

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

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

Decision

These magazines were commercially imported through Auckland in October 1988 and were seized by the Collector of Customs. The importer having subsequently disputed forfeiture, the publications have been referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

The Tribunal is unanimous in agreeing with the submission by the Comptroller of Customs that issue 121 of *Drummer* has maintained the themes of sado-masochism and bondage in both pictorial and written form which have with previous issues resulted in an indecent classification. The Tribunal classifies this publication as unconditionally indecent for the same reasons.

Mr Ireland provided the Tribunal with additional copies of the publication *All American Man* in support of an application for a serial publication restriction order in terms of section 15A of the Indecent Publications Act 1963. Mr Wotherspoon on behalf of the Comptroller supported the making of a serial order. The Tribunal considered that this publication came close to deserving a not indecent classification but on further reflection has reached the conclusion that it could be injurious to younger readers and accordingly classifies it as indecent in the hands of persons under the age of 16 years. The Tribunal is satisfied that there is a consistency within these publications of the nature which is contemplated by section 15A and accordingly makes a restriction order in terms of section 15A that these publications are all indecent in the hands of persons under the age of 16 years.

Dated at Wellington this 6th day of June 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go2629

Decision No. 38/89

Reference No.: IND 48/88

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: *Shore Leave Hunk; Hunky Bike Slave; Big City Punk; Mark's Hot Ass; Mean Sailors Toy; High School Gym Orgy; My Lover My Nephew; 3-Way Thrust; Quarterback Bruiser; Kelly's Naked Danger; Hunk Jumpers; Dark & Dangerous; Super Suck; Cocky Crew; Make It Last; Powerfull Peter; Hard at Work; Ballsy Biker; Big Rig Hunks; Pipeline Stud; All Star Hunks; Gang Bang Bikers; Hard Driver; Rodeo Jocks; Hard Dirty Truckers; Hard Hat Hunks; Cruising for Cock; New Boy on the Force; Sucker for Seamen; Ballbuster Quarterback; Brawny Hunk; High School Comers; Lumberjacks Little Brother; Devine Head; Lusting Lifeguards; Marine Barracks Orgy; Secret Passage; Rock Hard Studs; Hung Hustler; Meat Master; California Creamin; Mean Marine; Shore Leave Hunks; Up and Coming Quarterback; Open Butt Welder; Licken Chicken; Coming Out; Hard to Hold; Black Stud Sex Toy.*

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 1989.

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

Decision

These publications which are cheaply produced novels printed in the United States were imported through the Port of Auckland in early June 1988. The Collector of Customs seized these novels and the importer has subsequently disputed forfeiture. The publications have accordingly been referred to the Tribunal prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966. The Tribunal on this occasion had both the opportunity of hearing from counsel and from the Comptroller of Customs and hearing from and discussing with a representative of the importing company in regard to matters of concern to the Tribunal in respect of these types of publication.

In a submission to the Tribunal Mr Ireland invited the Tribunal to find that the publications were similar in nature to the publications *Di's Dilemma* and *Off Shore Duty* both of which were considered by the Tribunal in decision 14/87. Mr Ireland reminded the Tribunal that it had said in that decision "the Tribunal is satisfied that these books would have a limited market and they do not require an unconditionally indecent classification". Mr Ireland also invited the Tribunal to consider the comprehensive submission made by Phil Parkinson to the Tribunal in respect of *Advocate Men* magazine and in particular an article by Alfred Taylor in *Outrage* magazine to which Mr Parkinson referred and which summarised the various categories of erotic material available to gay men.

The importer acknowledged that the material had little if any literary merit although in the end result the Tribunal found that some of the magazines did in fact have a story line and because of that they were able to be dealt with in a different way to the bulk of the material. All of the magazines deal with homosexual sexual activity in what can best be described as a coarse and crude way. That which the Tribunal found the most disturbing feature of the publications was that almost without exception they lacked any tender portrayal of the relationship between the persons depicted and on the contrary they in fact showed those relationships to be what might be described as rough and tough and even of a violent nature.

I have indicated that in most cases there is no significant story as such and the Tribunal has reached the unanimous conclusion that the majority of the publications present a loosely connected story line tied together by a large number of sexual encounters lacking in any sympathy of portrayal.

The Tribunal finds that the majority of the publications with the exception of those shortly to be mentioned are coarsely and badly written without any pretense of literary and their honesty of purpose is to say the least greatly suspect. The Tribunal finds that those publications, with the exception again of those shortly to be mentioned, are injurious to the public good and classifies each as indecent.

3-Way Thrust; Hard Driver; Hard Hat Hunks

Although some of the members of the Tribunal expressed concern at the nature of the material of these publications it was eventually unanimously agreed that they differed to a degree from the other material which enabled the Tribunal to reach a conclusion that each be classified as indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 6th day of June 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go2630

Decision No. 39/89

Reference No.: IND 24/89

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: