

Novelty Company of Australia, a company which apparently sells exotic leather and vinyl clothing, mainly manufactured for women.

There are some aspects of that publication that cause the Comptroller of Customs some concern. Those relating to displays of bondage items. The Tribunal having looked at the totality of the productions has reached the conclusion that although the bondage elements are a matter of concern they are not displayed in such a way as to be injurious to the public good and accordingly in respect of both publications the Tribunal classifies them as not indecent.

Dated at Wellington this 4th day of August 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.  
go22686

Decision No. 57/89

Reference No.: IND 6/87

IND 22/87

IND 20/88

### 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: A. *PFIQ*, Issues 12, 15, 20, 26 and 27; B. Issues No. 3, *Spring 1978*; No. 4, *Summer 1978*; No. 1, *October 1977*; C. *FQ*, Vol. 1, No. 3 and 4; *PFIQ*, Issue 5 and Issue 8; D. *FQ* Issue 6:

These publications came in for hearing for 3 separate sittings of the Indecent Publications Tribunal as follows:

#### A and B

*Chairman:* Judge R. R. Kearney.

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

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

*Appearances:* M. J. Wotherspoon for Comptroller of Customs, no appearance by or on behalf of either importer. Written submissions subsequently received from one of importers.

#### C

*Chairman:* Judge R. R. Kearney.

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

Hearing at Wellington on the 14th day of April 1988.

*Appearances:* M. J. Wotherspoon for Comptroller of Customs, no appearance on behalf of importer. Submissions made by Bill Logan on behalf of Gay Task Force.

#### D

*Chairman:* Judge R. R. Kearney.

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

Hearing at Wellington on the 26th day of April 1989.

*Appearances:* M. J. Wotherspoon for Comptroller of Customs, no appearance for or on behalf of importer.

#### Decision

The publications (A) were a private importation through parcels post Christchurch in November 1986. Publications (B) were also imported through parcels post Christchurch by a private importer in December 1986. The publications (C) were privately imported in 2 separate shipments through the Port of Auckland in September 1987 with the exception of Issue 8 which was imported through the Port of Invercargill in September 1987. The publication (D) was imported through Auckland parcels post in September 1986.

In decision No. 1035 issued on 5 October 1982 *PFIQ*,

quarterly issue 12, folio No. 3 and *Pin Pals PFI Roster*, No. 12 were considered by the Tribunal and in a brief decision the Tribunal classified each of them as indecent and the comment was made "they have no artistic merit and are certainly injurious to the public good. Some of the illustrations might well induce some form of experiment, with result in physical or even fatal injury." In decision 20/84 issued on 8 November 1984 the Tribunal considered *PFIQ*, Issues Vol. 11 and 14 and in that decision the Tribunal repeated the comments made in decision No. 1035 and classified those issues as indecent.

*PFIQ* is an abbreviation for Piercing Fans International Quarterly and *FQ* an abbreviation for Foreskin Quarterly stated to be the Official Journal of the Uncircumcised Society of America.

All of these publications contain a significant photographic content relating to genital piercing and adornment together with photographs of piercing and adornment of other parts of the anatomy and *PFIQ* publications contain photographs and articles relating to what the Tribunal terms genital mutilation. The members of the Tribunal are satisfied that these publications can properly be categorised as fetish publications and at each of the hearings of the Tribunal in respect of all of the above publications the Tribunal members have been unanimous that the material contained in the publications is injurious to the public good for the same reason as that expressed by the earlier decisions of the Tribunal No. 1035 and 20/84.

The Tribunal has deferred making decisions in respect of these earlier hearing for a number of reasons including the giving of an opportunity to the various importers to provide further information to the Tribunal in relation to the publications; the giving of the opportunity to individual importers to show the Tribunal that they were engaged in legitimate research for works of scholarship in respect of these publications and the material portrayed therein; the giving of the opportunity for various importers and others to make submissions to the Tribunal in respect of these publications. As indicated in the heading, Bill Logan of Gay Task Force gave evidence before one hearing of the Tribunal and he indicated to the Tribunal that body piercing and mutilation of the kind portrayed was of interest to a very small group of homosexual men and that it was highly unlikely that any of them would involve themselves in genital mutilation of the kind which is featured in some of the magazines. Mr Logan indicated that there would be a very small market for these publications and that they were unlikely to appeal to any other than those who had a special and unusual interest in the topic.

When the Tribunal met in Auckland in December 1988 it took the opportunity to meet representative members of the male homosexual community in that city and it discussed with one of those persons its concern about the publications *FQ* and *PFIQ*. That person also indicated to the members of the Tribunal that there were very few members of the homosexual community who had any interest in this type of publication and he suggested to the members of the Tribunal that those who did were as previously stated by Mr Logan, most unlikely to involve themselves in genital mutilation.

One of the importers has in fact made a significant number of submissions to the Tribunal and has very kindly made available to the Tribunal extracts from various publications in relation to body marking, tattooing, piercing, adornment and related matters. The Tribunal has on a number of occasions invited that particular importer to provide the Tribunal with information relating to the nature of the research which he was undertaking, his scholarship or professional standing in relation to the study of these particular topics but unfortunately the Tribunal has not received information of a kind which would justify that particular importer being given a special opportunity to import and retain these publications.

As indicated earlier in this decision, the Tribunal following each of its meetings and consideration of material presented