

Decision

This publication was commercially imported through the port of Auckland in late February 1989. The publication being seized by the Collector of Customs, the importer disputed forfeiture and the matter was originally referred to me as Chairman of the Tribunal for an interim decision on 15 March 1989. On 17 March 1989 an interim restriction order was issued declaring the publication to be indecent in the hands of persons under the age of 16 years. The publication now comes before the Tribunal for final classification. The Tribunal is satisfied that the publication contains contraceptive advice which in terms of the Contraception, Sterilisation and Abortion Act 1977 can not be given to persons under the age of 16 years and therefore classifies it as indecent in the hands of persons under the age of 16 years.

Dated at Wellington this 18th day of May 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go22724

Decision No. 17/89

Reference No.: IND 29/87

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: *Men Loving Men*:

Chairman: Judge R. R. Kearney.

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

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

Appearances: M. J. Wotherspoon for Comptroller of Customs, G. A. Ireland, counsel for the Lawrence Publishing Company of New Zealand Limited.

Minority Decision of Dr S. C. Middleton

This is described in the subtitle as "a gay sex guide and consciousness book" and differs from many publications which come before the Tribunal in that its expressed purpose is to inform rather than to titillate. It brings together personal experiences, historical detail, photographic and other pictorial depictions, descriptions of sexual practices and feelings about those practices, and medical "facts". On the whole, the tone of the book is restrained and designed to be reassuring to gay men, who are so often marginalised or invisible in the popular "mainstream" sex manuals.

The majority decision to declare this book 'unconditionally indecent' is based on 3 concerns. I do not believe these to be sufficient grounds for such a classification.

The first is that the publication is now 11 years old "and does not contain any treatment of the subject of AIDS and the steps to be taken to avoid contamination by it". At the time this book was published, AIDS had not become recognised as a major danger to public health. *Men Loving Men*, does, however, contain responsible information about other sexually-transmitted diseases. Evidence given at the Tribunal hearing by Dr Broadmore and Mr Logan showed that there is a very high level of awareness about AIDS in the gay community. The volume under consideration was seized by customs from a private individual—there are no plans to import this edition for mass sale. Its failure to discuss AIDS can, then, in no way be seen as injurious to the public good.

The Tribunal's second concern was the "section on S and M dealing with power roles, domination, discipline and sado-masochism". The majority decision views such depictions as carrying "a potential for harm to some individuals" and as "generally injurious to the public good". I dispute this claim. Psychoanalytic studies have clearly demonstrated that the

nature of individuals' sexual desires are shaped largely by experiences and relationships in childhood. Many people have sado-masochistic urges. I would argue that it is important for such people to recognise what may be constructed as "disturbing personal problems" as recognised social phenomena. *Men Loving Men* addresses sado-masochism in a restrained and informative manner and in this may be reassuring to members of this minority group. The book emphasises loving relationships between men and the importance of consent and mutual pleasure in sexual encounters. In this, it is not injurious to the public good.

The third concern was the book's discussion of drug use as an enhancement of sexual pleasure. The message here is conservative and does not advocate drug use. In fact (page 129), with reference to S and M sex, the book warns that "most of these drugs . . . can be positively dangerous".

Current notions of equity require that minority groups can see themselves reflected in the literature they read, and that their needs and rights are taken into account. Until the passing of the Homosexual Law Reform Act, homosexuals were subject to the prohibition of both their sexual activities and much of their written history and culture. As an early publication emerging from within the gay rights movement, this book has considerable historical and cultural significance, not only for the gay community, but for members of the wider public concerned with knowledge about human history, sexuality, societies and cultures.

I therefore disagree with a classification of "unconditionally indecent". In line with the legal age of consent, I would recommend a classification of "indecent in the hands of persons under the age of 16".

Dated at Wellington this 18th day of May 1989.

S. C. MIDDLETON, Member.

Indecent Publications Tribunal.
go22726

Decision No. 14/89

Reference No.: IND 1/89

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 Woman's Guide to Men and Sex* and *Eros in the Country*:

Chairman: Judge R. R. Kearney.

Members: R. E. 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. Written submissions by general manager, Doubleday New Zealand Ltd.—importer.

Decision***Eros in the Country***

Unfortunately only 2 of the members of the Tribunal had the opportunity of reading this publication and a final decision upon it will have to await the next hearing of the Tribunal on 5 July 1989 when all members will have read it and will have considered the submission made by the Comptroller of Customs and by the general manager of Doubleday New Zealand Ltd.

A Woman's Guide to Men and Sex

This publication as well as *Eros in the Country* were commercially imported through Auckland sea freight in November 1988. The publications having been seized by the Collector of Customs, the importer has disputed forfeiture and the publications have been referred to the Tribunal for