

The Comptroller of Customs also expressed his concern with a short story contained in each magazine. As pointed out by the Comptroller these stories are of explicitly described sexual encounters.

Mr Ellis on behalf of the importer advised the Tribunal that these publications had been available in New Zealand for approximately 4 years without any question having been raised as to their indecency or as to any age restriction being placed upon their availability. Mr Ellis advised the Tribunal that the seizure of some of the publications and the presentation of all to the Tribunal for determination resulted from uncertainty in the market place. That uncertainty occurred earlier this year following statements made at Tribunal hearings by me as chairman of the Tribunal. In those statements I sought to draw the attention of publishers and importers to a concern which some members of the Tribunal had expressed that publishers seemed to be presenting much more sexually explicit material for New Zealand readers and that they ran the risk of having their publications declared unconditionally indecent. Since those statements were made the decision of the Court of Appeal in *Howell v. Lawrence Publishing Company Ltd.* CA 77/84 has been delivered and as set out in detail in Decision No. 10/86 in relation to the publications *Knave* and *Fiesta* the Tribunal has found by a majority of 3 to 2 that it is unable to make classifications of unconditionally indecent in respect of material which does not fall within the clear guidelines as set out in the tripartite test propounded by the Tribunal unless there is clear evidence that the publication under review is or is likely to be injurious to the public good. There is no such evidence before the Tribunal in respect of these publications but the Tribunal does find in terms of many of its previous decisions that they merit a restricted classification. Accordingly the Tribunal finds that these publications are indecent in the hands of persons under the age of 16 years.

In terms of section 15A a restriction order is made in respect of *Australian Playgirl For Men Monthly* as being indecent in the hands of persons under the age of 16 years.

Dated at Wellington this 13th day of November 1986.

Judge R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

Decision No. 12/86
Reference No. IND 1/86

Before the Indecent Publications Tribunal

In the matter of an application by the Comptroller of Customs for decision in respect of the following publications listed 1-14:

1. Title: *Victorian Erotic*, Vol. 1., No. 1, Spanking Special. Publisher: Bens Books Ltd.
2. Title: *Razzle*, Vol. 1, No. 3. Publisher: Paul Raymond.
3. Title: *Playtime*, No. 2, Publisher: Interpress Verlags-und Vertriebsges mbH.
4. Title: *Busts and Fetishisms*, Vol. 1, No. 1. Publisher: C. T. Publications.
5. Title: *Supergirl*, No. 2. Publisher: Supergirl Magazine Publications.
6. Title: *Looking Up The Mini*. Publisher: Harem Magazine Publications.
7. Title: *Bronze Beauties*, No. 1. Publisher: Holland House Publications.
8. Title: *Porno Film Expose*. Publisher: Unknown.
9. Title: *Lovers Sex Guide*. Publisher: Phillips Rose Par Publications Inc.
10. Title: *Just Knickers*. Publisher: Harem Magazine Publications.
11. Title: *Bosom Beautiful*. Publisher: Harem Magazine Publications.
12. Title: *Tight Panties and Long Leather Boots*. Publisher: Harem Magazine Publications.
13. Title: *Wild Silk*, Vol. 1, No. 1. Publisher: Unknown.
14. Title: *Keyhole*, Vol. 1, No. 1. Publisher: Litho Reproductions 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: No appearance of Importer Waverley International Ltd., Mr K. Wild for Comptroller of Customs.

DECISION

THESE publications were part of a commercial shipment imported by air mail through the port of Auckland in December 1985. The publications were checked and then seized by the Collector of Customs at Auckland as being indecent. The commercial importer having disputed forfeiture they were referred to the Tribunal for classification.

In the submission made to the Tribunal on behalf of the Comptroller of Customs no attempt was made to categorise the publications or to particularise those features which might be objectionable in terms of the legislation. The Comptroller simply submitted that all of the books came within the category of cheap tawdry works which were produced solely to arouse prurient interest. In addition, the Comptroller submitted that none of the publications had any merit whatsoever and that many were made worse by evidencing an infatuation with fetishes such as underwear, spanking, or large breasts.

Written representations were received from Waverley Publishing Company Ltd., an associate company of the importer on behalf of the importer.

A separate submission was made in writing in respect of the publications listed above as No. 4, 5, 6, 10, 11, 12, 13 and 14. The company conceded that most of these titles do not pretend to contain anything of social artistic or literary importance but submit nevertheless that they are unlikely to corrupt an adult. The company advises the Tribunal that at the time those particular publications were seized the Customs authorities indicated that an age restriction would be required in respect of them.

In respect of the publication *Bronze Beauties* (No. 7 in the list of books for consideration) the importer submitted that the decision of the Tribunal No. 962 was relevant and that at worst a similar classification as was imposed in respect of the publications the subject of that decision would be appropriate.

The final written submission from the importer was in respect of the publication *Lovers Sex Guide*. The publisher submitted that the publication which is a black and white representation of a male and female engaged in sexual activities was similar to publications which had received restricted classifications from the Tribunal.

The publication which caused the Tribunal the most concern was *Victorian Erotica*, Vol. 1, No. 1 (No. 1 on the list of books in respect of this decision). This is a small cardboard backed publication of 66 pages first published in London in 1974. The publication has a great deal of text together with a large number of pictures of naked and partly dressed females, most of which would appear to be photographs taken many years ago, and some black and white line drawings. There are some more recent photographs presumably of the era of the publication in 1974 most of which display sequential scenes of a male administering spankings or whippings to the naked posterior of a female.

A great deal of the text concentrates on the prudent aspects of violence to females and some of this being purportedly reprinted material from much earlier publications. Whatever the origin of the material might be the Tribunal is satisfied that the element of violence against females and particularly young females as portrayed justifies a classification of unconditionally indecent. When added to that we have the other cheap and tawdry content it makes the publication one which falls well outside the bounds of those which can receive a restricted classification.

In respect of the remaining titles from No. 2 to 14 inclusive the Tribunal classifies these as indecent in the hands of persons under the age of 18 years.

All of those publications to which the Tribunal has given the R18 classification are indeed as the Comptroller of Customs has said in his submission cheap and tawdry and in many cases pandering to an infatuation with fetishism but none of them are of a nature as to require other than the restricted classification which has been given to them.

We find therefore as confirmed herein that the publication *Victorian Erotica*, Vol. 1, No. 1, Spanking Special is unconditionally indecent and the remaining titles No. 2 to 14 as scheduled are classified as indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 13th day of November 1986.

Judge R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.