



## HIGH COURT OF AUSTRALIA

Public Information Officer

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### THE QUEEN v WEI TANG

The High Court of Australia today upheld the slavery convictions of a Melbourne brothel owner and overturned the orders of the Victorian Court of Appeal for a new trial.

Ms Tang was convicted in 2006 of five counts of intentionally possessing a slave and five counts of intentionally exercising a power of ownership over a slave, contrary to section 270.3(1)(a) of the Commonwealth *Criminal Code*. She was sentenced to 10 years' imprisonment, with a non-parole period of six years. Ms Tang was the first person convicted under the anti-slavery laws, introduced in 1999. The charges related to five women, all Thai nationals.

Ms Tang owned a licensed brothel, Club 417, at 417 Brunswick Street, Fitzroy, in Melbourne. She held a 70 per cent interest in a syndicate which bought four of the women with the remaining 30 per cent held by a co-accused, DS, who negotiated with recruiters in Thailand, and her associates. The fifth woman was brought to Australia by other "owners". She worked in another brothel, then was moved to Club 417. Customers at Club 417 were charged \$110. Ms Tang retained \$43 in her capacity as brothel owner plus 70 per cent of the remaining \$67 for four of the women and DS and her associates received 30 per cent. In relation to the fifth woman, after Ms Tang took her \$43 fee, the other \$67 was divided between her owners. Each woman had a debt of \$45,000. It reduced by \$50 per customer. The women worked six days a week, serving up to 900 customers to pay off their debt. If they worked a seventh day, they could keep the \$50 per customer, while Ms Tang got \$43 and the remaining \$17 was divided among syndicate members. The women were not usually under lock and key, but they had little money and limited English, their passports were retained, their visas had been obtained illegally, they feared detection by immigration authorities, and they worked long hours. The evidence was that they were well provided for. Two women paid off their debts in six months and restrictions on them were lifted, their passports were returned, they were paid and they could choose their hours of work.

The Court of Appeal of the Supreme Court of Victoria held that the directions given to the jury were inadequate, quashed each conviction, and ordered a new trial on all counts. It held that the jury should have been instructed that the prosecution had to prove that Ms Tang had the knowledge or belief that the powers being exercised were through ownership, as well as proving an intention to exercise those powers. The prosecution appealed to the High Court and Ms Tang sought special leave to cross-appeal on three grounds against the order for a new trial rather than an acquittal.

The High Court allowed the appeal by a 6-1 majority and overturned the order for a new trial. It held that the prosecution had made out the required elements of the offences and did not need to prove what Ms Tang knew or believed about her rights of ownership. The prosecution did not need to prove that she knew or believed that the women were slaves. The critical powers she exercised were the power to make each woman an object of purchase, the capacity to use the women in a substantially unrestricted manner for the duration of their contracts, the power to control and restrict their movements, and the power to use their services without commensurate compensation.

The Court unanimously granted Ms Tang special leave to cross-appeal on the first two grounds concerning the meaning and constitutional validity of section 270.3(1)(a) but dismissed the cross-appeal. It held that Parliament had the power to make laws with respect to external affairs, in this case by section 270 giving effect to Australia's obligations under the Slavery Convention. The Court refused special leave on the third ground, that the Court of Appeal failed to hold that the jury's verdicts were unreasonable or could not be supported by the evidence. Because the Court of Appeal allowed the appeal against conviction, it did not deal with Ms Tang's sentence, so the High Court remitted that question to the Court of Appeal for its consideration.

- This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.