



Aboriginal Law Bulletin

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Howie, Ross --- "Pitjantjatjara Council Inc and Peter Nganingu v John Lowe and Lyn Bender (Injunction to prevent display and sale of photographic slides - slides from collection of late Dr C. Mountford - slides showing secret ceremonies)" [1982] AboriginalLawB 30; (1982) 1(4) Aboriginal Law Bulletin 10

- [Pitjantjatjara Council Inc And Peter Nganingu V John Lowe And Lyn Bender](#)
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Pitjantjatjara Council Inc and Peter Nganingu v John Lowe and Lyn Bender

Injunction to prevent display and sale of photographic slides - slides from collection of late Dr C. Mountford - slides showing secret ceremonies.

Pitjantjatjara Council Inc and Peter Nganingu v John Lowe and Lyn Bender

Supreme Court of Victoria (Crockett J)

25 and 26 March 1982

Casenote by Ross Howie

The Weekend Australian (20-21 March) carried the story, 'Aborigines Angered at Auction of Anthropologist's Photos of Secret Rites'. It told of the proposed auction of more than one

thousand lantern slides which formed part of a comprehensive study of Aboriginal culture by the late Charles Mountford. It said that more than one hundred of the slides dealt with secret ceremonies. Despite emphatic opposition to the sale by the Pitjantjatjara Council, the auctioneer Lyn Bender declared her intention to proceed with the auction on 20 April.

Representatives of the Pitjantjatjara Council came to Melbourne on 25 March and on the afternoon of that day issued a generally endorsed writ (No. 1796 of 1982) and a summons in chambers seeking injunctions to restrain the owner of the slides (Mr Lowe) and the auctioneer from displaying or selling the slides. The general endorsement pleaded that the slides were taken by Dr Mountford as confidential information for his own personal use, and not otherwise. Affidavits in support of the application were made by Peter Nganingu, the second-named plaintiff and a member of the Pitjantjatjara people, and by Daniel Vachon, an anthropologist employed by the Pitjantjatjara Council.

In the course of his submissions on the issue of confidentiality, counsel for the plaintiffs referred to the decision of Muirhead J of the NT Supreme Court concerning Dr Mountford's book, *Nomads of the Australian Desert: Foster v Mountford and Rigby Ltd.*, (1976) 14 ALR 71. Reference was also made to *Duchess of Argyll v Duke of Argyll* [1967] Ch.D. 302 and to *Attorney General v Jonathon Cape Ltd.*, [1976] QB 752.

Interlocutory orders were made requiring the defendants to deliver up possession of any slides that related to or recorded any of the philosophical or religious traditions of the Pitjantjatjara people to the Supreme Court Prothonotary and restraining the defendants from selling or displaying the slides. These orders enabled the slides to be inspected by representatives of the Pitjantjatjara Council who selected the slides dealing with secret/sacred material. Subsequently final orders were made declaring that the property in and ownership of these selected slides, photographs and negatives vested in the Pitjantjatjara Council for and on behalf of the Pitjantjatjara, Yankuntjatjara and Ngaanyatjara peoples.

Mr R. Merkel for the plaintiffs.

Mr D. Kendal for the defendants.