

P. M. Bartlett, the director for the Society for the Promotion of Community Standards Inc., was similarly granted leave by the Minister of Justice to submit the remaining 3 issues of the publication *Linx* to the Tribunal for classification.

The matters were originally set down for hearing at Wellington on 28 November 1989, but as there was no appearance on behalf of the bookseller who had been granted permission to bring before the Tribunal, *Linx Magazine*, International Issue No. 2, that matter was adjourned to the present sitting to enable that person to have the opportunity of either making representations in person or in writing. In respect of the remaining 3 publications a written submission was presented to the Tribunal by the Rev. Gordon Dempsey, the representative of the Society for the Promotion of Community Standards Inc. and the society sought an unconditionally indecent classification and a serial restriction order confirming that classification in terms of section 15A of the Act.

Under questioning by the members of the Tribunal, Rev. Dempsey advised the Tribunal of the result of the *National Business Review* research poll and a copy of the report on the poll was provided to the Tribunal. When further questioned by the Tribunal, Rev. Dempsey referred the Tribunal to its earlier decision 1007 which he submitted should be followed in this case, as that decision he submitted sets out very cogent reasons why the type of promiscuous sex advocated by this publication is not only injurious to the public good, but dangerous to the community.

After the formal hearing the Tribunal members met to consider the classification for the 3 publications presented for classification by the society. The Tribunal members did not at that subsequent discussion have the opportunity to consider the lengthy decision No. 1007 and accordingly this application was adjourned part heard until the next sitting of the Tribunal on 20 February 1990. Because of the possibility that further submissions would be presented to the Tribunal by the bookseller referred to in this decision all matters in relation to *Linx* magazine were accordingly adjourned to be further considered at the sitting on 20 February 1990. In the meantime the Tribunal members had read further material provided and they were in a position at the conclusion of the sitting to reach a decision on the classification of all 4 magazines. *Linx* magazine is allegedly a contact magazine giving New Zealanders the opportunity of having advertisements included in the magazine to make contact with others for a variety of purposes, many of them clearly of a sexual nature. The advertisements represent slightly less than one-third of the total content, the remainder includes a number of letters from subscribers, a number of cartoons which in most cases are quite crude, photographs of partly clad and naked females and in some cases males, short articles, fantasy essays and other written material, all of which is of a sexual nature. The magazine is very similar in content if not in production to a number of similar contact magazines which come into New Zealand from Australia and the United Kingdom and some other countries.

This publication is published in New Zealand and has apparently been freely available through a significant number of outlets. Had it not been for that fact, at least 1 member of the Tribunal would have classified these publications as unconditionally indecent. In the magazines there are several photographs of males and females engaged in acts of sexual intimacy. They are of a kind which but for other considerations I shall shortly mention, might well have resulted in these particular issues being classified as unconditionally indecent.

The Indecent Publications Act 1963 creates in sections 21 and 22 a significant number of offences and many of those offences carry a maximum sentence of imprisonment. In the event of the majority of the Tribunal finding that these particular publications are indecent it would effectively create a liability of conviction and punishment for a very large number of people throughout New Zealand. In the end result a

consideration of that prospect was unnecessary as the majority of the Tribunal were prepared to grant to these particular magazines an age restriction classification with certain conditions. I would however draw to the attention of the publishers, distributors, vendors and would be purchasers of future volumes that there remains a possibility that future volumes if they do publish explicit photos of couples engaged in sexual intimacy may be found to be unconditionally indecent in terms of the legislation under which we act and classify it accordingly.

Decision 1007 related to a publication *Key* magazine No. 6, also published in New Zealand, a magazine very similar in its format to that of *Linx*, but it would seem from the judgment without the same amount of explicit photographic material as is contained in *Linx*. That case was argued before the Tribunal by an inspector from the legal section of the New Zealand Police and by counsel for 1 of the retail outlets. In addition written submissions were presented by the publisher and further written submissions were supplied by a clinical psychologist. In a very careful and considered decision of 12 pages the Tribunal reached a conclusion in respect of that particular publication that it should be classified as unconditionally indecent. I do not propose to explore in this decision the reasons for that Tribunal arriving at that particular decision, but simply note that the decision is available to publishers, distributors and retailers.

The leave of the Minister for a person to submit any book to the Tribunal is not lightly given and in my view the society acted quite properly in seeking such leave and in prosecuting the matter before use.

For the reasons expressed in this decision the Tribunal classifies each of these publications as indecent in the hands of persons under the age of 18 years and orders that all such publications shall be shrink wrapped.

Dated at Wellington this 20th day of March 1990.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
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Decision No. 11/90

Reference No.: IND 6/90

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: *Home Workshop Silencers 1* and *The Ruger 1022 Exotic Weapons System*. Publishers: Paladin Press:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 20th day of February 1990.

Appearances: M. J. Wotherspoon for Comptroller of Customs. No appearance by or on behalf of importer.

Decision

Although there was no appearance by or on behalf of the importer he provided for the Tribunal a lengthy and well presented written submission which the Tribunal read and took into account in considering these publications.

It may not generally be known that the Tribunal has the powers of a commission of inquiry and those powers are given to the Tribunal subject to certain conditions by virtue of section 7 of the Indecent Publications Act 1963.

This particular application was one which required the Tribunal to use those powers and to seek from other parties advice in relation to the possible effects of the availability of these publications within New Zealand. That advice has been