

criticism. A fair-minded and informed viewer might well have been able to work out what the script was meant to say. But that is not what it said. And the impact of the statement may have been intensified by the usual practice of showing the full script of this programme in captions and narrating the voice-over in a careful, deliberate manner.

Mr Frey touched on one point which the corporation did not take: It is possible that the statement in its most literal sense is true. The scriptures of some major religions contain violent passages. For example, the Christian precept that "... if thy right hand offend thee, cut it off ..." (Matthew 5:30) surely involves violence and bloodshed. If there are similar sayings in the Koran, we could imagine the statement being unexceptionable in, for example, a discussion programme about the range of interpretations of Islam. But that was not the setting in which the statement was made here.

The complaint is upheld.

Co-opted Members

The Tribunal co-opted Messrs B. W. Stephenson and A. H. Kocabas as persons whose qualifications or experience were likely to be of assistance in dealing with the complaint. They took part in the deliberations of the Tribunal but the decision is that of the permanent members.

Dated this 7th day of November 1986.

Signed for the Tribunal:

B. H. SLANE, Chairman.

Decision No. 13/86
Reference No. IND 3/86

Before the Indecent Publications Tribunal

IN the matter of an application by the Comptroller of Customs for a decision in respect of the following publication: *Hustler*, Vol. 12, No. 6:

Chairman: Judge R. R. Kearney.

Members: Mrs H. B. Dick, Mrs R. Barrington, Mr A. J. Graham and Ms K. Hume.

Hearing: 11 June 1986, Wellington.

Decision: 13 November 1986.

Appearances: No appearance of importer, Mr K. Wild for Comptroller of Customs.

DECISION

THIS magazine was privately imported through the port of Auckland by parcel post in December 1985. The magazine was seized and the importer subsequently disputed seizure. The magazine has been referred to the Tribunal by the Comptroller of Customs for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

The tribunal has previously considered the publication *Hustler* and in its decision No. 1032 of 7 October 1982 found Vol. 8, No. 10 of that publication to be unconditionally indecent.

In his submission to the Tribunal the Comptroller points out that there is one particular sequence under the title *15½—The Dark Bros. Devil in Miss Jones*, which contains a high degree of intimacy between 2 female models and 1 male model with such sexual acts as fellatio, cunnilingus and intercourse clearly depicted.

The Tribunal is unanimous that the publication offends against the tripartite test to such a degree that it must be classified as unconditionally indecent. It so classifies it.

Dated at Wellington this 13th day of November 1986.

Judge R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

Decision No. 14/86
Reference No. IND 4/86

Before the Indecent Publications Tribunal

IN the matter of an application by the Comptroller of Customs for a decision in respect of the following publication: *The Girls of Penthouse*, Jan/Feb 1986, No. 16, Published by Penthouse International Ltd.:

Chairman: Judge R. R. Kearney.

Members: Mrs H. B. Dick, Mrs R. Barrington, Mr A. J. Graham and Ms K. Hume.

Hearing: 11 June 1986, Wellington.

Decision: 13 November 1986.

Appearances: Mr G. Ellis for importer Gordon & Gotch (NZ) Ltd., Mr K. Wild for Comptroller of Customs.

DECISION

THIS magazine was commercially imported by Gordon & Gotch (NZ) Ltd. as an advance copy through the port of Auckland. At the request of the importer the Comptroller of Customs considered it advisable to refer the publication to the Tribunal for classification.

The magazine consists almost entirely of photographic portfolios of 7 nude or partly clad females many of whom have apparently featured in *Penthouse* magazine over the last 3 years.

The Comptroller submitted that although the magazine lacked the multiple model scenes that have caused concern to the Tribunal when considering *Penthouse* magazines in the past that there was nevertheless such emphasis placed on genitalia in this magazine as to warrant at least a restriction to those persons who are over the age restriction of 18 years.

Mr Ellis in his submission on behalf of the importer submitted that the publication did not offend against the tripartite test as formulated by the Tribunal in its previous decisions. In particular Mr Ellis submitted that there was no evidence of the kind contemplated by the Court of Appeal in *Howell v. Lawrence Publishing Company Ltd.*, CA 77/84 which would support a contention that this publication was injurious to the public good.

The Tribunal by a majority of 3 to 2 finds that the publication requires a classification that it is indecent in the hands of persons under the age of 18 years.

The 2 members of the Tribunal who are in the minority in this decision would find that the publication requires a classification as indecent for the same reasons which are set out in detail in Decision No. 10/86 in respect of the publications *Fiesta* and *Knave*.

Dated at Wellington this 13th day of November 1986.

Judge R. R. KEARNEY, Chairman,

Indecent Publications Tribunal.

Decision No. 15/86
Reference No. IND 16/86
IND 17/86

Before the Indecent Publications Tribunal

IN the matter of an application by the Comptroller of Customs for decision in respect of the following publications: *Australian Playgirl For Men Monthly*, No. 48, 49, 50, 52. Published by the Federal Publishing Co. Ltd.:

Chairman: Judge R. R. Kearney.

Members: Mrs H. B. Dick, Mrs R. Barrington, Mr A. J. Graham and Ms K. Hume.

Hearing: 11 June 1986, Wellington.

Decision: 13 November 1986.

Appearances: Mr G. Ellis for importer Gordon & Gotch (NZ) Ltd., Mr Eglington for Comptroller of Customs.

DECISION

IN the records of the Indecent Publications Tribunal *Australian Playgirl For Men Monthly*, No. 48, 49 and 50 are covered by the reference 17/86 and No. 52 by the reference 16/86 but for obvious reasons all 4 magazines are dealt with in a single decision.

Issues No. 48 and 52 of *Australian Playgirl For Men* were imported through the port of Auckland in April and May 1986. Those issues were seized and the importers disputed forfeiture. Issues No. 49 and 50 were referred to the Tribunal by the Comptroller of Customs in order that all 4 issues of this publication could be considered collectively with a view to a restriction order being imposed upon *Australian Playgirl For Men* under the provisions of section 15A of the Indecent Publications Act 1963.

These 4 issues of *Playgirl* magazine are all very consistent in their presentation. Each issue is largely comprised of pictorial portfolios of single female models and 4 articles. The remainder of each magazine is taken up with stories, jokes, film reviews and snippets of news.

The bulk of the photographic content of the 4 magazines consists of photographs of single female models. It is that feature of the presentation of those models which concerns the Comptroller of Customs and his submission to the Tribunal was that a large number of the photographs depicted models in contrived and unnatural poses of a kind which justified some form of age restriction being placed upon these magazines rather than a decision of unconditionally indecent.