

To report allegations as true when a court is likely to have to establish that is to fail the standards of the Act requiring accurate and impartial gathering and presentation of news according to the accepted standards of objective journalism.

All citizens are entitled to the presumption of innocence in the reporting/discussion of criminal matters by the news media. Otherwise fair trials would become impossible to achieve. The complaint is upheld.

We do not consider that any other action is called for in this case. It appears to have been a case of carelessness. There is no evidence of partiality. Additionally, the complaint was not of unfair or unjust treatment as such and has not been considered on those grounds. An apology would therefore be inappropriate.

There was the matter of the complainant's own initial delay in lodging the complaint, which Radio New Zealand raised and for which the complainant's solicitor gave reasons.

That delay in lodging was unfortunate but on balance the Tribunal decided to deal with the complaint.

The best course for the complainant and his solicitors to have adopted would have been to lodge the complaint promptly but to have asked for a delay in its consideration and for non-publication until the trial (if any) was completed.

It is desirable that complaints be lodged promptly, not withheld for later lodging. However we found no prejudice to the broadcaster arising from that delay in this case and considered the complaint accordingly.

Co-opted Members

Messrs Carter and Stephenson were co-opted as persons whose qualifications and experience were likely to be of assistance to the Tribunal. They took part in the deliberations of the Tribunal but the decision is that of the permanent members.

Signed for the Tribunal.

B. H. SLANE, Chairman.

go2605

Disputes Tribunals Act 1988

Appointment of Mediator

Pursuant to section 7 of the Disputes Tribunals Act 1988, His Excellency the Governor-General has been pleased to appoint:

Deborah Raewyn Rundle, mediator of Auckland,

to be a referee to exercise the jurisdiction of the Disputes Tribunal for a term of 3 years on and from the date hereof.

Dated at Wellington this 19th day of February 1990.

W. P. JEFFRIES, Minister of Justice.

go2639

Indecent Publications Act 1963

Decision No. 34/89

Reference No.: IND 59/88

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 publication: *Friction*, December 1988.

Chairman: Judge R. R. Kearney.

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

Hearing at Auckland on the 8th day of December 1988.

Appearances: M. J. Wotherspoon for Comptroller of Customs. G. A. Ireland for Lawrence Publishing Co (NZ) Ltd., importer.

Decision

This publication was commercially imported through Auckland parcels post in October 1988 and was seized by the Collector of Customs. The importer having subsequently disputed forfeiture the matter has been referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

Mr Ireland on behalf of the importer submitted that the Tribunal having had before it at its August and October hearings the July, August, September, October and November issues was in a position to consider an application for a serial restriction order and invited the Tribunal to make such an order classifying the material as indecent in the hands of persons under the age of 18 years.

The magazine is written for the male homosexual and contains various pictorial sequences of black and white sketches and photographs of single males mainly in the nude. In this particular issue there are a number of short stories all of which detail various homosexual practices involving either anal or oral sex. That which caused the Comptroller of Customs concern in relation to this particular publication and also concern with the members of the Tribunal was a series of photographs on pages 26 and 27 which showed models with their genitals strapped. Another aspect of the magazine not only this volume but previous volumes which has caused the Tribunal concern is the rather graphic drawings of a sexual nature presented in the magazine. The Tribunal after giving very careful consideration to Mr Ireland's application is not prepared at this stage to grant a serial restriction order but find that the particular magazine does not justify an unconditionally indecent classification and classifies it as indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 18th day of May 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

go2624

Decision No. 35/89

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: A. J. Graham, K. A. Hulme, R. E. Barrington 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 K. A. Hulme

This book published well before AIDS became a matter of general knowledge and concern, is self-described as "a gay sex guide and consciousness book". Written by a man who is homosexual, it is just that.

It is quite clearly intended to be a practical guide for gay men who may lack the author's experience and/or pride and satisfaction with his sexual orientation. Its purpose is honest, its intent is honest: both are openly and clearly expressed from the title onwards.

It contains photographs and drawings which, together with anecdotal material and much practical information, serve *only* the purpose of the book. Unlike many other publications which have come before the Tribunal, there is no sleazy attempt to creep under a possible "unconditionally indecent" ruling by throwing in a bit of scientific and medical material to