifies it because of the "Maybelline and Lucille" feature.

Australian Penthouse Letters, No. 25.

The Tribunal agrees with the argument of the Comptroller of Customs supported by Mr Ellis and because there is content which would be injurious to younger readers classifies this publication indecent in the hands of persons under the age of 18 years.

Australian Penthouse Sex Scenes, No. 1.

The Comptroller of Customs invites the Tribunal to classify this publication indecent in the hands of persons under the age of 18 years, because of some of the scenes presented and that is supported by Mr Ellis. The Tribunal accordingly classifies this publication as indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 9th day of January 1990.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

go5288

Decision No. 91/89

Reference No.: IND 61/89

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 publication: *True Blue*, No. 8 (Soft Edition):

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 28th day of November 1989.

Appearances: M. J. Wotherspoon for Comptroller of Customs. G. Marr and G. Pene, representatives of publishers and distributors.

Decision

This publication was privately imported through parcel post, Auckland on 12 October 1989 and was 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.

True Blue is an Australian magazine of heterosexual orientation and consists principally of photographs of nude or partly clothed female models, short articles, cartoons and video reviews. The magazine is produced in 2 versions which are commonly called the "Soft Edition" and the "Hard Edition". Issues No. 3 and 4 of the soft version were referred to the Tribunal in October and November 1988 and were classified as indecent in the hands of persons under the age of 18 years in Tribunal decisions 36 and 49/88, and the Comptroller of Customs supports the classification on the same basis in respect of this edition.

Prior to the sitting of the publication Mr Marr and Mr Pene made available to the Tribunal copies of the following publications:

Beach Babies, No. 2.

Bra Busters, No. 3.

Big 'n' Bouncy, No. 3.

The Best of Boobs and Bums.

Naked Nymphs.

True Blue, No. 9 (Soft Edition).

Copies of those publications were also made available for consideration by the Comptroller of Customs.

At the hearing Mr Marr requested that the Tribunal give consideration to the issue of a serial restriction order classifying this line of publications, all of which contain different titles as indecent in the hands of persons under the age of 18 years. Mr Wotherspoon on behalf of the Comptroller of Customs supported that application.

The Tribunal has previously expressed in its decisions, in respect of the earlier editions of *True Blue*, its finding that the portrayal of the female nude figure in these publications is restrained, with no undue emphasis on the female genitalia. The Tribunal finds that same restrained display in all of the publications presently before it for consideration, and in respect of all of these publications, including those in the schedule, classifies them as indecent in the hands of persons under the age of 18 years and it is not required that those publications in the schedule should be the subject of separate application. The Tribunal is also satisfied that there is a consistency of presentation and that the serial restriction order should be and is issued with respect of these publications, classifying them as indecent in the hands of persons under the age of 18 years.

Because the publications are published under different titles the serial restriction order is to be confined to the Soft Edition publications which have at the top of the front cover the statement "ANOTHER HIGH CLASS AUSTRALIAN EROTIC MAGAZINE FROM THE *TRUE BLUE* STABLE".

Dated at Wellington this 9th day of January 1990.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

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Law Practitioners Act 1982

Manawatu, Taranaki and Wanganui District Law Society Disciplinary Tribunals

Pursuant to section 103 (2) (b) of the Law Practitioners Act 1982, His Excellency the Governor-General has been pleased to appoint:

John Stewart Robson, managing director of Palmerston North,

as a lay member of the Manawatu, Taranaki and Wanganui