

"When all these provisions are taken together, including of course the important qualifying words of the definition in section 2, I am left in no doubt that whatever might be the influence of any one or more of them in some particular case, or the possible difficulty which might arise when attempting to weigh some of them in a sufficiently objective way against others, *there is a clear statutory intention to withhold the censorship weapon from material which falls short of being actually injurious.*" (emphasis mine).

What made the tasks of the Tribunal particularly difficult in relation to the publications *Knave* and *Fiesta* was the lack of any detailed submissions from the Crown and any evidence at all let alone evidence of the kind envisaged in the Lawrence decision as being necessary to establish the real likelihood of injury to the public good. As we have stated elsewhere in this decision the prospects of that sort of evidence being available for presentation to the Tribunal in a convincing way is in any event extremely remote. Such a proposition is not new and indeed was foreseen by Mr Perry and no doubt by the other members of the Indecent Publications Tribunal as first comprised. In that regard we refer to chapter 11 of Mr Perry's book which carries the title *Panic Measures*. At pages 44 through to page 46 particular reference is made by the author to the views of experts and the findings of committee all of which gives support to that which I have subsequently read namely; that it is an almost impossible task to prove the injurious effect of indecent material on the public good.

It is not for the Tribunal to judge whether it has in the years since its inception provided an effective method of literary censorship but there can be little doubt that the Lawrence decision has created and will continue to present major problems for those seeking to establish that any particular publication is or is likely to be injurious to the public good. As previously mentioned the Tribunal has unanimously accepted that it can draw a distinction between what might be called decisions on the moving benchmark of publicly acceptable material as against decisions which might be considered as novel or at least constitute a departure in a negative way from existing benchmarks. We have already indicated that we are conscious of the probability that even that limited interpretation will be tested on appeal and the Tribunal would certainly welcome from the superior courts a direction in relation to that matter.

The members of the Tribunal regret that there is no way, at least on our interpretation of the existing law, that this decision can ultimately be reviewed by the Court of Appeal which might for the reasons indicated be prepared to reconsider the matter in this much wider framework than that provided by the portrayal of a few naked men adorning calendars. Accordingly we the majority of the Tribunal find that we are unable to classify the publications *Knave* and *Fiesta* the subject of this decision as unconditionally indecent but do find that we are able to classify them as being indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 24th day of October 1986.

JUDGE R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

Being the majority decision of Judge R. R. Kearney, Mr A. J. Graham. and Ms K. Hume.

Approval of Motorcycle Driving School

PURSUANT to section 48 (2) (b) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986*, I, Derek Ernest Homewood, Secretary for Transport, hereby approve the motorcycle driving school listed in the Schedule hereto to the effect that it may issue certificates of driving instruction to enable a person to obtain a full licence to drive a motorcycle in accordance with regulation 33 of the Transport (Drivers Licensing) Regulations 1985.

SCHEDULE

WALTERS DRIVING SCHOOL

Signed at Wellington this 19th day of November 1986.

D. E. HOMEWOOD, Secretary for Transport.

*1986/6.

(M.O.T. 16/6/3)

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The Traffic (Strathallan County) Notice No. 1, 1986

PURSUANT to the Transport Act 1962, a delegation from the Minister of Transport, and a subdelegation from the Secretary for Transport, I, Carne Maurice Clissold, Chief Traffic Engineer, give the following notice:

NOTICE

THIS notice may be cited as the Traffic (Strathallan County) Notice No. 1, 1986.

The roads specified in the Schedule are declared to be 70 kilometres an hour speed limit areas pursuant to regulation 21 (2) of the Traffic Regulations 1976.

The Traffic (Geraldine County) Notice No. 1, 1973, dated the 17th day of January 1973†, issued pursuant to section 52 of the Transport Act 1962, and regulation 27A of the Traffic Regulations 1956 is revoked.

SCHEDULE

SITUATED within Strathallan County at Clandeboye:

Rolleston Road: from a point 200 metres measured northerly, generally, along the said road from Canal Road to a point 280 metres measured southerly, generally, along the said road from Canal Road.

SITUATED within Strathallan County at Peel Forest:

Peel Forest-Coopers Creek Road: from a point 240 metres measured southerly, generally, along the said road from Ferry Road to the northern end of the picnic area known as Cain Flat.

Signed at Wellington this 19th day of November 1986.

C. M. CLISSOLD, Chief Traffic Engineer.

†*New Zealand Gazette*, No. 5, dated 25 January 1973, page 125.

(M.O.T. 29/2/Strathallan County)

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The Traffic (Waimate County) Notice No. 1, 1986

PURSUANT to the Transport Act 1962, a delegation from the Minister of Transport, and a subdelegation from the Secretary for Transport, I, Carne Maurice Clissold, Chief Traffic Engineer, give the following notice:

NOTICE

THIS notice may be cited as the Traffic (Waimate County) Notice No. 1, 1986.

The roads specified in the First Schedule are declared to be closely populated localities for the purposes of section 52 of the Transport Act 1962.

The roads specified in the Second Schedule are declared to be 70 kilometres an hour speed limit areas pursuant to regulation 21 (2) of the Traffic Regulations 1976.

The Traffic (Waimate County) Notice No. 1, 1980, dated the 29th day of May 1980†, issued pursuant to section 52 of the Transport Act 1962, and regulation 21 (2) of the Traffic Regulations 1976 is revoked.

FIRST SCHEDULE

SITUATED within Waimate County adjacent to Waimate Borough:

No. 82 State Highway (Deep Creek-Kurow): from a point 40 metres measured north-easterly, generally, along the said highway from Parsonage Road to a point 180 metres measured north-easterly, generally, along the said highway from Regent Street.

Bond Street.

Butchers Lane.

Carlisle Street.

Cashel Street.

Durham Street.

Exeter Street.

Oxford Street.

Parsonage Road: (from Butchers Lane to Cashel Street). Regent Street.

SECOND SCHEDULE

SITUATED within Waimate County adjacent to Waimate Borough:

No. 82 State Highway (Deep Creek-Kurow): from a point 180 metres measured north-easterly, generally, along the said highway from Regent Street to a point 580 metres measured north-easterly, generally, along the said highway from Regent Street.

High Street: from the boundary of Waimate Borough to a point 560 metres measured north-westerly, generally, from the Borough boundary.