

Tribunal. The importer then went on to schedule a number of matters which he asked the Tribunal to take into account in considering the publications before it. We set out hereunder his submissions as presented to us in that regard:

- "1. I am 39 years old, so legally Adult.
2. I am not associated with any commercial organisation or activity.
- 3a. The transaction which lead to the seizure of the two magazines was initially private and between two adult individuals.
- b. Because this was a private transaction, the magazines were not for sale or distribution, and the content therefore not for public dissemination.
- c. Because the magazines were not for sale or distribution, the content therefore would not have been "Injurious to the public good."
- 4a. Not having seen the magazines yet, I can only assume that the actors shown are adults.
- b. The tribunal will be aware that homosexual acts are not illegal in this country, between consenting adults, in private.
- c. I assume the magazines were submitted because they show sexual activity?
- d. I question then, whether the sexual activity shown in the magazines (*sic*) is illegal in this country?
- 5a. The magazines were purchased for me, at my request, in response to an advertisement in *The Advocate*, an American magazine on sale in this country. (Issue No. 479, dated 18 August 1987, page 99).
- b. The advertisement states that the magazines are taken from videos.
- c. In *Out*, a magazine published in this country, there appears an advertisement for a video called *Powertool*, starring Jeff Stryker, the subject of one of the magazines now in question. (Issue No. 74, dated August 1987, page 36).
- d. The advertisement states that the video in on sale to persons 18 years and over.
6. Fellatio, anal intercourse, masturbation whether solitary or mutual, and the use of sex aids, is shown in adult videos, whether they have heterosexual or homosexual content, which are available for purchase or hire in this country.
7. I find it ludicrous that as an adult, I can legally participate in the sexual activity mentioned in paragraph 6, and view the same form of activity shown explicitly in videos, but according to someone else's judgement, should not be able to view this sexual activity in a magazine."

In conclusion the importer pointed out that the transaction, that is the receipt of the magazines would have remained private but for the intervention on what he could only interpret as moral grounds by some third party. The importer formally requested that the magazines be forwarded to him.

The Tribunal has some sympathy for this importer as in fact it has for most private importers in cases where the stated sole use to be made of the publications is for the personal reading of the importer in question. The legislation however, does not enable the Tribunal, as we interpret our obligations, to determine such matters simply on the basis of a solo import by a private importer.

The Tribunal finds the magazines to be graphic homosexual publications with many depictions of oral and anal sex with sado-masochistic overtones in some photographs and with virtually no text and in our view the magazines are devoid of any literary, artistic or other merit. They are in effect explicit hard core homosexual magazines and just as the Tribunal would find such magazines dealing with heterosexual subjects to be unconditionally indecent so to in the case of both of these

magazines, the Tribunal classifies them as unconditionally indecent.

Dated at Wellington this 21st day of June 1988.

R. R. Kearney, Chairman.

Indecent Publications Tribunal.  
go10515

Decision No. 22/88

Reference No.: IND 28/87

### 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: *Fiesta*, Vol. 17, No. 8; *Fiesta*, Vol. 19, No. 5; *Fiesta*, Vol. 19, No. 6; *Fiesta*, Vol. 19, No. 7; *Fiesta*, Vol. 19, No. 8; *Fiesta*, Vol. 19, No. 10; *Best of Fiesta*; *Knave*, Vol. 16, No. 12; *Knave*, Vol. 17, No. 7; *Knave*, Vol 17, No. 8; *Knave*, Vol. 17, No. 9; *Knave*, Vol 17, No. 10; *Knave*, Vol 18, No. 2; *Knave Christmas*, Issue Vol. 17; *The Best of Knave*, all published by Galaxy Publications Ltd., United Kingdom.

Chairman: Judge R. R. Kearney.

Members: A. J. Graham, R. E. Barrington, K. Hulme and S. C. Middleton.

Hearing at Wellington on the 11th day of April 1988.

Appearances: M. J. Wotherspoon appeared for Comptroller of Customs. No appearances on behalf of importer.

### Decision

These publications were privately imported by a Hamilton company, and that company very responsibly asked the Comptroller of Customs to refer them to the Tribunal for classification and determination.

At the same time that these particular copies were before the Tribunal for classification and determination, the Tribunal had other copies under consideration, some of which had been referred back to the Tribunal by the High Court, following an appeal to that Court. The Tribunal has delivered its decision in respect of those other publications and has found them to be indecent in the hands of persons under the age of 18 years and in addition, has granted a serial order in respect of both the publications *Knave* and *Fiesta*. It is a mere formality that the Tribunal therefore in respect of these publications declares them to be indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 21st day of June 1988.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.  
go10516

## Oaths and Declarations Act 1957

### Officers in the Waimairi District Council Authorised to Take Statutory Declarations

Pursuant to section 9 of the Oaths and Declarations Act 1957, I hereby authorise the holders for the time being of the offices in the service of the local authority specified in the Schedule below to take statutory declarations under the said Act.

#### Schedule

##### Waimairi District Council

Senior Clerk.

Drivers Licensing Clerks.

Dated at Wellington this 14th day of September 1988.

PHILIP WOOLLASTON, Associate Minister of Justice.

(Adm. 3/28/3/2)  
go10503