

Decision No. 20/87
Reference No.: IND 12/87

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publication: *Drummer*, Issue 104, May '87:

Chairman: Judge R. R. Kearney.

Members: H. B. Dick, R. Barrington, A. J. Graham and K. Hulme.

Hearing at Wellington on the 11th day of September 1987.

Appearances: M. J. Wotherspoon for applicant. No appearance on behalf of respondent.

Decision

This publication was imported through parcel post, Auckland on or about 21 April 1987 by Lawrence Publishing Co. (NZ) Ltd. The publication was seized by the Collector of Customs and the importer subsequently disputed forfeiture. The publication has been referred to the tribunal by the Comptroller of Customs prior to commencement of condemnation proceedings pursuant to the Customs Act 1966.

A number of previous issues of *Drummer* have been submitted to the tribunal and have previously been given unconditionally indecent classifications, with a 2 year serial restriction order made pursuant to section 15 (a) of the Indecent Publications Act 1963. Those orders are set out in decision No. 1056. A further decision of the tribunal, No. 1065, dealt with other copies of this publication.

The earlier decisions of the tribunal in respect of this publication dealt principally with the issue of depicting and supporting homosexual activity, which at that time was illegal in New Zealand.

Since the passing of the Homosexual Law Reform Act the tribunal has classified a number of homosexual magazines in terms other than unconditionally indecent, and in the main putting an R18 classification of them. The tribunal is, however, in respect of this publication, satisfied that an unconditionally indecent classification is justified.

The magazine is quite clearly a male homosexual magazine, and it has a very strong pictorial and written emphasis towards bondage and sado-masochism. A great deal of the written material in the magazine is concentrated on rather coarse and crude portrayals of homosexual activity. That feature of the publication, which in the tribunal's view, as indicated, clearly justifies an unconditionally indecent classification, is the emphasis on bondage and sado-masochism. In the tribunal's finding such portrayals, either in pictorial or written form, are clearly injurious to the public good and indecent in terms of the Indecent Publications Act. The publication is accordingly classified unconditionally indecent.

Dated at Wellington this 4th day of November 1987.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

90342

Decision No. 21/87
Reference No.: IND 13/87

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publication: *Rick Donovan*:

Chairman: Judge R. R. Kearney.

Members: H. B. Dick, R. Barrington, A. J. Graham and K. Hulme.

Hearing at Wellington on the 11th day of September 1987.

Appearances: M. J. Wotherspoon for applicant. No appearance on behalf of respondent.

Decision

This publication was privately imported through parcels post in Auckland on 20 April 1987. The Collector of Customs seized the publication and the importer subsequently disputed forfeiture. The publication has been referred to the tribunal by the Comptroller of Customs prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

The magazine consists entirely of photographs of a single male nude or partly clad male nude, with considerable emphasis on the genitalia. There is no text in the publication, and only a brief description of the model which appears on page 2.

In his submission on behalf of the Comptroller of Customs, Mr Wotherspoon pointed out that although the magazine was more restrained than similar publications submitted to the tribunal and lacked the multiple models and excessive intimacy scenes in such magazines, that the poses nevertheless were presented in such a way as to warrant at least a restriction by age in respect of those persons who might have access to the publication.

Whilst some members expressed some concern at the significant emphasis on the male genitalia, the tribunal was nevertheless unanimous that all that was required for this publication was that it be classified as indecent in the hands of persons under the age of 18 years, and so classifies it.

Dated at Wellington this 4th day of November 1987.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

90344

Decision No. 22/87
Reference No.: IND 15/87

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publications: *Going Down; Midnight Blue; A Few Good Men; The Barracks; King of the Thoroughbreds; Latin Lover; Sucking Seniors*:

Chairman: Judge R. R. Kearney.

Members: H. B. Dick, R. Barrington, A. J. Graham and K. Hulme.

Hearing at Wellington on the 11th day of September 1987.

Appearances: M. J. Wotherspoon for applicant. No appearance on behalf of respondent.

Decision

These publications were privately imported through the port of Whangarei on or about 27 February 1987. The publications were seized by the Collector of Customs and the importer has subsequently disputed forfeiture. The publications have been referred to the tribunal prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

All of these publications contain photographs of nude or semi-nude males, and many of these are portrayals of a single male, but in each publication appear a number of photographs showing 2 or more males indulging in oral or anal sex. In some photographs the models are clearly shown to be in the act of masturbation, and the majority of poses of the models throughout the magazines are contrived in such a way as to place maximum emphasis on the display of the male genitals.

The tribunal is satisfied that these magazines come within the category of hardcore pornography and have little to commend them. There is no text in any of the publications or articles that