



Gazette Office

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The New Zealand Gazette

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Using the Gazette

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Other issues of the Gazette:

Commercial Edition—published weekly on Wednesdays.

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Parliamentary Summary

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29 December 1989

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[Local]

Waipa District Council (Kihikihi Endowment Land)

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Bills Introduced

Private Bills

(Minister/Member in Charge Shown in Parenthesis)

21 February 1990

R. O. Bradley Estate Amendment. (Dr Peter Simpson.)

A. E. Thorpe Limited. (Hon. Fran Wilde.)

Referred to Select Committee

Justice and Law Reform

Justice and Law Reform

Local Bill

28 February 1990

Dunedin City Council (Rating Relief) Empowering Bill. (Hon. Stan Rodger.)

Internal Affairs and Local
Government

Private Member's Bill

28 February 1990

Broadcasting (New Zealand Music Quota) Bill. (Graham Kelly.)

Planning and Development

Summary of Bills Introduced

A. E. Thorpe Limited Bill

This Bill seeks to enable A. E. Thorpe Limited to be incorporated in Australia, to provide that, on its incorporation, the company shall cease to be incorporated under the Companies Act 1955, and to make provision for incidental matters.

R. O. Bradley Estate Amendment Bill

This Bill seeks to amend the R. O. Bradley Estate Act 1972. The Bill enables the Orton Bradley Park Board to acquire real or personal property and to sell portions of the Park for the purpose of boundary adjustment or for better provision of access to the Park or adjoining property.

Broadcasting (New Zealand Music Quota) Bill

This Bill seeks to promote a New Zealand identity and culture by requiring a New Zealand music quota in respect of music broadcast by a radio station.

Dunedin City Council (Rating Relief) Empowering Amendment Bill

This Bill seeks to amend the Dunedin City Council (Rating Relief) Empowering Act 1986 by inserting the following:

- (a) Under section 2, a definition of 'Acquisition for development purposes' and a new definition of 'development'.
 (b) Under section 3, provision for further power to the council to remit or postpone rates on any rateable property acquired for development purposes.

ps2590

Government Notices

Agriculture and Fisheries

Animals Protection Act 1960

Approval of Code of Ethical Conduct Notice No. 4961 (100/A1/07)

Pursuant to section 19A of the Animals Protection Act 1960, and on the advice of the National Animal Ethics Advisory Committee I, hereby approve the code of ethical conduct submitted to me from the Christchurch Polytechnic.

Dated at Wellington this 28th day of February 1990.

J. R. SUTTON, Minister of Agriculture.

go2619

Commerce

Coal Mines Act 1979

Appointment of Chief Inspector of Coal Mines

Pursuant to section 8 of the Coal Mines Act 1979, and the State Sector Act 1988, I hereby appoint

Gerard Klemick

to be the Chief Inspector of Coal Mines from 2 March 1990.

Dated at Wellington this 28th day of February 1990.

DAVID BUTCHER, Minister of Energy.

go2620

Dumping and Countervailing Duties Act 1988

Final Determination: Dumping Investigation in Respect of Plasterboard from Thailand: Amendment No. 1

Pursuant to section 14 of the Dumping and Countervailing Duties Act 1988 ("the Act"), the Minister of Commerce gives the following notice.

Notice

1. **Title**—(1) This notice may be cited as the Final Determination: Dumping Investigation in Respect of Plasterboard from Thailand, Amendment No. 1.

(2) This notice shall take effect from 21 December 1989, being the date whereby the Minister of Commerce made a final determination pursuant to section 13 (1) of the Dumping and Countervailing Duties Act 1988 ("the Act") that plasterboard from Thailand were goods in respect of which the Minister may impose anti-dumping duty in accordance with section 14 of the Act.

2. **Amendment to description of goods upon which anti-dumping duty was imposed**—The notice given by the

Minister of Commerce entitled "Final Determination: Dumping Investigation in Respect of Plasterboard from Thailand" dated 21 December 1989 and published in the *Gazette* of 11 January 1990 is hereby amended by omitting the Schedule and substituting the Schedule to this notice.

Schedule

Amount of Anti-Dumping Duty

The following anti-dumping duty shall be charged, collected and paid on demand of the Collector in respect of each importation of plasterboard, being standard or foil-backed plasterboard having nominal dimensions of 9 mm or 9.5 mm thickness by 1200 mm width by 2400 mm to 3600 mm length and falling within Tariff items 6809.11.00 and 6809.19.00, when exported by SCT Co Ltd. and Thai Gypsum Products Co Ltd., and imported or intended to be imported into New Zealand from Thailand.

<i>Exporter</i>	<i>Amount of Duty</i>
SCT Co Ltd.	15.69c/sqm
Thai Gypsum Products Co Ltd.	15.69c/sqm

Dated at Wellington this 1st day of March 1990.

DAVID BUTCHER, Minister of Commerce.

Explanatory Note

This note is not part of the notice, but is intended to indicate its general effect.

This notice amends, by substituting an amended Schedule, the final determination in relation to plasterboard from Thailand which was made by the Minister of Commerce on 21 December 1989 and published in the *Gazette* of 11 January 1990. The effect of the substitution is to clarify, for the purposes of anti-dumping duty collection, the precise description of the goods upon which anti-dumping duty was imposed. The clarification narrows the previous description of the goods as contained in the 21 December determination.

go2634

Conservation

Harbours Act 1950

The Lake Aratiatia Waters Control Order 1989

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 26th day of February 1990

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

Pursuant to section 8A of the Harbours Act 1950, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

Order**1. Title and commencement—**

(a) This order may be cited as the Lake Aratiatia Waters Control Order 1989.

(b) This order shall come into force 28 days after its publication in the *Gazette*.

2. Interpretation—In this order:

“The Act” means the Harbours Act 1950:

“The Public Body” means the Wairakei Tourist Park Committee:

3. Public Body—The Wairakei Tourist Park Committee is hereby declared to be a public body within the meaning of section 8A of the Harbours Act 1950.

4. Grant of Control—There is hereby granted to the Public Body for a period of 21 years control of the waters described in the Schedule to this order.

5. Conditions of Grant—The grant of control conferred by clause 4 of this order is subject to the following conditions:

(a) Suitably worded signs shall be erected at main public access ways to the waters described in the Schedule to this order indicating that control of the waters has been granted to the Public Body pursuant to section 8A of the Act.

(b) All money received by the Public Body in the performance or exercise of the functions, duties, or powers conferred on it by this order in respect of the waters to which this order applies, shall, after the deduction of any expenditure incurred by the Public Body in the performance or exercise of those functions, duties, or powers, be applied to the construction, repair or improvement of facilities in respect of those waters and not otherwise.

(c) The committee known as the Wairakei Tourist Park Committee shall comprise the following representatives:

One representative appointed by the New Zealand Tourist and Publicity Department.

One representative appointed by the Tourist Hotel Corporation.

One representative appointed by the Department of Conservation.

One representative appointed by Land Corporation Ltd.

One representative appointed by the Electricity Corporation of New Zealand Ltd.

One representative appointed by Works and Development Services Corporation (NZ) Ltd.

One representative appointed by the Ministry of Forestry.

Two representatives appointed by the Taupo District Council.

6. Powers—Subject to section 8A of the Act, the Public Body may in respect of the waters to which this order applies:

(a) By bylaw, do anything which a Harbour Board may do by bylaw under section 232 of the Act.

(b) Appoint harbour masters and other officers, and define or limit their powers and duties.

Schedule

All the waters of Lake Aratiatia from the base of the Huka Falls downstream to the Aratiatia Dam as shown coloured green on plan M.D. 16016, deposited in the Tongariro/Taupo Conservancy of the Department of Conservation in Turangi.

C. J. HILL, for Clerk of the Executive Council.

go2607

Revocation of the Taupo County Council Lake Aratiatia Waters Control Order 1989

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 26th day of February 1990

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

Pursuant to section 8A (11) of the Harbours Act 1950, His Excellency the Governor-General acting by and with the advice and consent of the Executive Council, hereby makes the following order.

Order**1. Title and commencement—**

(a) This order may be cited as the Revocation of the Taupo County Council Lake Aratiatia Waters Control Order 1989.

(b) This order shall come into force 28 days after its publication in the *Gazette*.

2. The grant of control over the waters of Lake Aratiatia issued to the Taupo County Council by the Taupo County Council Lake Aratiatia Waters Control Order 1980* is hereby revoked.

C. J. HILL, for Clerk of the Executive Council.

*New Zealand Gazette, 22 January 1981, page 86.

go2608

Education**Education Act 1989****Notice Changing Date of Student Representative Election to the Correspondence School Board of Trustees****Notice**

Pursuant to clause 9 (2) of the Sixth Schedule to the Education Act 1989, the Minister of Education, gives the following notice:

1. The time for the holding of an of election for the student representative to the Correspondence School Board of Trustees for 1990, is hereby extended to 31 March 1990.

Dated at Wellington this 1st day of March 1990.

PHIL GOFF, Minister of Education.

go2623

Dissolution of Board of Trustees and Appointment of a Commissioner

Pursuant to section 106 of the Education Act 1989, I hereby dissolve the Upper Takaka Primary School Board of Trustees and appoint Peter Price as Commissioner to act in its place.

Dated at Wellington this 2nd day of March 1990.

M. O'ROURKE, Secretary of Education.

go2625

Private Schools Conditional Integration Act 1975**Private Schools Conditional Integration Act 1975**

Pursuant to section 10 of the Private Schools Conditional Integration Act 1975, notice is given that a supplementary integration agreement has been signed between the Minister of Education on behalf of Her Majesty the Queen acting through the Manager, District Operations, Otago, Ministry of Education, pursuant to delegated authority, and the Chairperson of the St Hilda's Collegiate School (Incorporated), as proprietor of the following school:

St Hilda's Collegiate School, Dunedin.

The said supplementary integration agreement was executed on the 14th day of February 1990. Copies for the supplementary integration agreement are available for inspection without charge by any member of the public at the District Office of the Ministry of Education, Level 7, John Wickliffe House, Princes Street, Dunedin.

Dated at Dunedin this 26th day of February 1990.

P. R. GODDARD, for M. DEAKER, for Secretary of Education.
go2591

Private Schools Conditional Integration Act 1975

Pursuant to section 10 of the Private Schools Conditional Integration Act 1975, notice is given that a supplementary integration agreement has been signed between the Minister of Education on behalf of Her Majesty the Queen acting through the Manager, District Operations, Central South (Wellington), Ministry of Education pursuant to delegated authority, and the Roman Catholic Archbishop of the Archdiocese of Wellington, as proprietor of the following school:

St Bernard's Primary School, Brooklyn, Wellington.

The said supplementary integration was executed on the 13th day of February 1990. Copies of the supplementary integration agreement are available for inspection without charge by any member of the public at the District Office of the Ministry of Education, 123 Molesworth Street, Wellington.

Dated at Wellington this 14th day of February 1990.

D. GRACE, for Secretary of Education.
go2596

Energy

Manapouri—Te Anau Development Act 1963

Manapouri—Te Anau Development Act 1963

Pursuant to section 4A of the Manapouri—Te Anau Development Act 1963, the Minister of Energy, based upon the recommendation of the Guardians of Lakes Manapouri and Te Anau and the Electricity Corporation of New Zealand Limited, hereby gives notice that the following guidelines shall apply to the operations, for hydro-electric purposes of Lake Manapouri and Te Anau and the associated power station. These guidelines may be subject to review after a period of 1 year.

1. Lake Management—The parties recognise three operating ranges for each lake, namely:

Main, High and Low as set out in the tables below.

In each range the the Electricity Corporation may operate within the levels set out, but will endeavour to maintain continuous variations within that range.

In the High and Low Operating Ranges the Electricity Corporation will use its best endeavours to stay within the durations and intervals shown in the relevant table at the levels set out in the tables below.

(a) Main Operating Range

(i) Lake Manapouri from 176.8 m to 178.6 m.

(ii) Lake Te Anau from 201.5 m to 202.7 m.

(b) High Operating Range

(i) Lake Manapouri above 178.6 m.

Elevation (m)	Maximum duration (Continuous days)	Minimum interval between floods in this level (Continuous days)	Interval/duration Ratio
At 180.5	1	100	100.0
Above 180.4	3	100	33.0
Above 180.1	9	100	11.0
Above 179.8	22	80	3.6
Above 179.5	35	40	1.1
Above 179.2	44	40	0.9
Above 178.9	99	20	0.2
Above 178.6	119	20	0.2

(ii) Lake Te Anau above 202.7 m.

Elevation (m)	Maximum duration (Continuous days)	Minimum interval between floods in this level (Continuous days)	Ratio
At 204.3	1	100	100.0
Above 204.2	3	100	33.0
Above 203.9	10	60	6.0
Above 203.6	22	30	1.4
Above 203.3	39	30	0.8
Above 203.0	65	30	0.5
Above 202.7	125	20	0.2

For each lake, in the High Operating Range:

1. If the ratio between "interval" and "previous duration" for any particular event of shorter duration than specified in the tables equals or exceeds the ratio in the table, the requirements of the guidelines are complied with.

2. If the interval duration ratio so calculated is less than the ratio in the table, then for the purpose of compliance, the duration is considered to include the subsequent interval.

3. Periods of duration, including subsequent intervals if appropriate, are accumulated until the required ratio is achieved.

4. Accumulated periods of duration, as defined in paragraph 3, should not exceed the permissible maximum.

(c) Low Operating

(i) Lake Manapouri 175.86 m to 176.8 m.

Elevation (m) one	Maximum duration for any event (Continuous days)
Below 176.8	107
Below 176.5	66
Below 176.2	20
At 175.9	5

Absolute minimum level 175.86 m.

(ii) Lake Te Anau from 200.86 m to 201.5 m.

Elevation (m) one	Maximum duration for any event (Continuous days)
Below 201.5	88
Below 201.5	46
Below 201.1	21

Absolute minimum level 200.86 m.

For both lakes in the Lower Operating Range:

1. The parties record that in the period of natural record the level of Lake Manapouri has been below the absolute minimum shown in the above table. It is also recorded that the guidelines are based on the mean of three extreme events during the period of natural record and may result of low levels being experienced more often than would have occurred naturally.

2. (a) The Corporation will use its best endeavours to avoid

lake levels below 176.2 m during the equinoctial periods (March, April, October and November).

(b) The annual total of days below any particular elevation should not exceed twice the maximum duration specified for any one event below that elevation.

(c) The rates of drawdown should not exceed natural rates of drawdown namely 0.05 m per day for Lake Manapouri and 0.03 m per day for Lake Te Anau. Both averaged over 4 days.

3. Mean Annual Lake Level—For each lake the aim will be to achieve an annual mean value within the main operating range.

2. Gate Opening and Closing Procedures

(a) The gate opening and closing procedures adopted for the Te Anau Control Structure are designed amongst other things to reduce or eliminate scour action on the upper Waiiau River banks to facilitate repair following periods of extremely high flow and to facilitate the successful spawning of salmonids, and these may be modified from time to time based on experience.

(b) The gate opening and closing procedures adopted for the Manapouri Lake Control structure are designed amongst other things to reduce potentially dangerous increases in river flow downstream of the gates and to bypass flood flows from the Mararoa River in such a manner as to prevent the dirty debris-laden water from entering Lake Manapouri.

3. Benchmarks—For the purposes of the Manapouri—Te Anau Development Amendment Act 1981.

(a) The level of Lake Te Anau at any time shall be determined by reference to the Lands and Survey Benchmark Z58, National grid co-ordinates (176 284) guards east (319 170) yards north, which is adjacent to the lake water level recorder and staff gauge. The benchmark shall be deemed to represent a height 205.127 metres above sea level.

(b) The level of Lake Manapouri at any time shall be determined by reference to the Lands and Survey Benchmark Z47, National grid co-ordinates (170 051) yards east (305 873) yards north. The benchmark shall be deemed to represent a height of 208.910 metres above sea level.

Signed at Wellington this 1st day of March 1990.

D. J. BUTCHER, Minister of Energy.

go2609

4CL

Inland Revenue

Income Tax Act 1976

Determination G21: Discounted Value of Amounts Payable in Relation to Deferred Property Settlements Denominated in a Foreign Currency

This determination may be cited as "Determination G21: Discounted Value of Amounts Payable in Relation to Deferred Property Settlements Denominated in a Foreign Currency".

1. *Explanation*—(which does not form part of the determination).

(1) In this determination an agreement for the sale and purchase of property, or specified option, where payment in full is not made at the time at which the first right in the specified property is to be transferred, will be called a "deferred property settlement". Where the first right in the property is transferred at the time of payment of the purchase price in full, the purchase price will be the lowest price determined in accordance with section 64BA (1) (c) (i) and the discounting provisions described in this determination will not apply.

(2) A short-term agreement or option for the sale and purchase of property is defined as an agreement or option under which settlement is required within—

(a) 93 days in the case of real property; or

(b) 63 days in the case of other property—

after the date on which the agreement was entered into or the option was granted. Such short-term agreements or options are excepted from the accruals provisions of the Act. A private or domestic agreement for the sale and purchase of property as defined in section 64B (1) of the Act is also an excepted financial arrangement.

(3) Any other agreement for the sale and purchase of property or specified option is subject to the normal accrual provisions of the Act and relevant determinations.

(4) For all deferred property settlements, a core acquisition price must be determined as at the date on which the first right in the property is transferred; for ease of reference, this date is called the "transfer date" in this determination.

(5) Sections 64BA (2) and (3) of the Act define acquisition price in terms of the core acquisition price, which is itself defined in Section 64BA (1). In subparagraph (c) (i) of that section an amount "w" is defined as being the lowest price that the buyer and seller would have agreed upon for the property had all rights and consideration passed at transfer date. If there is no such lowest price stipulated in the agreement, subparagraph (c) (ii) provides that "w" shall be "the discounted value of the amounts payable for the specified property as determined pursuant to a determination made by the Commissioner under section 64E (1) (f) of this Act".

(6) For these purposes any amount determined in a currency other than New Zealand dollars is required to be discounted using an interest rate appropriate to the currency. This determination allows the use of—

(a) A foreign currency interest rate ascertained using a method consistent with Determination G13: Prices or Yields as at the transfer date—this interest rate is the interbank offer rate for the currency and the term of the deferred property settlement; or

(b) An implied foreign currency interest rate calculated by reference to appropriate forward and spot exchange rates and the New Zealand bank bill or New Zealand Government Stock rates appropriate to the term of the deferred property settlement.

(7) The interest rate appropriate to the term of the deferred property settlement is selected by the taxpayer, and once chosen the rate is required to be used in respect of every income year in which the taxpayer is a holder or an issuer in respect of the deferred property settlement.

(8) The amounts payable are then discounted to the transfer date, using the interest rate so ascertained and present value calculation Method A in Determination G10: Present Value Calculation Methods or an alternative method producing not materially different results.

(9) The discounted value of the amounts payable, together with any deposit or other amounts paid on or before the transfer date, is the amount "w" to be used for calculating the core acquisition price.

(10) The core acquisition price is used to determine the acquisition price of a deferred property settlement in accordance with sections 64BA (2) or (3) of the Act.

(11) Once the acquisition price is known in the base currency, income derived or expenditure incurred in relation to a deferred property settlement shall be calculated as if the value of the specified property were equal to the amount of the core acquisition price, using the yield to maturity method and Determination G9A: Financial Arrangements that are Denominated in a Currency or Commodity other than New Zealand Dollars. The yield to maturity method chosen may be that determined in Determination G3: Yield to Maturity Method, or Determination G11: Present Value Based Yield to Maturity Method, or an alternative method producing a result which is not materially different.

(12) For the purposes of the base price adjustment, as defined in section 64F of the Act, the acquisition price must be converted to New Zealand dollars on the transfer date.

2. *Reference*—This determination is made pursuant to sections 64E (1) (a) and (f) of the Income Tax Act 1976.

3. *Scope of Determination*—This determination shall apply to any agreement for the sale and purchase of property and to any specified option held or issued by a person, where payments are expressed in a “base currency” other than New Zealand dollars. This determination shall not apply—

- (a) To any deferred property settlement where the amounts payable are denominated in New Zealand currency; or
- (b) To any deferred property settlement where more than 20% of the sum of all the amounts payable is due before 31 days prior to the transfer date; or
- (c) Where in relation to any deferred property settlement any amount payable, or the date on which any amount is payable, is not known at the first balance date of the person after the transfer date; or
- (d) Where the term of the deferred property settlement is not known at the first balance date after the transfer date.

4. *Principle*—(1) The discounted value of amounts payable for the specified property is calculated—

- (a) In the base currency as if it were New Zealand dollars;
- (b) Using an interest rate appropriate for the currency, the rate being either—
 - (i) A rate ascertained using a method consistent with Determination G13: Prices or Yields, that is the foreign interbank offer rate appropriate to the term of the deferred property settlement; or
 - (ii) A rate calculated by reference to appropriate spot and forward exchange rates and the bank bill or New Zealand Government Stock rates appropriate to the term of the deferred property settlement; and
- (c) Using present value calculation Method A specified in clause 6 (2) of Determination G10: Present Value Calculation Methods, or an alternative method producing not materially different results.

(2) The discounted value of the amounts payable for the property or specified option enables the acquisition price of a deferred property settlement to be ascertained for the purposes of determining income derived or expenditure incurred in any period and the base price adjustment. For the latter purpose the discounted value of the amounts payable is converted to New Zealand dollars on the transfer date of the specified property.

(3) The discounted value so calculated is taken into account in determining the income or expenditure accruing from the deferred property settlement in any income year, and where the discounted value and the amount of future payments under the deferred property settlement are known the yield to maturity method is to be applied.

5. *Interpretation*—(1) In this determination, unless the context otherwise requires—

Expressions used have the same meanings as in the Act and where a word or expression is given a particular meaning for the purposes of sections 64B to 64M of the Act it shall have the same meaning as in the said sections 64B to 64M:

“The Act” means the Income Tax Act 1976:

“Acceptable present value calculation method” means calculation Method A in Determination G10: Present Value Calculation Methods, or an alternative method producing not materially different results:

“Bank bill” means an order to pay, denominated in New Zealand currency and drawn upon and accepted by—

- (a) A registered bank as defined in section 2 (1) of the Reserve Bank of New Zealand Act 1964; or

(b) Any person referred to in Part A of the First Schedule to the Reserve Bank of New Zealand Act 1964:

“Base currency” in relation to a financial arrangement means the currency in which rights and obligations under the financial arrangement are fixed:

“Currency” includes any commodity used as a medium of exchange or account, whether in general use or for the purpose of an arrangement:

“Deferred property settlement” means an agreement for the sale and purchase of property or a specified option under which any amount is payable after the date on which the first right in the property is transferred:

“Final payment” in relation to a deferred property settlement means the last payment required to be made by the issuer under the deferred property settlement, other than any amount that is not material in relation to the total consideration required to be provided by the issuer under the financial arrangement:

“Forward exchange rate” means the price at which foreign currency can be bought or sold for delivery at a specified future time:

“Interbank offer rate” in relation to a term means the rate at which a bank makes funds available to another bank which is a highly reliable credit risk and a trader in the market for such funds and for such a term; and includes, according to the circumstance, the rates collectively referred to as “LIBOR” and “SIBOR”:

“Specified property” means property that is acquired or sold pursuant to a deferred property settlement:

“Spot rate” means the price at which foreign currency can be bought or sold for delivery in 2 days:

“Term” in relation to a deferred property settlement is the period from the transfer date to the date on which final payment is required to be made under the deferred property settlement:

“Transfer date” of a deferred property settlement means the date on which the first right in the specified property is transferred.

(2) Any reference in this determination to another determination made by the Commissioner shall be construed as including a reference to any fresh determination made by the Commissioner to vary, rescind, restrict, or extend that determination.

6. *Method*—(1) For the purposes of paragraph (ii) of the definition of “w” in section 64BA (1) (c) of the Act, the discounted value of the amounts payable for the specified property in relation to any person shall be calculated by summing—

(a) Every amount payable to or, as the case may be, by the person for the specified property on or before the transfer date expressed in New Zealand dollars; and

(b) The amount of New Zealand dollars equal in value to the present value as at the transfer date of amounts payable to or, as the case may be, by the person for the specified property after the transfer date.

(2) For the purposes of this determination, the present value as at transfer date of amounts payable shall be calculated, using the interest rate determined under subclause (2) (a) or (b) as appropriate and an acceptable present value calculation method.

(3) In the first income year in which a person is a party to and derives income or incurs expenditure in respect of a deferred payment settlement, the annual rate of interest at which the present value of the amounts payable is required to be calculated shall be, at the option of the person, either—

- (a) The interbank offer rate for the base currency and the term of the deferred property settlement at transfer date,

being a market yield determined in a manner consistent with Determination G13: Prices or Yields; or

(b) A rate derived by—

(i) Converting the amount of the final payment from the base currency to New Zealand currency at the forward exchange rate for a term similar to the term of the deferred property settlement and ascertained as at the transfer date; and

(ii) Calculating the present value of the amount thus calculated, using an acceptable present value calculation method and—

(A) Where the term of the deferred property settlement is 12 months or less, the yield for bank bills of a similar term to the term of the deferred property settlement;

(B) In any other case the yield for New Zealand Government stock of a similar term to the term of the deferred property settlement—

the rate being determined as at the transfer date, and determined in accordance with Determination G13: Prices or Yields; and

(iii) Converting the amount thus calculated to the base currency at the spot rate for the currency on the transfer date; and

(iv) Calculating the base currency interest rate R for the purposes of applying Method A of Determination G10: Present Value Calculation Methods such that, if the said Method A were applied to the final payment over the term of the deferred property settlement, the present value so calculated would be equal to the amount calculated in subparagraph (iii) of this paragraph—

and for this purpose the exchange rate and the forward exchange rate are to be determined in accordance with Determination G6A: Foreign Exchange Rates—

and in all subsequent income years during the term of the deferred property settlement the annual rate of interest for that purpose in respect of the deferred property settlement shall be the rate first used in respect of the deferred property settlement pursuant to this subclause.

(4) Where an amount payable is expressed in a foreign currency and is required to be converted to New Zealand dollars, Determination G6A: Foreign Currency Rates must be used. If the base currency is in a market not approved in Determination G6A, a spot rate at which an arm's length dealing would be expected to take place on the transfer date must be used.

(5) The present value of the amounts payable together with any deposit or other amounts paid on or before the transfer date is the amount "w" to be used to calculate the core acquisition price.

(6) The core acquisition price shall be used to determine the acquisition price of a deferred property settlement in accordance with sections 64BA (2) or (3) of the Act.

(7) Income derived or expenditure incurred in relation to a deferred property settlement shall be calculated, as if the value of the specified property were equal to the amount of the core acquisition price, using the yield to maturity method and Determination G9A: Financial Arrangements that are Denominated in a Currency or Commodity other than New Zealand Dollars. For this calculation the acquisition price must be expressed in the base currency.

(8) For the purposes of the base price adjustment, the acquisition price of the deferred property settlement shall be converted to New Zealand dollars at the transfer date of the specified property.

7. Example—(1) A commercial property is sold for US\$1,400,000 under a sale and purchase agreement subject

to certain repairs being made to the building. An initial deposit of \$140,000 is made on 1 February 1989.

On 1 March 1989 repairs on the building are complete and the sale becomes unconditional. The balance of US\$1,260,000 is due 6 months after the date possession passes.

Possession of the property passes on 15 March 1989. Therefore the term of the arrangement is 15 March 1989 to 15 September 1989—184 days.

The purchaser's balance date is 31 March.

The USD/NZD exchange rates for the various dates are—

1 February 1989	0.5600
15 March 1989	0.5800
31 March 1989	0.5750
15 September 1989	0.5700

In this case the purchaser is the "issuer" for the purposes of the accruals legislation.

(2) The US interbank offer rate on 15 March 1989 for a period of 6 months is 8.0 percent ascertained using a method consistent with Determination G13: Prices or Yields.

(3) Method A of Determination G10: Present Value Calculation Methods, is applied to calculate the present value as at 15 March 1989 (the "specified date") as follows—

R = 8.0 percent (the specified rate)

N = 2 (since the payments are at half yearly intervals)

$$F = \frac{R}{100 \times N}$$

$$= 0.04$$

(a) At 15 March 1989:

A = 0

B = \$1,260,000

C = 0

Therefore present value at 15 March 1989

$$= \frac{A + B - C}{1 + F}$$

$$= \text{US\$1,211,538}$$

(b) To this total must be added US\$140,000 deposit, giving a total present value of US\$1,351,538, which is the item "w" used in calculating the core acquisition price.

(4) For the purposes of recognising as an expense that part of the deferred property settlement which is subject to the accruals legislation Determination G3: Yield to Maturity Method is used. It will be found that expenditure is as follows, apportioned on a daily basis in accordance with Determination G1A:

1988/89	16 days	US\$ 4,214
1989/90	168 days	US\$44,248

(a) At balance date the expenditure for the period is revalued in accordance with Determination G9A. Closing tax book value is a = e + f + g - h - i where—

e = 0

f = 0

g = 0

h = US\$1,351,538 (the acquisition price)

i = US\$4,214 (expense incurred during year)

The closing tax book value is -US\$1,355,752

Expenditure for the year is calculated in New Zealand dollars using the formula from Determination G9A of—

a + b - c - d where—

a = NZ\$2,357,830 (CTBV/spot rate at balance date)

b = NZ\$2,330,238 (acquisition price/opening spot rate)

c = 0

d = 0

As the result is negative it is deemed to be expenditure incurred of NZ\$27,592 in the 1989 income year.

(b) At the end of the arrangement on 15 September the base price adjustment $a - (b + c)$ is calculated to determine income or expenditure for the 1990 financial year where—

- a = NZ\$2,460,526 (deposit/spot rate date paid plus balance of consideration/closing spot rate)
- b = NZ\$2,330,238 (acquisition price/opening spot rate)
- c = NZ\$27,592 (expenditure incurred in the previous income year)

Therefore $bpa = NZ\$102,696$

As this is positive it is deemed to be expenditure incurred in the 1990 income year.

Total expenditure claimed in relation to the deferred property settlement is $NZ\$(27,592 + 102,696) = NZ\$130,288$.

This determination is signed by me on the 9th day of February in the year 1990.

R. D. ADAIR,
Deputy Commissioner of Inland Revenue.
go2593

Determination G17A: Discounted Value of Amounts Payable in Relation to Deferred Property Settlements Denominated in New Zealand Currency

This determination may be cited as "Determination G17A: Discounted Value of Amounts Payable in Relation to Deferred Property Settlements Denominated in New Zealand Currency".

1. *Explanation*—(which does not form part of the determination).

(1) This determination rescinds and replaces Determination G17: Discounted Value of Amounts Payable in Relation to Deferred Property Settlements Denominated in New Zealand Currency made by the Commissioner on 10 July 1989. This determination differs from Determination G17: Discounted Value of Amounts Payable in Relation to Deferred Property Settlements Denominated in New Zealand Currency by—

- (a) Requiring that the interest rate used to determine the discounted value of amounts payable in relation to a deferred property settlement be ascertained as at the transfer date of the specified property rather than as at the date of entry into the contract (which can be difficult to determine); and
- (b) Requiring that the discounted value of the amounts payable be used to calculate income derived or expenditure incurred for any income year (which is an extension made to the method for completeness).

(2) In this determination an agreement for the sale and purchase of property or a specified option, where payment in full is not made at the time at which the first right in the specified property is to be transferred, will be called a "deferred property settlement". Where the first right in the property is transferred at the time of payment of the purchase price in full, the purchase price will be the lowest price determined for the purposes of section 64BA (1) (c) (i) and the discounting provisions described in this determination will not apply.

(3) This determination does not apply—

- (a) To short-term agreements for the sale and purchase of property; or
- (b) To short-term options; or
- (c) To private or domestic agreements for the sale and purchase of property; or
- (d) To deferred property settlements where any amount payable is denominated in foreign currency; or

(e) To deferred property settlements where the total deposits and other amounts payable more than 31 days prior to the transfer date exceed 20% of the total purchase price; or

(f) Where in relation to the deferred property settlement any amount payable or the date on which any amount is payable is not known at the first balance date after transfer date; or

(g) Where the credit term of the deferred property settlement is not known at the date of entry into the deferred property settlement.

(4) Short-term agreements for the sale and purchase of property and short-term options are agreements or options under which settlement is required within—

- (a) 93 days of entry into the contract in the case of real property; or
- (b) 63 days of entry into the contract in the case of other property.

Such short-term agreements or options are excepted from the accruals provisions of the Act. A private or domestic agreement for the sale and purchase of property as defined in section 64B (1) is also an excepted financial arrangement.

(5) For all deferred property settlements, a core acquisition price must be determined as at the date on which the first right in the property is transferred; for ease of reference, this date is called the "transfer date" in this determination. Sections 64BA (2) and (3) of the Act define "acquisition price" in terms of the "core acquisition price", which is itself defined in section 64BA (1). In section 64BA (1) (c) (i) an amount "w" is defined as the lowest price that the buyer and seller would have agreed upon for the property on the basis of payment in full at the time at which the first right in the specified property is to be transferred. If there is no such lowest price, paragraph (c) (ii) provides that "w" shall be "the discounted value of the amounts payable for the specified property as determined pursuant to a determination made by the Commissioner under section 64E (1) (f) of this Act".

(6) This determination requires that an interest rate be ascertained in accordance with Determination G13: Prices or Yields, as at the transfer date of the specified property. This interest rate is the market yield applying to bank bills of a similar term to the credit term; if the credit term is longer than 12 months the market yield on New Zealand Government securities must be used.

(7) The amounts payable are then discounted to the transfer date, using the yield so ascertained and the present value calculation method A in Determination G10: Present Value Calculation Methods, or an alternative method producing not materially different results. The sum of the discounted amounts and any deposit or other amounts paid on or before the transfer date is the amount of "w" to be used for calculating the core acquisition price.

(8) The core acquisition price is used to determine the acquisition price of a deferred property settlement in accordance with sections 64BA (2) or (3) of the Act.

(9) Income derived or expenditure incurred in relation to a deferred property settlement, shall be calculated as if the value of the specified property were equal to the amount of the core acquisition price using the yield to maturity method which could be that determined in Determination G3: Yield to Maturity Method or Determination G11: Present Value Based Yield to Maturity Method or an alternative method producing a result which is not materially different.

2. *Reference*—(1) This determination is made pursuant to sections 64E (1) (a), 64E (1) (f) and 64E (6) of the Income Tax Act 1976.

(2) Determination G17: Discounted Value of Amounts Payable in Relation to a Deferred Property Settlement Denominated in

New Zealand Currency is hereby rescinded with effect from the day on which this determination is signed.

3. *Scope of Determination*—This determination shall apply to any deferred property settlement in relation to which a person is a holder or an issuer, but shall not apply—

- (a) To any deferred property settlement where any amount payable (other than the property that is the subject of the deferred property settlement) is not denominated in New Zealand dollars; or
- (b) To any deferred property settlement where more than 20% of the amounts payable is required to be paid more than 31 days prior to the transfer date; or
- (c) Where in relation to the deferred property settlement any amount payable or the date on which any amount is payable is not known at the first balance date after transfer date; or
- (d) Where the credit term of the deferred property settlement is not known at the date of entry into the deferred property settlement.

4. *Principle*—(1) The discounted value of amounts payable for the specified property is calculated as at the transfer date using—

- (a) The market yield to maturity available on traded debt securities of a similar term to the credit term of the deferred property settlement, ascertained in accordance with Determination G13: Prices or Yields; and
- (b) Present value calculation method A provided in clause 6 (2) of Determination G10: Present Value Calculation Methods, or an alternative method producing not materially different results.

(2) The discounted value of the amounts payable for the specified property enables the acquisition price of a deferred property settlement to be ascertained for the purposes of determining income derived or expenditure incurred in any period and the base price adjustment.

(3) The discounted value so calculated is taken into account in determining the income or expenditure accruing from the trade credit in any income year, and where the discounted value and the amount of the future payments under the trade credit are known the yield to maturity method is to be applied.

5. *Interpretation*—(1) In this determination, unless the context otherwise requires—

Expressions used have the same meanings as in the Act and where a word or expression is given in particular meaning for the purposes of sections 64B to 64M of the Act it shall have the same meaning as in the said sections 64B to 64M:

“The Act” means the Income Tax Act 1976:

“Bank bill” means an order to pay, denominated in New Zealand currency and drawn upon and accepted by—

- (a) A registered bank as defined in section 2 (1) of the Reserve Bank of New Zealand Act 1964; or
- (b) Any person referred to in part A of the first schedule to the Reserve Bank of New Zealand Act 1964:

“Credit term” means the period commencing on the day after the transfer date and ending on the day on which the final payment is required to be made:

“Deferred property settlement” means an agreement for the sale and purchase of property or a specified option under which any amount is payable after the date on which the first right in the specified property is transferred:

“Final payment” in relation to a deferred property settlement means the last payment required to be made by the issuer of a deferred property settlement under the agreement, other than any amount that is not material in relation to the total value of consideration required to be given by the issuer under the financial arrangement:

“Paid”, in relation to any amount paid to or paid by any

person, includes distributed, credited, or dealt with in the interests of or on behalf of or to the order of the person; and, in relation to any amount, “pay”, “payable” and “payment” have corresponding meanings:

“Specified property” in relation to a deferred property settlement means the property that is the subject of the deferred property settlement:

“Transfer date” in relation to a deferred property settlement means the day on which the first right in the specified property is transferred.

(2) Any reference in this determination to another determination made by the Commissioner shall be construed as including a reference to any fresh determination made by the Commissioner to vary, rescind, restrict, or extend that determination.

6. *Method*—(1) For the purposes of subparagraph (ii) of the definition of “w” in section 64BA (1) (c) of the Act, the discounted value of the amounts payable for the specified property in relation to any person shall be calculated by summing—

- (a) Every amount payable to or, as the case may be, by the person for the specified property on or before the transfer date; and
- (b) The present value as at the transfer date of amounts payable to or, as the case may be, by the person for the specified property after the transfer date.

(2) For the purposes of this determination, the present value as at the transfer date of the amounts payable shall be calculated, subject to subclause (3) of this clause, using method A provided in clause 6 (2) of Determination G10: Present Value Calculation Methods, or an alternative method producing not materially different results.

(3) For the purposes of subclause (2) of this clause the annual rate of interest at which the present value of the amounts payable is required to be calculated shall be—

- (a) Where the credit term is 12 months or less, the yield for bank bills of a similar term to the credit term;
- (b) In any other case, the yield for Government stock of a similar term to the credit term—

determined as at the transfer date of the specified property and according to Determination G13: Prices or Yields.

(4) The present value of the amounts payable together with any deposit or amounts paid on or before the transfer date is the amount “w” to be used to calculate the core acquisition price.

(5) The core acquisition price is used to determine the acquisition price of a deferred property settlement in accordance with sections 64BA (2) or (3) of the Act.

(6) Income derived or expenditure incurred in relation to a deferred property settlement shall be calculated as if the value of the specified property were equal to the core acquisition price, using the yield to maturity method.

7. *Example*—(1) A commercial property is sold for \$1,500,000 under a sale and purchase agreement, subject to certain planning consents being obtained.

A deposit of \$150,000 is paid on 20 December 1988, when the agreement is entered into. The balance of \$1,350,000 is payable in 2 equal instalments due 3 and 6 months after the date of possession.

Under the agreement, possession passes to the purchaser on the date the sale becomes unconditional; the purchaser has no other prior rights.

The seller’s balance date is 31 March.

On 3 March 1989 the planning consents are obtained and the sale becomes unconditional.

The credit term of the agreement (3 March 1989 to

4 September 1989) is 185 days (or 2 quarters). As this is under 12 months the yield on bank bills must be ascertained.

(2) The yield on bank bills of a similar term to the credit term ascertained on 20 December 1988 pursuant to Determination G13: Prices or Yields, is 13.2%.

(3) In this case, the seller is the "holder" for purposes of the accruals legislation.

(4) Method A of Determination G10: Present Value Calculation Methods, is applied to calculate the present value as at 3 March 1989 (the "specified date") as follows—

$$R = 13.2\% \text{ (the specified rate)}$$

$$N = 4 \text{ (since the payments are at quarterly intervals)}$$

$$F = \frac{R}{100 \times N} = 0.03300$$

(a) At 3 June 1989:

$$A = 0$$

$$B = \$675,000 \text{ (payable by the issuer or receivable by the holder)}$$

$$C = 0 \text{ (payable by the holder or receivable by the issuer)}$$

$$\text{whence present value at 3 June 1989} = \frac{A + B - C}{1 + F} = \$653,437$$

(b) At 3 March 1989:

$$A = \$653,437$$

$$B = \$675,000$$

$$C = 0$$

$$\text{whence present value at 3 March 1989} = \frac{A + B - C}{1 + F} = \$1,285,999$$

(c) To this must be added the \$150,000 deposit, giving a total present value of \$1,435,999 which is the item "w" used in calculating the core acquisition price.

(5) For the purposes of recognising the income derived in the 1989 and 1990 income years Determination G3 is used (alternatively, G11 could be used), where—

$$R = 13.2\%$$

$$N = 4$$

$$F = 0.0330$$

The income derived for the first 3 months is—

$$\$1,285,999 \times 0.0330 = \$42,437.96$$

This income is allocated to the 1989 income year in accordance with Determination G1A—

$$1989 \text{ income year} - 28 \text{ days} = \$12,915.90$$

(6) On the maturity of the financial arrangement, in the 1990 income year, a base price adjustment is calculated to arrive at the income deemed to be derived.

Base Price Adjustment = a - (b + c) where—

$$a = \text{all consideration paid} = \$1,500,000$$

$$b = \text{the acquisition price} = \$1,435,999$$

$$c = \text{income derived in previous income years} = \$12,915.90$$

$$\text{bpa} = \$51,085.10$$

As this is a positive amount it is deemed to be income derived by the holder in that income year.

This determination is signed by me on the 9th day of February in the year 1990.

R. D. ADAIR,
Deputy Commissioner of Inland Revenue.
go2594

Determination G20: Discounted Value of Amounts Payable in Relation to Trade Credits Denominated in a Foreign Currency

This determination may be cited as "Determination G20: Discounted Value of Amounts Payable in Relation to Trade Credits Denominated in a Foreign Currency".

1. *Explanation*—(which does not form part of the determination).

(1) This determination provides the method to be used to calculate the core acquisition price for a trade credit under subparagraph (iii) of the definition of "u" in section 64BA (1) (b) of the Act where—

- Any right or obligation of the parties is expressed in a "base currency" other than New Zealand dollars; and
- All amounts payable in relation to the trade credit and the dates on which they are payable are known at the first balance date after the supply date; and
- The term of the trade credit is known at the first balance date after the supply date; and
- Section 64BA (1) (b) (i), the cash price of the goods or services to which the trade credit relates as determined in the Credit Contracts Act 1981, is not applicable; and
- Section 64BA (1) (b) (ii), the lowest price at which the specified goods or services could be purchased under a short-term trade credit, is not applicable.

The core acquisition price is a component of the acquisition price, which is—

- Required to calculate income derived or expenditure incurred in an income year in accordance with the Income Tax Act 1976 and relevant determinations (and for this purpose the acquisition price must be expressed in the base currency); and
- Converted to New Zealand dollars for the purposes of the base price adjustment.

(2) A short-term trade credit, where payment is required within 63 days after supply of the specified goods or services, is exempted from the scope of the accrual provisions by the definitions in section 64B (1) of the Act. This determination cannot apply to a short-term trade credit.

(3) Any other trade credit is subject to the accrual provisions of the Act and relevant determinations. Where paragraph (iii) of the definition of "u" applies the acquisition price (and therefore the core acquisition price) must be determined as at the supply date of the specified goods or services.

(4) Sections 64BA (2) and (3) of the Act define acquisition price in terms of the core acquisition price, which is itself defined in section 64B (1). Paragraphs (i) and (ii) of the definition of "u" in that section provide two ways of determining the amount "u" which is required for calculating the core acquisition price. Where neither of these apply, paragraph (iii) of the definition of "u" in section 64BA (1) provides that "u" shall be "the discounted value of the amounts payable for the specified goods and services, as determined pursuant to a determination made by the Commissioner under section 64E (1) (f) of this Act".

(5) For these purposes any amount determined in a currency other than New Zealand dollars is required to be discounted using an interest rate appropriate to the currency. This determination allows the use of—

- A foreign currency interest rate ascertained using a method consistent with Determination G13: Prices or

- Yields as at the supply date—this interest rate is the interbank offer rate for the currency and term of the trade credit; or
- (b) An implied foreign currency interest rate calculated by reference to appropriate forward and spot exchange rates and the New Zealand bank bill or New Zealand Government Stock rates appropriate to the term of the trade credit.
- (6) The interest rate appropriate to the term of the trade credit is selected by the taxpayer, and once chosen the rate is required to be used in respect of every income year in which the taxpayer is a holder or an issuer of the trade credit.
- (7) The amounts payable under the trade credit are discounted to the supply date using the interest rate so ascertained and present value calculation method A in Determination G10: Present Value Calculation Methods, or an alternative method producing not materially different results.
- (8) The discounted value of the amounts payable is the amount “u” to be used for calculating the core acquisition price.
- (9) The core acquisition price is used to determine the acquisition price of a trade credit in accordance with sections 64BA (2) or (3) of the Act.
- (10) Once the acquisition price is known in the base currency, income derived or expenditure incurred in relation to a trade credit shall be calculated, as if the value of the specified goods or services were equal to the amount of the core acquisition price, using the yield to maturity method, and Determination G9A: Financial Arrangements that are Denominated in a Currency or Commodity other than New Zealand Dollars. The yield to maturity method chosen may be that determined in Determination G3: Yield to Maturity Method or Determination G11: Present Value Based Yield to Maturity Method or an alternative method producing a result that is not materially different.
- (11) For purposes of the base price adjustment as defined in section 64F, the acquisition price must be converted to New Zealand dollars on the supply date of the specified goods or services.
2. *Reference*—This determination is made pursuant to sections 64E (1) (a) and 64E (1) (f) of the Income Tax Act 1976.
3. *Scope of Determination*—This determination shall apply to every trade credit where any amount payable is denominated in a currency other than New Zealand dollars, but it shall not apply—
- (a) To a trade credit to which paragraph (b) (i) or paragraph (b) (ii) of the definition of “core acquisition price” in section 64B (1) of the Act applies; or
- (b) Where in relation to the trade credit any amount payable or the date on which any amount is payable is not known at the first balance date after supply date; or
- (c) Where the term of the trade credit is not known at the first balance date after the supply date.
4. *Principle*—(1) The discounted value of amounts payable for the specified goods or services is calculated—
- (a) In the base currency as if it were New Zealand currency;
- (b) Using an interest rate appropriate for the currency, the rate being either—
- (i) A rate ascertained using a method consistent with Determination G13: Prices or Yields that is the foreign interbank offer rate appropriate to the term of the trade credit; or
- (ii) A rate calculated by reference to appropriate spot and forward exchange rates and the bank bill or New Zealand Government Stock rates appropriate to the term of the trade credit; and

(c) Using present value calculation method A provided in clause 6 (2) of Determination G10: Present Value Calculation Methods, or an alternative method producing not materially different results.

(2) The discounted value of the amounts payable for the specified goods or services enables the acquisition price of a trade credit to be ascertained for the purposes of determining income derived or expenditure incurred in any period and the base price adjustment. For the latter purpose the discounted value of the amounts payable is converted to New Zealand dollars on the supply date of the specified goods or services.

(3) The discounted value so calculated is taken into account in determining the income or expenditure accruing from the trade credit in any income year, and where the discounted value and the amount of future payments under the trade credit are known the yield to maturity method is to be applied.

5. *Interpretation*—(1) In this determination, unless the context otherwise requires—

Expressions used have the same meanings as in the Act and where a word or expression is given a particular meaning for the purposes of sections 64B to 64M of the Act it shall have the same meaning as in the said sections 64B to 64M:

“The Act” means the Income Tax Act 1976:

“Acceptable present value calculation method” means method A of Determination G10: Present Value Calculation Methods, or an alternative method producing not materially different results.

“Bank bill” means an order to pay, denominated in New Zealand currency and drawn upon and accepted by—

(a) A registered bank as defined in section 2 (1) of the Reserve Bank of New Zealand Act 1964; or

(b) Any person referred to in part A of the first schedule to the Reserve Bank of New Zealand Act 1964:

“Base currency” in relation to a financial arrangement means the currency in which rights and obligations under the financial arrangement are fixed:

“Currency” includes any commodity used as a medium of exchange or account, whether in general use or for the purpose of an arrangement:

“Final payment” in relation to a trade credit means the last payment required to be made by the issuer of the trade credit under the trade credit, other than any amount that is not material in relation to the total consideration required to be provided by the issuer under the financial arrangement:

“Forward exchange rate” means the price at which foreign currency can be bought or sold for delivery at a specified future time:

“Interbank offer rate” in relation to a term means the rate at which a bank makes funds available to another bank which is a highly reliable credit risk and a trader in the market for such funds and for such a term; and includes, according to the circumstance, the rates collectively referred to as “LIBOR” and “SIBOR”:

“Specified goods and services” in relation to a trade credit means the goods and services to which the trade credit relates:

“Spot rate” means the price at which foreign currency can be bought or sold for delivery in 2 days:

“Supply date” means the day on which the specified goods or services are supplied:

“Term” in relation to a trade credit means the period commencing on and including the day after the supply date and ending on and including the day on which the final payment is required to be made.

(2) Any reference in this determination to another determination made by the Commissioner shall be construed

as including a reference to any fresh determination made by the Commissioner to vary, rescind, restrict, or extend that determination.

6. *Method*—(1) For the purpose of paragraph (iii) of the definition of “u” in section 64BA (1) (b) of the Act, the discounted value of the amounts payable for the specified goods or services in relation to any person shall be the amount of New Zealand dollars equal in value to the present value as at the supply date of amounts payable to or, as the case may be, by the person for the specified goods or services after the supply date.

(2) For the purposes of this determination, the present value as at supply date of amounts payable shall be calculated, using the interest rate determined under subclause (3) (a), or (b), or clause (4), as appropriate, and an acceptable present value calculation method. The present value so calculated is the amount “u” to be used to determine the core acquisition price.

(3) In the first income year in which a person is a party to and derives income or incurs expenditure in respect of a trade credit, the annual rate of interest at which the present value of the amounts payable is required to be calculated shall be, at the option of the person, either—

(a) The interbank offer rate for the base currency and the term of the trade credit at supply date of the specified goods or services, being a market yield determined in a manner consistent with Determination G13: Prices or Yields; or

(b) A rate derived by—

(i) Converting the amount of the final payment from the base currency to New Zealand currency at the forward exchange rate for a term similar to the term of the trade credit and ascertained as at the supply date of the specified goods or services; and

(ii) Calculating the present value of the amount thus calculated, using an acceptable present value calculation method and—

(A) Where the term of the trade credit is 12 months or less, the yield for bank bills of a similar term to the term of the trade credit;

(B) In any other case the yield for New Zealand Government Stock of a similar term to the term of the trade credit—

The rate being determined as at the supply date of the specified goods or services and determined according to Determination G13: Prices or Yields; and

(iii) Converting the amount thus calculated to the base currency at the spot rate for the currency on the supply date of the specified goods or services; and

(iv) Calculating the base currency interest rate R for the purposes of applying method A in Determination G10: Present Value Calculation Methods such that, if the said method A were applied to the final payment over the term of the trade credit, the present value so calculated would be equal to the amount calculated in sub-paragraph (iii) of this paragraph—

and for this purpose the exchange rate and the forward exchange rate are to be determined in accordance with Determination G6A: Foreign Exchange Rates—

And in all subsequent income years during the term of the trade credit the annual rate of interest for that purpose in respect of the trade credit shall be the rate first used in respect of the trade credit pursuant to this subclause.

(4) Where an amount payable is expressed in a foreign currency and is required to be converted to New Zealand dollars Determination G6A: Foreign Currency Rates shall be used. If the base currency is not approved in Determination G6A: Foreign Currency Rates, a spot rate at which an arm's

length dealing would be expected to take place at the supply date shall be used.

(5) The core acquisition price shall be used to determine the acquisition price of a trade credit in accordance with sections 64BA (2) and (3) of the Act.

(6) Income derived or expenditure incurred in relation to a trade credit shall be calculated as if the value of the specified goods or services were equal to the amount of the core acquisition price using the yield to maturity method and Determination G9A: Financial Arrangements that are Denominated in a Currency or Commodity other than New Zealand Dollars. For this calculation the acquisition price shall be expressed in the base currency.

(7) For the purposes of the base price adjustment, the acquisition price of the trade credit shall be converted to New Zealand dollars at the spot rate as at the supply date of the specified goods or services.

7. *Example*—(A) Calculation where foreign interbank interest rate ascertained.

A trade credit is entered into on 1 December 1988. Under the trade credit, goods supplied on 17 February 1989 are to be paid by \$400,000 USD on 14 July 1989. The term of the trade credit (period from day after supply date to final payment date) is therefore 147 days.

For the purposes of calculating income derived or expenditure incurred and the base price adjustment it is necessary to calculate the core acquisition price.

The US dollar interbank offer rate (LIBOR or SIBOR) on 17 February 1989 for 147 days is 9.625% ascertained using a method consistent with Determination G13: Prices or Yields.

Foreign currency spot rates ascertained in accordance with Determination G6A: Foreign Currency Rates, for various dates are:

17 February 1989	0.6300
31 March 1989	0.6250
14 July 1989	0.6400

In this case, the purchaser is the “issuer” for purposes of the accruals legislation.

Method A of Determination G10: Present Value Calculation Methods, is applied to calculate the present value as at 17 February 1989 (the “specified date”) as follows—

$$A = 0$$

$$B = \text{US\$}400,000 \text{ (payable by the issuer or receivable by the holder)}$$

$$C = 0 \text{ (payable by the holder or receivable by the issuer)}$$

$$R = 9.625\% \text{ (the specified rate)}$$

$$N = 365/147$$

$$= 2.48299$$

$$F = \frac{R}{100 \times N}$$

$$= 0.038763$$

$$\text{Present value} = \frac{A + B - C}{1 + F} \\ = \text{US\$}385,073$$

This is converted into NZD at supply date using the spot rate of USD/NZD .6300 = NZ\$611,227 and is the amount “u” for the purposes of calculating the core acquisition price.

For purposes of recognizing income derived or expenditure incurred in relation to the trade credit Determination G3 is used, where R=9.625%, N=2.48299, and F=0.038763 and the acquisition price is US\$385,073. The expense for the period 17 February to 14 July is therefore US\$400,000 - \$385,073 = US\$14,927. This is apportioned between periods using Determination G1A as follows:

1988/89	42 days	US\$ 4,265
1989/90	105 days	US\$10,662

At balance date the expense for the period must be revalued to reflect exchange rate movements and subsequent gains or losses on the transaction using Determination G9A.

Closing tax book value is

$a = e + f + g - h - i$ where,

$e = 0$

$f = 0$

$g = 0$

$h = \text{US}\$385,073$ (the acquisition price)

$i = \text{US}\$4,265$ (expense incurred during year)

Closing tax book value (CTBV) is therefore $-\text{US}\$389,338$

Expenditure for the year is calculated in New Zealand dollars using the formula in Determination G9A of $a + b - c - d$ where,

$a = -\text{NZ}\$622,941$ (CTBV/spot rate at balance date)

$b = \text{NZ}\$611,227$ (acquisition price/opening spot rate)

$c = 0$

$d = 0$

As the result is negative it is deemed to be expenditure incurred of $\text{NZ}\$11,714$.

At the end of the financial arrangement on the 14 July 1989 the base price adjustment $a - (b + c)$ is calculated where,

$a =$ total consideration paid by issuer
 $=$ total amount of credit/closing spot rate
 $= \text{NZ}\$625,000$ ($\text{US}\$400,000/0.6400$)

$b =$ acquisition price/opening spot rate
 $= \text{NZ}\$611,227$

$c =$ total expenditure incurred previous year
 $= \$11,714$

$bpa = \text{NZ}\$2,059$

As this is positive it is expenditure incurred in the 1990 income year.

Total expenditure claimed in relation to the credit is:

$\text{NZ}\$ (11,714 + 2,059) = \text{NZ}\$13,773$

(B) Calculation of interest rate where foreign interbank interest rate is not used.

The purchaser must calculate an implied foreign interest rate by the steps below.

Convert payment $\text{US}\$400,000$ using FWD Rate to NZ dollars. Forward rate ascertained 17 February 1989 in regard payment in 147 days is $\text{USD}/\text{NZD} .6200$. $\$400,000 / .6200 = \text{NZ}\$645,161$.

Assume that the yield for NZ bank bills of a 147 day term is 13.5% per annum, ascertained at 17 February 1989 in accordance with Determination G13: Prices of Yields.

Foreign currency spot rate ascertained in accordance with Determination G6A: Foreign Currency Rates, as at 17 February 1989 is $\text{USD}/\text{NZD} .6300$.

Method A of Determination G10: Present Value Calculation Methods, is applied to calculate the present value as at 17 February 1989 (the "specified date") as follows—

$A = 0$

$B = \text{NZ}\$645,161$ (payable by the issuer or receivable by the holder)

$C = 0$ (payable by the issuer or receivable by the holder)

$R = 13.5\%$ (the specified rate)

$N = 365/147$

$= 2.48299$

$F = \frac{R}{100 \times N}$

$= 0.05437$

present value $= \frac{A + B - C}{1 + F}$
 $= \text{NZ}\$611,892$

This amount is converted into US dollars using the spot rate on 17 February 1989, $\text{NZ}\$631,892 \times .6300 = \text{US}\$385,492$.

The foreign interest rate is that which results in the $\text{US}\$400,000$ when discounted being equal to $\text{US}\$385,492$. The rate calculated in accordance with Determination G3: Yield to Maturity Method, is 9.344% per annum. The present value as at supply date, calculated using this interest rate in the same way as shown in example (A), will give $\text{NZ}\$611,892$ as above. The importance of deriving this foreign currency interest rate is that it allows the calculation of expenditure using Determination G9A, as above.

This determination is signed by me on the 9th day of February in the year 1990.

R. D. ADAIR,

Deputy Commissioner of Inland Revenue.

go2595

Determination G16A: Discounted Value of Amounts Payable in Relation to Trade Credits Denominated in New Zealand Currency

This determination may be cited as "Determination G16A: Discounted Value of Amounts Payable in Relation to Trade Credits Denominated in New Zealand Currency".

1. *Explanation*—(which does not form part of the determination).

(1) This determination rescinds and replaces Determination G16: Discounted Value of Amounts Payable in Relation to Trade Credits Denominated in New Zealand Currency made by the Commissioner on 10 July 1989. This determination differs from Determination G16: Discounted Value of Amounts Payable in Relation to Trade Credits Denominated in New Zealand Currency by—

- Requiring that the interest rate used to determine the discounted value of amounts payable in relation to a trade credit be ascertained as at the supply date of the specified goods or services rather than as at the date of entry into the trade credit (which can be difficult to determine); and
- Requiring the discounted value of the amounts payable to be used to calculate income derived or expenditure incurred in an income year (which is an extension made to the method for completeness).

(2) This determination provides the method to be used to calculate the core acquisition price for a trade credit under section 64BA (1) (b) (iii) of the Act where—

- The trade credit is not a short-term trade credit; and
- The amounts payable in respect of the trade credit are denominated in New Zealand dollars; and
- In relation to the trade credit all amounts payable and the date on which they are payable are known at the first balance date after supply date; and
- The term of the trade credit is known at the first balance date after supply date.

(3) A short-term trade credit, where payment is required within 63 days after supply of the specified goods or services, is exempted from the scope of the accrual provisions by the definitions in section 64B (1) of the Act.

(4) Any other trade credit is subject to the accrual provisions of the Act and relevant determinations. In such cases the core acquisition price must be determined as at the supply date of the specified goods or services.

(5) Sections 64BA (2) and (3) of the Act define acquisition price in terms of the core acquisition price, which is itself defined in section 64BA (1). Paragraphs (b) (i) and (ii) of that section provide two ways of determining the amount "u" which is required for calculating the core acquisition price. Where neither of these apply, paragraph (b) (iii) provides that "u" shall be "the discounted value of the amounts payable for the specified goods or services, as determined pursuant to a

determination made by the Commissioner under section 64E (1) (f) of this Act”.

(6) This determination requires an interest rate to be ascertained in accordance with Determination G13: Prices or Yields, as at the supply date of the specified goods or services. This interest rate is the market yield applying to bank bills of a similar term to the term of the trade credit; if the term of the trade credit is longer than 12 months the market yield on New Zealand Government securities must be used.

(7) The amounts payable are then discounted to the supply date using the yield so ascertained and the present value calculation method A in Determination G10: Present Value Calculation Methods, or an alternative method producing not materially different results. The present value so calculated is the amount of “u” to be used for calculating the core acquisition price.

(8) The core acquisition price is used to determine the acquisition price of a trade credit in accordance with sections 64BA (2) or (3) of the Act.

(9) Once the acquisition price is known, income derived or expenditure incurred in relation to a trade credit, shall be calculated as if the value of the specified goods or services were equal to the amount of the core acquisition price using the yield to maturity method which could be that determined in Determination G3: Yield to Maturity Method or Determination G11: Present Value Based Yield to Maturity Method or an alternative method producing a result that is not materially different. The acquisition price is also required for the base price adjustment.

2. *Reference*—(1) This determination is made pursuant to sections 64E (1) (a), 64E (1) (f) and 64E (6) of the Income Tax Act 1976.

(2) Determination G16: Discounted Value of Amounts Payable in Relation to Trade Credits Denominated in New Zealand Currency is hereby rescinded with effect from the day on which this determination is signed.

3. *Scope of Determination*—This determination shall apply to every trade credit denominated in New Zealand currency in relation to which a person is a holder or an issuer, but it shall not apply—

- (a) To a short-term trade credit; or
- (b) To a trade credit to which paragraph (b) (i) or paragraph (b) (ii) of the definition of “core acquisition price” in section 64BA (1) of the Act applies; or
- (c) Where in relation to the trade credit any amount payable or the date on which any amount is payable is not known at the first balance date after supply date; or
- (d) Where the term of the trade credit is not known at the first balance date after supply date.

4. *Principle*—(1) The discounted value of amounts payable for the specified goods or services is calculated as at the supply date using—

- (a) The market yield to maturity available on traded debt securities of a similar term to the term of the trade credit, ascertained in accordance with Determination G13: Prices or Yields; and
- (b) Present value calculation Method A provided in clause 6 (2) of Determination G10: Present Value Calculation Methods, or an alternative method producing not materially different results.

(2) The discounted value of the amounts payable for the specified goods or services enables the acquisition price of a trade credit to be ascertained for the purposes of determining income derived or expenditure incurred in any period and the base price adjustment.

(3) The discounted value so calculated is taken into account in determining the income or expenditure accruing from the trade credit in any income year, and where the discounted

value and the amount of future payments under the trade credit are known the yield to maturity method is to be applied.

5. *Interpretation*—(1) In this determination, unless the context otherwise requires—

Expressions used have the same meanings as in the Act and where a word or expression is given a particular meaning for the purposes of sections 64B to 64M of the Act it shall have the same meaning as in the said sections 64B to 64M:

“The Act” means the Income Tax Act 1976:

“Bank bill” means an order to pay, denominated in New Zealand currency to pay and drawn upon, and accepted by—

- (a) A registered bank as defined in section 2 (1) of the Reserve Bank of New Zealand Act 1964; or
- (b) Any person referred to in part A of the first schedule to the Reserve Bank of New Zealand Act 1964:

“Final payment” in relation to a trade credit means the last payment required to be made by the issuer of the trade credit under the trade credit, other than any amount that is not material in relation to the total consideration required to be given by the issuer under the financial arrangement:

“Paid”, in relation to any amount paid to or paid by any person, includes distributed, credited, or dealt with in the interests of or on behalf of or to the order of the person; and, in relation to any amount, “pay”, “payable” and “payment” have corresponding meanings:

“Specified goods and services” in relation to a trade credit means the goods and services to which the trade credit relates:

“Supply date” means the day on which the specified goods or services are supplied under the trade credit:

“Term” in relation to a trade credit means the period commencing on the day after the supply date and ending on the day on which final payment is required to be made.

(2) Any reference in this determination to another determination made by the Commissioner shall be construed as including a reference to any fresh determination made by the Commissioner to vary, rescind, restrict, or extend that determination.

6. *Method*—(1) For the purposes of subparagraph (iii) of the definition of “u” in section 64BA (1) (b) of the Act, the discounted value of the amounts payable for the specified goods or services in relation to any person shall be the present value as at supply date of amounts payable to or, as the case may be, by the person for the specified goods or services after the supply date.

(2) For the purposes of this determination, the present value as at supply date of amounts payable shall be calculated, subject to subclause (3) of this clause, using Method A provided in clause 6 (2) of determination G10: Present Value Calculation Methods, or an alternative method producing not materially different results. The present value so calculated is the amount “u” to be used to determine the core acquisition price.

(3) For the purposes of subclause (2) of this clause the annual rate of interest at which the present value of the amounts payable is required to be calculated shall be—

- (a) Where the term of the trade credit is 12 months or less, the yield for bank bills of a similar term to the term of the trade credit:
- (b) In any other case, the yield for New Zealand Government Stock of a similar term to the term of the trade credit—

determined as at the supply date of the specified goods or services and according to determination G13: Prices or Yields.

(4) The core acquisition price is used to determine the

acquisition price of a trade credit in accordance with sections 64BA (2) or (3) of the Act.

(5) Income derived or expenditure incurred in relation to a trade credit shall be calculated as if the value of the specified goods or services were equal to the core acquisition price, and using the yield to maturity method.

7. *Example*—(1) A trade credit is entered into on 1 December 1988. Under the trade credit, goods supplied on 17 February 1989 are to be paid by \$400,000 in New Zealand currency on 14 July 1989. The term of the trade credit (period from day after supply date to final payment date) is therefore 147 days.

(2) The market yield on 17 February 1989 of bank bills maturing in 147 days is 13.5% ascertained in accordance with Determination G13: Prices or Yields.

(3) In this case, the purchaser is the "issuer" for purposes of the accruals legislation.

(4) The purchaser has a 31 March balance date.

(5) Method A of Determination G10: Present Value Calculation Methods, is applied to calculate the present value as at 17 February 1989 (the "specified date") as follows—

$$A = 0.$$

B = \$400,000 (payable by the issuer or receivable by the holder).

C = 0 (payable by the holder or receivable by the issuer).

R = 13.5% (the specified rate).

N = 365/147.

$$= 2.48299$$

$$F = \frac{R}{100 \times N}$$

$$= 0.05437$$

$$A + B - C$$

$$\text{Present value} = \frac{1}{1 + F}$$

$$= \$379,373$$

This is "u" to be used in calculating the core acquisition price.

(6) For purposes of recognising income derived or expenditure incurred in relation to the trade credit Determination G3 is used (alternatively, G11 could be used) where—

$$R = 13.5\%$$

$$N = 2.48299, \text{ and}$$

$$F = 0.5437.$$

The expenditure incurred for the 147 day period is,

$$\$379,373 \times 0.05437 = \$20,627$$

This is apportioned for the period 17 February to 31 March using Determination G1A—

1989 income year 42 days \$5,893

Expenditure for the 1990 income year is determined using the base price adjustment where,

$$a = \$400,000$$

$$b = \$379,373$$

$$c = \$ 5,893$$

$$a - (b + c) = \$ 14,734$$

As this amount is positive it is deemed to be expenditure incurred by the issuer.

This determination is signed by me on the 9th day of February in the year 1990.

R. D. ADAIR,
Deputy Commissioner of Inland Revenue.
go2597

Internal Affairs

Films Act 1983

Chief Censor's Decisions: 3–31 January 1990

Pursuant to section 21 of the Films Act 1983, the entries in the Register for the above period are hereby published.

Key to Decisions

G—Approved for general exhibition.

GY—Approved for general exhibition: recommended as more suitable for persons 13 years of age and over.

GA—Approved for general exhibition: recommended as more suitable for adults.

G*—Approved for general exhibition: (as specified).

R(age)—Approved for exhibition: only to persons years of age and over (as specified).

RP(age)—Approved for exhibition: only to persons years of age and over and to any person under that age when accompanied by that person's parent or guardian.

R*—Approved for exhibition only (as specified).

Ex—Exempted from examination and approved for exhibition (with any conditions as specified).

Schedule

Applicant	Maker	Title Silent(S) or Trailer(T)	No. of Copies	Gauge Format	Running Time Minutes	Reason for Cuts	Decision	Country of Origin	Notes Remarks
3 January 1990									
Amalgamated Fox Distributors	Masanori Hata	The Adventures of Milo and Otis (T. No. 1)	3	35 mm	1.5		G	Japan	
Brown Christensen/Doyle Dane Bernbach Ltd.	Unknown	BAILEYS IRISH CREAM	15	35 mm	1.0		GA	N.Z.	Advertisement.
Amalgamated Hoyts Cinemas	Terry Jones	Erik The Viking (T. No. 1)	1	35 mm	2.0		GY	U.K., Sweden	
Amalgamated Fox Distributors	Sidney Lumet	FAMILY BUSINESS	1	35 mm	115.0		RP13	U.S.A.	Censor's note: language may offend.
Amalgamated Hoyts Cinemas	Rob Reiner	When Harry Met Sally . . . (T. No. 2)	3	35 mm	3.0		G	U.S.A.	Music clip.
4 January 1990									
Columbia Films (NZ) Ltd.	Edward Zwick	GLORY	1	35 mm	122.0		GA	U.S.A.	Censor's note: contains war violence.
Pacer Kerridge Film Distributors Ltd.	Jerry Schatzberg	REUNION	1	35 mm	111.0		GA	West Germany, France, U.S.A., U.K.	

Applicant	Maker	Title Silent(S) or Trailer(T)	No. of Copies	Gauge Format	Running Time Minutes	Reason for Cuts	Decision	Country of Origin	Notes Remarks
5 January 1990									
Warner Bros	Akira Kurosawa	Akira Kurosawa's Dreams (T. No. 1)	20	35 mm	2.0		G	Japan	
Warner Bros	Joe Dante	Gremilins 2. The New Batch (T. No. 1)	1	35 mm	1.5		GA	U.S.A.	
Amalgamated Fox Distributors	Neil Jordan	HIGH SPIRITS	1	16 mm	98.0		GA	U.K.	Censor's note: contains coarse language.
Pacer Kerridge Film Distributors Ltd.	Michael Anderson	Millennium (T. No. 1)	1	35 mm	2.0		G	U.S.A., Canada	
Pacer Kerridge Film Distributors Ltd.	Jim Sheridan	My Left Foot (T. No. 1)	1	35 mm	1.0		G	U.K.	
Amalgamated Fox Distributors	Ken Annakin	THE NEW ADVENTURES OF PIPPY LONGSTOCKING	1	16 mm	101.0		G	U.S.A.	
8 January 1990									
New Zealand Federation of Film Societies	Atom Egoyan	NEXT OF KIN	1	16 mm	70.0		GA	Canada	
9 January 1990									
Amalgamated Fox Distributors	Chris Thomson	THE DELINQUENTS	1	35 mm	116.5		RP13	Australia	
United International Pictures	Ron Howard	Parenthood (T. No. 1)	20	35 mm	2.5		G	U.S.A.	
New Zealand Federation of Film Societies	Edward Yang	TAIPEI STORY	1	16 mm	119.5		GA	Taiwan	Chinese dialogue, English subtitles.
11 January 1990									
New Zealand Federation of Film Societies	Paul Leduc Rosenzweig	FRIDA: NATURALEZA VIVA	1	16 mm	107.0		GA	Mexico	Spanish dialogue, English subtitles.
New Zealand Federation of Film Societies	Yefim Dzigan	WE ARE FROM KRONSTADT	1	16 mm	89.5		GA	U.S.S.R.	Russian dialogue, English subtitles.
12 January 1990									
Warner Bros	Bruce Malmuth	Hard to Kill (T. No. 1)	40	35 mm	1.5		RP13	U.S.A.	
New Zealand Federation of Film Societies	Grigori Kozintsev, Leonid Trauberg	MAXIM'S YOUTH	1	16 mm	95.5		GA	U.S.S.R.	Russian dialogue, English subtitles.
Warner Bros	Andrei Konchalovsky	TANGO & CASH	1	35 mm	105.0		RP13	U.S.A.	Censor's note: language and violence may offend.
17 January 1990									
New Zealand Federation of Film Societies	Lienhard Wawrzyn	GERMAN DREAMS	1	16 mm	89.0		GA	West Germany	German dialogue, English subtitles.
18 January 1990									
New Zealand Federation of Film Societies	Sergei & Georgy Vasiliev	CHAPAYEV	1	16 mm	95.0		G	U.S.S.R.	New applicant. Russian dialogue, English subtitles.
New Zealand Federation of Film Societies	Sergei Bondarchuk	DESTINY OF A MAN	1	16 mm	103.0		GA	U.S.S.R.	New applicant
New Zealand Federation of Film Societies	Reinhard Hauff	KNIFE IN THE HEAD	1	16 mm	112.0		R16	West Germany	German dialogue, English subtitles.
New Zealand Federation of Film Societies	Mikhail Romm	LENIN IN 1918	1	16 mm	141.5		GA	U.S.S.R.	New applicant. Russian dialogue, English subtitles.
New Zealand Federation of Film Societies	Rene Clair	QUATORZE JUILLET	1	16 mm	90.0		G	France	New applicant. French dialogue, English subtitles.
19 January 1990									
New Zealand Federation of Film Societies	D'Andrzej Wajda	DANTON	1	16 mm	137.0		GY	France, Poland	French dialogue, English subtitles.
23 January 1990									
United International Pictures	Oliver Stone	Born on the Fourth of July (T. No. 1)	25	35 mm	3.0		GY	U.S.A.	
New Zealand Federation of Film Societies	Alain Jessua	IN ALL INNOCENCE	1	16 mm	95.0		GA	France	French dialogue, English subtitles.
Columbia Films (NZ) Ltd.	Bob Clark	Loose Cannons (T. No. 1)	1	35 mm	1.5		GA	U.S.A.	
Columbia Films (NZ) Ltd.	Costa Gavras	Music Box (T. No. 1)	1	35 mm	1.5		G	U.S.A.	
Pacer Kerridge Film Distributors Ltd.	Jerry Schatberg	Reunion (T. No. 1)	1	35 mm	2.5		G	West Germany, France, U.S.A., U.K.	
24 January 1990									
Warner Bros	Walt Disney	Fantasia 50th Anniversary (T. No. 1)	50	35 mm	1.0		G	U.S.A.	
Columbia Films (NZ) Ltd.	Andrew Bergman	The Freshman (T. No. 1)	1	35 mm	1.0		G	U.S.A.	
Big Show Video	Matt Sterling	HEAT IN THE NIGHT	1	VHS	77.5		R18	U.S.A.	Censor's note: explicit sexual content may offend.
Columbia Film (NZ) Ltd.	Lawrence Kasdan	I Love You to Death (T. No. 1)	1	35 mm	1.5		GY	U.S.A.	
Warner Bros	Peter Yates	An Innocent Man (T. No. 2)	25	35 mm	1.5	s. 13.2 (c) violence, language	GA	U.S.A.	
Columbia Films (NZ) Ltd.	David Lean	Lawrence of Arabia (T. No. 1)	20	35 mm	2.0		G	U.K.	
Amalgamated Fox Distributors	George P. Cosmatos	Leviathan (T. No. 1)	8	35 mm	2.0		GA	U.S.A.	
Cultural and Educational Exhibitions Ltd.	Vasily Pichul	LITTLE VERA	1	35 mm	135.0		RP16	U.S.S.R.	New applicant. Russian dialogue, English subtitles.
Pacer Kerridge Film Distributors Ltd.	Bernard Rose	Paper House (T. No. 1)	1	35 mm	2.0		GA	U.K.	

Applicant	Maker	Title Silent(S) or Trailer(T)	No. of Copies	Gauge Format	Running Time Minutes	Reason for Cuts	Decision	Country of Origin	Notes Remarks
Catalina Video	Cameron Leigh	PRIVATE DICK	1	VHS	78.0		R18	U.S.A.	Censor's note: explicit sexual content may offend.
Warner Bros	Michael Moore	ROGER AND ME	1	35 mm	91.5		GA	U.S.A.	Censor's note: some scenes may disturb.
United International Pictures	David Peoples	The Salute of the Jugger (T. No. 2)	12	35 mm	2.5	s. 13.2 (c) violence	GA	U.S.A., Australia	Shortened version of (T. No. 1).
25 January 1990									
Catalina Video	Josh Eliot	HARD TO BE GOOD	1	VHS	76.5		R18	U.S.A.	Censor's note: explicit sexual content may offend.
New Zealand Federation of Film Societies	Jean-Paul Rappeneau	LES MARIES DE L'AN DEUX	1	16 mm	94.5		GA	France	French dialogue, English subtitles.
Catalina Video	Unknown	THE LOOK	1	VHS	66.0		R18	U.S.A.	Censor's note: explicit sexual content may offend.
Amalgamated Hoyts Cinemas	Jiri Menzel	MY SWEET LITTLE VILLAGE	1	35 mm	101.0		GY	Czechoslovakia	Czech dialogue, English subtitles.
Amalgamated Fox Distributors	John Irvin	Next of Kin (T. No. 1)	1	35 mm	1.5		GA	U.S.A.	
Catalina Video	John Travis	POWERLINE	1	VHS	88.0		R18	U.S.A.	Censor's note: explicit sexual content may offend.
Catalina Video	Josh Eliot	RUNAWAYS	1	VHS	76.0		R18	U.S.A.	Censor's note: explicit sexual content may offend.
26 January 1990									
Bounty Blue Ltd.	Unknown	BUSEN ORGIEN	1	VHS	49.5		R18	West Germany	Censor's note: explicit sexual content may offend. New applicant. German dialogue.
Bounty Blue Ltd.	Unknown	FEÜCHTE LIPPEN	1	VHS	53.0		R18	West Germany	Censor's note: explicit sexual content may offend. New applicant. German dialogue.
Bounty Blue Ltd.	Unknown	LADY DOMINO	1	VHS	56.0		R18	U.S.A.	Censor's note: explicit sexual content may offend. New applicant. Shortened version of Badge 69, dubbed in German.
Bounty Blue Ltd.	Unknown	PERVERSE SPIELE	1	VHS	50.0		R18	West Germany	Censor's note: explicit sexual content may offend. New applicant. German dialogue.
Bounty Blue Ltd.	Unknown	PIMMLICHE TOCHTER	1	VHS	90.0		R18	West Germany	Censor's note: explicit sexual content may offend. New applicant. German dialogue. Main title does not appear on tape.
Bounty Blue Ltd.	Unknown	TEENAGE BESTSELLERS PROGRAMME NO 251	1	VHS	55.0		R18	Denmark	Censor's note: explicit sexual content may offend. New applicant. Dubbed in German.
Bounty Blue Ltd.	Unknown	TEENAGE SEX	1	VHS	50.0		R18	West Germany	Censor's note: explicit sexual content may offend. New applicant. German dialogue.
Bounty Blue Ltd.	Color Climax Corporation	TEENAGE SEX PROGRAMME NO 776	1	VHS	28.0		R18	Denmark	Censor's note: explicit sexual content may offend. New applicant. Dubbed in English.
Newton Road Video	Unknown	TEENAGE SEX PROGRAMME NO 778	400	VHS	29.0		R18	Denmark	Censor's note: explicit sexual content may offend. Dubbed in English.
Newton Road Video	Unknown	TEENAGE SEX PROGRAMME NO 780	400	VHS	31.5		R18	Denmark	Censor's note: explicit sexual content may offend. Dubbed in English.
Newton Road Video	Unknown	TEENAGE SEX PROGRAMME NO 782	400	35 mm	28.5		R18	Denmark	Censor's note: explicit sexual content may offend. Dubbed in English.
Bounty Blue Ltd.	Sascha Alexander	TEUFLISCHE GELUSTE	1	VHS	57.5		R18	West Germany	Censor's note: explicit sexual content may offend. New applicant. German dialogue.
Bounty Blue Ltd.	Unknown	VARIATIONEN DER EROTIK	1	VHS	50.0		R18	West Germany	Censor's note: explicit sexual content may offend. New applicant. German dialogue.
Amalgamated Fox Distributors	Danny Devito	War of the Roses (T. No. 2)	8	35 mm	3.0		GA	U.S.A.	
Bounty Blue Ltd.	Unknown	WARA VOL 1226	1	VHS	82.0		R18	West Germany	Censor's note: explicit sexual content may offend. New applicant. German dialogue.
Bounty Blue Ltd.	Unknown	WOMEN IN LOVE	1	VHS	88.0		R18	West Germany	Censor's note: explicit sexual content may offend. New applicant. German dialogue.
30 January 1990									
Amalgamated Fox Distributors	Sidney Lumet	Family Business (T. No. 1)	16	35 mm	.5		G	U.S.A.	
Amalgamated Fox Distributors	John Irvin	NEXT OF KIN	1	35 mm	109.5		RP16	U.S.A.	Censor's note: some content may offend.

Applicant	Maker	Title Silent(S) or Trailer(T)	No. of Copies	Gauge Format	Running Time Minutes	Reason for Cuts	Decision	Country of Origin	Notes Remarks
Pacer Kerridge Film Distributors Ltd. Newton Road Video	Bernard Rose	PAPERHOUSE	16	35 mm	93.5		RP13	U.K.	Censor's note: some scenes may disturb.
Newton Road Video	Unknown	TEENAGE SEX PROGRAMME NO 783	400	VHS	28.5		R18	Denmark	Censor's note: explicit sexual content may offend. Dubbed in English.
Newton Road Video	Unknown	TEENAGE SEX PROGRAMME NO 788	400	VHS	27.0		R18	Denmark	Censor's note: explicit sexual content may offend. Dubbed in English.
Newton Road Video	Unknown	TEENAGE SEX PROGRAMME NO 789	400	VHS	27.0		R18	Denmark	Censor's note: explicit sexual content may offend. Dubbed in English.
31 January 1990									
Video Wholesalers	John Lloyd	DOUBLE EDGE	1	VHS	84.5		RP16	U.S.A.	New title. Previously titled L.A. Ninja. Pre-cut print.
Warner Bros	Walt Disney	THE LITTLE MERMAID	1	35 mm	83.5		G	U.S.A.	Animated
Amalgamated Hoyts Cinemas Newton Road Video	Tony Palmer	TESTIMONY	2	35 mm	158.5		GA	U.K.	
Newton Road Video	Unknown	VIDEO PROGRAMME NO. 301	400	VHS	27.5		R18	Denmark	Censor's note: explicit sexual content may offend. Dubbed in English.
Newton Road Video	Unknown	VIDEO PROGRAMME NO. 303	400	VHS	29.0	s. 13.2 (c) anti- social behaviour	R18	Denmark	Censor's note: explicit sexual content may offend. Dubbed in English.
Newton Road Video	Unknown	VIDEO PROGRAMME NO. 307	400	VHS	29.0		R18	Denmark	Censor's note: explicit sexual content may offend. Dubbed in English.
Newton Road Video	Unknown	VIDEO PROGRAMME No. 309	400	VHS	28.0		R18	Denmark	Censor's note: explicit sexual content may offend. Dubbed in English.
Newton Road Video	Unknown	VIDEO PROGRAMME NO. 321	400	VHS	29.5		R18	Denmark	Censor's note: explicit sexual content may offend. Dubbed in English.
Newton Road Video	Unknown	VIDEO PROGRAMME NO. 325	400	VHS	29.5		R18	Denmark	Censor's note: explicit sexual content may offend. Dubbed in English.

go2426

Video Recordings Act 1987

List of Decisions on Video Recordings

This List Contains the Decisions of the Video Recordings Authority, 1-31 January 1990

Each applicant has 30 days from the date of publication in the *Gazette* to apply for a review of the decision detailed in this list.

Title (P) = Promo(s)	Director	Running Time	Date Registered	Decision (Including Description)	Reason for Refusal or Excisions	Remarks	Applicant
A TASTE FOR FEAR (P) Cracks in the Mirror Kickboxer My Mom's a Werewolf Homeboy Notices, etc.	Piccio Raffanini	85.46 2.10 0.35 2.10 0.35 1.46	5/1/90	R18 Indecent in the hands of persons under the age of 18 years content may offend/ disturb			Videocorp International Ltd.
THUNDER STORM (P) Notices, etc.	Vince Benedetti	88.55 0.25	5/1/90	R18 Indecent in the hands of persons under the age of 18 years contains explicit sexual material			Videocorp International Ltd.
WALKING THE EDGE (P) Sons of Steel Mystic Pizza Lady in White Superstars of Wrestling Bill Cosby 49/An Audience with Billy Connolly/Dame Edna Back with a Vengeance Dead Line Notices, etc.	Norbert Meisel	89.24 2.21 1.45 1.48 1.57 3.32 1.28 1.03	5/1/90	R16 Indecent in the hands of persons under the age of 16 years contains violence and offensive language			Videocorp International Ltd.
IN THE FLESH (P) Notices, etc.	Eric Edwards	82.11 0.10	5/1/90	R18 Indecent in the hands of persons under the age of 18 years contains explicit sexual material			Videocorp International Ltd.
NINE 1/2 WEEKS Common Title: 9 1/2 WEEKS (P) Notices, etc. Nine 1/2 Weeks Crimes of Passion The Falcon and the Snowman The Mean Season Fire & Ice	Adrian Lyne	111.47 1.22 0.23 0.27 0.16 0.20 0.16	5/1/90	R18 Indecent in the hands of persons under the age of 18 years			Video One Ltd.
LESBIAN FANTASIES (P) Notices, etc.	Not stated	53.54 0.28	5/1/90	R18 Indecent in the hands of persons under the age of 18 years contains explicit sexual material			V.M. Distributors Ltd.

Title (P) = Promo(s)	Director	Running Time	Date Registered	Decision (Including Description)	Reason for Refusal or Excisions	Remarks	Applicant
TRANSITORY STATES (P) Notices, etc.	Jerome Renaldo	73.14 0.18	5/1/90	R18 Indecent in the hands of persons under the age of 18 years contains explicit sexual material			Video Utopia Ltd.
PARTNERS IN SEX (P) Notices, etc.	Jim Travis	71.14 0.56	5/1/90	R18 Indecent in the hands of persons under the age of 18 years contains explicit sexual material			Sumat Entertainment Ltd.
ANGELS GOT TO HAVE IT Common Title: ANGELS GOTTA HAVE IT (P) Notices, etc.	Judy Blue	68.11 0.56	5/1/90	R18 Indecent in the hands of persons under the age of 18 years contains explicit sexual material			Sumat Entertainment Ltd.
PREVIEWS 01 Common Title: BBL Preview Tape (P) FBI Warning BBL Address Notice Bounty Blue Presents Notice The Penetration of Ellie Rio The Fantasy Chamber The Eleventh Commandment Peggy Sue Dream Jeans Hot Gun Memoirs of a Chamber Maid The Sex Detective Deep Inside Vanessa Del Rio Bounty Blue Address Notice WET DREAM ON ELM ST (P) Notices, etc.	John T. Bone	33.01 0.09 0.16 0.21 4.22 6.03 5.23 4.33 5.07 4.45 6.42 7.08 12.41 0.11	11/1/90	R18 Indecent in the hands of persons under the age of 18 years contains explicit sexual material		Video recording is a compilation of promos	Bounty Blue Ltd.
WET DREAM ON ELM ST (P) Notices, etc.	Jim Travis	84.47 0.55	11/1/90	R18 Indecent in the hands of persons under the age of 18 years contains explicit sexual material			Sumat Entertainment Ltd.
THE SLUT (P) Notices, etc.	Henri Pachard	76.25 0.58	11/1/90	R18 Indecent in the hands of persons under the age of 18 years contains explicit sexual material			Sumat Entertainment Ltd.
MOONSTROKED (P) Notices, etc.	Edwards Dinero	79.45 1.07	12/1/90	R18 Indecent in the hands of persons under the age of 18 years contains explicit sexual material			Taboo Erotica (Majorcities Trading Ltd.)
ANAL ATTRACTION (P) Notices, etc.	Phil Prince	76.54 0.59	12/1/90	R18 Indecent in the hands of persons under the age of 18 years contains explicit sexual material			Taboo Erotica (Majorcities Trading Ltd.)
THE HORROR SHOW Common Title: HOUSE 3 THE HORROR SHOW (P) Notices, etc.	James Isaac	90.47 0.36	15/1/90	R18 Indecent in the hands of persons under the age of 18 years content may offend/disturb			Video One Ltd.
INHUMANITIES II MODERN ATROCITIES Common Title: INHUMANITIES PART 2 (P) Notices, etc.	Wesley Emerson	75.53 0.18	15/1/90	R18 Indecent in the hands of persons under the age of 18 years content may offend/disturb			Caballero Video Ltd.
ENDLESS LUST (P) Notices, etc.	Not stated	78.16 1.04	16/1/90	R18 Indecent in the hands of persons under the age of 18 years contains explicit sexual material			Taboo Erotica (Majorcities Trading Ltd.)
STRANGERS (P) Notices, etc.	Hal Freeman	81.33 1.07	19/1/90	R18 Indecent in the hands of persons under the age of 18 years contains explicit sexual material			Taboo Erotica (Majorcities Trading Ltd.)
TOP MODEL	Not stated	83.39	25/1/90	R18 Indecent in the hands of persons under the age of 18 years			Video One Ltd.
HOT PROPERTY	Ted E. Bexar	83.23	25/1/90	R18 Indecent in the hands of persons under the age of 18 years contains explicit sexual material			Newton Road Video
SWITCH HITTERS IV (P) Notices, etc.	Ginny Padox	79.56 0.03	29/1/90	R18 Indecent in the hands of persons under the age of 18 years contains explicit sexual material			Videocorp International Ltd.
AUSSIE VICE (P) Safe Sex Notices, etc.	John T. Bone	72.20 2.42 0.19	31/1/90	R18 Indecent in the hands of persons under the age of 18 years contains explicit sexual material			Caballero Video Ltd.

go2383

2

Justice

Broadcasting Act 1976

Decision No. 49/89
COM 5/89

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by **Clifford Reginald Turner** of Hamilton:

Warrant Holder: Radio New Zealand Ltd.:

Chairman: B. H. Slane.

Member: Robert Boyd-Bell.

Co-opted Members: R. M. Carter and B. W. Stephenson.

Decision

Dated the 29th day of November 1989.

Introduction

This complaint arose from a Community Network sports news bulletin broadcast on station 12H, Hamilton on Sunday, the 5th day of March 1989 which included references to "Toyota" and "New Zealand Cheese". There were 6 sports news items in the bulletin broadcast at 9.05 a.m. that day. One was about cricket and concluded with the words "Cricket with Toyota". Another was about rugby, concluding with the words "Rugby with New Zealand Cheese".

The Complaint to Radio New Zealand Ltd.

C. R. Turner complained to the Chief Executive of Radio New Zealand, in a letter dated the 6th day of March 1989, that "the sports news following the 9 a.m. news on Station 1ZH linked items of sports news with the advertisers Toyota, New Zealand Cheese, Hannahs and the TAB." Mr Turner went on to state his belief that the Broadcasting Tribunal's decision 45/88 ruled that the practice of linking advertisers' names to items of sports news is a breach of the station's warrant if that occurs on a Sunday.

His formal complaint was "about the association of news items with advertisers' names" on the Sunday mentioned.

Radio New Zealand's Response to the Complainant

In a letter dated the 10th day of April 1989, the Chief Executive replied that the complaint was considered by the Board of Radio New Zealand Ltd. on the 5th day of April 1989.

She stated that an audition of the programme showed that there were only 2, not 4, acknowledgments in the bulletin concerned, namely to Toyota and New Zealand Cheese.

The contractual documents between Radio New Zealand and Toyota and Radio New Zealand and New Zealand Cheese "fail to support a view that any payment was made specifically for that part of a programme in which reference was made to them and which was broadcast on the day and at the time in question", she said.

Accordingly the RNZ Board found that the 2 mentions were not advertisements within the statutory definition and that there was, as a consequence, no breach of the warrant. The board declined to uphold the complaint.

Mr Turner's Complaint to the Tribunal

Mr Turner then brought his complaint to the Tribunal: "During the sports news, items were linked to advertisers. I believe this was a breach of the rules about Sunday advertising." Mr Turner asserted that Radio New Zealand was ignoring the Tribunal's decision 45/88 (dated 21 December 1988) and that Radio New Zealand had suggested in its reply to him that no payment was made by Toyota or New Zealand Cheese for mention of their names during the sports news bulletin in question.

Radio New Zealand's Response to the Tribunal

In its submission to the Tribunal, Radio New Zealand stated that it had taken into account the provisions of the Broadcasting Act 1976 and of the station's warrant concerning Sunday advertising: advertising rule 3.1: Tribunal decision 45/88 and the contractual documents between Radio New Zealand and Toyota and New Zealand Cheese respectively. Legal advice was obtained.

The contractual position was described in letters between Radio New Zealand and the advertising agents for Toyota and New Zealand Cheese which were enclosed with Radio New Zealand's submission. In respect of both, Radio New Zealand submitted that they "are directed towards coverage of events, and neither makes provision specifically for name association on a Sunday".

In conclusion, Radio New Zealand stated that "in neither the case of New Zealand Cheese nor that of Toyota can it be said that there was any specific payment for the parts of the programme complained of which were broadcast on the 5th day of March 9.05 a.m.".

As they were not specifically paid for, Radio New Zealand submitted that the name associations were not advertisements within the statutory definition.

Mr Turner's Comment on Radio New Zealand's Response to the Tribunal

The gist of Mr Turner's comment was that it was absurd to suggest that they were not advertisements just because a

Sunday broadcast was not specifically mentioned in the contract documents.

Consideration

The Tribunal's decision 45/88 was on a complaint by Mr Turner who objected to the words "Rugby news in association with Steinlager" being broadcast on a Sunday. That complaint was upheld by the Tribunal.

The Tribunal there noted that, "What is important is whether an advertisement may be broadcast on a Sunday. It is the Tribunal's conclusion that the sponsorship statement is an advertisement within the meaning of the Act. It is clearly part of a contractual package offered to Steinlager Ltd. by Radio New Zealand which includes the Sunday credits. It therefore clearly falls within the definition of an "advertising programme" since it promotes the interests of Steinlager New Zealand Ltd. and payment is made for it."

We do not here traverse again the exposition of rule 3.1 and the relevant parts of the Act and the condition in 1ZH's warrant set out in decision 45/88 or the other decisions of the Tribunal, namely 41/88, 43/88 and 3/89. We do mention however Radio New Zealand's contention that "decision 45/88 is limited to its own facts, and cannot necessarily be regarded as extending to a sponsorship arrangement where Sunday naming is not part of the contractual package . . .".

Decision

In decision 45/88, the existence of a specific provision for Sunday credits in the Steinlager contract was seen by the Tribunal as supporting the view taken by the Tribunal in that particular case that it was an advertisement. But the existence of a specific provision for credits on a Sunday was an evidentiary factor and was not regarded as essential or conclusive. The absence of a specific contractual provision for Sunday credits does not mean that, when a sponsorship credit is given on Sunday, it is not an advertisement. In the Tribunal's view, Radio New Zealand goes too far in suggesting that if a mention on Sunday is not spelt out in the contract, the mention is therefore not an advertisement but an acknowledgment altogether devoid of the character of a paid advertisement.

The fundamental aspect to be determined in this case is whether or not the credit was paid for, directly or indirectly. If it was an advertisement at any time on any day, its status would not change on a Sunday.

The Tribunal therefore had to consider the letter from Radio New Zealand to Toyota's agents which was signed and accepted by them. This letter stated:

"Confirming details of our recent meeting. As in past years Toyota will receive name association with all cricket news on the Community Network, in return for an annual commitment of \$[amount deleted] nett on Radio New Zealand stations.

"Toyota will also receive full name association with cricket coverage on YCAM, in return for a commitment of \$[amount deleted] nett on that network.

"The period of expenditure to be 1 October 1988 to 30 September 1989."

Because the first part of the letter plainly sets out that Toyota would pay for name associations and as the words "all cricket news on the Community Network" are used, the Tribunal concludes that any credits on a Sunday included. This part of the letter is directed not at "coverage of events" (as on YCAM) as RNZ submitted to us but "all cricket news".

Because the first part of the letter plainly sets out that Toyota would pay for name associations and as the words "all cricket news on the Community Network" are used, the Tribunal concludes that any credits on a Sunday were included. This part of the letter is directed not at "coverage of events" (as on

YCAM) as Radio New Zealand submitted to us but "all cricket news".

In the absence of any evidence that a mention on this (or any) Sunday was explicitly excluded and was made free and not pursuant to the contract, it seems clear that the Toyota contract covers all mentions including any broadcast on a Sunday.

We therefore uphold the complaint in respect of the Toyota mention.

The letter from the agents for New Zealand Cheese to Radio New Zealand is somewhat different. It states:

"This letter serves to confirm the details of our telephone conversation on Thursday, 31 March.

Buttermark have agreed to spend \$[amount deleted] on Radio New Zealand stations this year in exchange for New Zealand Cheese rugby sponsorship and Fernleaf butter netball sponsorship.

As discussed, coverage of the Fernleaf Tennis Classic and Nutrimetics Tournament will also carry Fernleaf name association."

This letter is not as precise in respect of the Rugby/New Zealand Cheese name association as the Cricket/Toyota letter is. It simply states that a sum of money will be paid in exchange for rugby sponsorship. In view of our decision in respect of Toyota, we did not consider any further inquiry into any possible detailed arrangement to be justified. So we do not uphold this part of the complaint simply because it is not clear that the sponsorship which was paid for included name association.

Finally, we accept that Radio New Zealand's transcript showed that only 'Toyota' and 'New Zealand Cheese' were mentioned and not 'Hannahs' and 'the TAB'. Mr Turner could well have been mistaken because of a mention of the last 2 at some other time.

We do not consider any public action is required in view of the changes in advertising rules, now in force, permitting Sunday advertising.

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.
go2602

Decision No. 50/89

COM 7/89

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by **Clifford Reginald Turner** of Hamilton:

Warrant Holder: Television New Zealand Ltd.:

Chairman: Judge B. H. Slane.

Member: Robert Boyd-Bell.

Co-opted Members: R. M. Carter and B. W. Stephenson.

Decision

Dated the 29th day of November 1989.

Introduction

On 1 March 1989 at about 10 p.m., Television New Zealand broadcast on TV1 an advertisement for a softball series sponsored by Lion Red Ltd. The advertisement had a background song:

"Yeah you know what it takes, you're ready to dart, take em all on. You got the measure of your man and you know that you can go all the way.

Give it to them. Yeah give 'em a taste, give 'em, give 'em a taste of kiwi. Show them you're the best."

Then followed a voice-over: "Lion Red series softball. The best of the clubs. The biggest of the kiwis.

Give 'em a taste."

While the song was played, pictures of softballers in action were shown and the words "Lion Red series" appeared along the bottom of the screen. The words "Lion Red" were in prominent capital letters and the word "series" in smaller letters. There was a softball between "Lion Red" and "series".

While the voice-over played, the words "Lion Red" (softball) "series" again appeared on screen together with the words "Give 'em a taste" splashed across the screen.

Mr Turner's Complaint to Television New Zealand Ltd.

Mr Turner complained to Television New Zealand in a letter dated 2 March 1989 that the simultaneous appearance of the words "Give 'em a taste" and "Lion Red" constituted a breach of television advertising rules 1.11.2 (1) and 1.11.2 (2). Mr Turner wrote that there was a strong implication that the taste to be given was a taste of Lion Red beer.

Mr Turner claimed in his letter to TVNZ that previously the BCNZ "defended this type of advertisement by saying that a statement of sponsorship was the aim of the advertisement and that thus the rules pertaining to liquor advertising did not apply. The Broadcasting Tribunal's recent decision on a complaint about an advertisement which linked a brewer to the New Zealand cricket team had established that advertisements of this type must conform to the liquor advertising rules."

Television New Zealand's Response

TVNZ wrote on 20 April 1989 that the Television New Zealand Ltd. Complaints Committee had considered this complaint at its meeting on 5 April 1989.

TVNZ stated that Mr Turner's reference to a Tribunal decision and a statement of sponsorship previously used by the BCNZ did not appear to be relevant to the 2 rules in question. As the advertisement did not make any reference to the availability of liquor for sale or supply, rule 1.11.2 (1) was not breached. With regard to rule 1.11.2 (2), the committee observed that "it was made clear that the advertiser was Lion Red Ltd. and that the Lion Red caption was clearly intended to comply with the requirement that if a brand name is to be used it should be incorporated in or be identical with the name of the advertiser".

The Complaints Committee did not uphold the complaint but did have some reservations about the juxtaposition of the final caption ("Give 'em a taste") when associated with the brand name. This viewpoint was to be conveyed to the advertiser.

Mr Turner's Complaint to the Broadcasting Tribunal

On 27 April 1989, Mr Turner brought his complaint to the Broadcasting Tribunal. He repeated his complaint that the words "Give 'em a taste" and "Lion Red" appeared simultaneously and he now stated that the abbreviation "Ltd." did not appear after the words "Lion Red". It seemed to him that the intention of the advertiser was to urge viewers to buy Lion Red beer.

Television New Zealand Ltd.'s Response to the Tribunal

The essence of Television New Zealand's submission dated 19 May 1989 to us on the complaint was that, notwithstanding the omission of the word "Ltd.", there was still no doubt that the advertisement included a statement of sponsorship by Lion Red Ltd. and would not be taken as a reference to sponsorship by Lion Red beer itself or an encouragement to viewers to buy or drink it.

Mr Turner's Reply to Television New Zealand Ltd.'s submission

Mr Turner in his reply stated that dropping the word "Ltd." from company names often still left a description of the organisation. However, he said, dropping the word "Ltd." from "Lion Red Ltd." left the name of the beer.

Decision

The relevant rules are:

1.11.2 Advertisements other than those referred to in 1.11.1 (point of sale advertising) made by or on behalf of any person or persons or body corporate who manufacture, distribute or sell alcoholic liquor, or whose name is associated with the manufacture, distribution or sale of alcoholic liquor, may be broadcast if they meet the following requirements:

1.11.2 (1) The advertisement does not make any reference to the availability of alcoholic liquor for sale.

1.11.2 (2) The advertisement does not include references to brand names of alcoholic liquor as such except to the extent that the brand name is incorporated in or identical with the name of the advertiser.

1.11.2 (3) No descriptions of the qualities of the alcoholic liquor manufactured, distributed or sold by the advertiser are included in the advertisement.

Mr Turner did not allege any breach of 1.11.2 (3).

We have previously stated that advertisements of this type have to be taken as a whole including the theme, words and pictures and their juxtaposition.

In that respect, the Tribunal is of the view that the use of the phrase "Give 'em a taste (of kiwi)" in the context was clearly not a reference to Lion Red (beer). We agree with Television New Zealand that it refers to a New Zealander's sporting prowess.

A rival brewery group markets a beer called "Kiwi Lager" and it is inconceivable that the owners of Lion Red Ltd. would promote a competitor's brand when using the whole phrase "Give 'em a taste of kiwi". When the shortened "Give 'em a taste" is used, it is presumably kiwi determination on the sports field that is still being referred to.

We also find that the omission of the word "Ltd." in this case does not, in itself, turn the advertisement from being a sponsorship announcement by the company into an advertisement for a brand of beer. We consider it desirable that the word "Limited" or "Ltd." be shown on screen in advertisements of this nature in future to avoid doubt, or at least be spoken on the soundtrack.

In this case the voice-over made it clear the advertisement was for the Lion Red series softball. We note, however, that in the closing titles the word "series" is separated by the softball from the words "Lion Red" and is smaller. That would not matter as much if the words "Lion Red Ltd." had been used. But with "Ltd." left out, the brand name is left with less emphasis on the corporate name.

Rule 1.11.2 (2) permits the use of the words "Lion Red" as part of the manufacturer's name "Lion Red Ltd.". It does not mean that because "Lion Red" is part of "Lion Red Ltd.", "Lion Red" can be used by itself. There appeared to be some confusion in Television New Zealand's submissions to us on this particular aspect. However, the brand name was not used "as such". It was used only in connection with series or series softball or visually with a softball and the word series.

Three other factors influenced us. The use of the word Ltd. is an appendage to the name of nearly every company. If the company name consists of no more than the liquor brand name, it is desirable that the word Ltd. should also be included. Otherwise we accept that company names are often used without the legally required indication of limited liability. But we do not think it is decisive in this case because the remaining

words Lion Red were not used as a reference to a brand name as such; they were only used as part of a group of words or title "Lion Red series".

Secondly, a reference to rule 1.11.3 assists. In that rule, if an event conducted by a sporting body is sponsored by a manufacturer, distributor or supplier of alcoholic liquor, advertisements referring to the event may include reference to that sponsorship. While this rule was not pleaded by Television New Zealand, we consider it is relevant to the approach taken in interpreting the rules.

The third factor is the allegation that leaving off the Ltd. makes it an advertisement for beer and therefore in breach of the advertising rules. Neither follows. Leaving off the word Ltd. may constitute a breach of rule 1.11.2 (2) but it does not follow that, taken as a whole, the advertisement was for anything other than the Lion Red series softball.

As the advertisement does not make any reference to the availability of Lion Red for sale nor to its qualities and because the corporate name was used only within the name of the series, we decline to uphold the complaint.

We do say that the advice from TVNZ to the advertiser was justified and it is desirable to include a reference to the company although we do not accept that repeated use of Ltd. is necessary.

The use of brand names as corporate titles has been an accepted way to maintain brand name recognition within the liquor advertising rules and it is inappropriate to attempt to foil that so long as the real nature of the advertisement is to promote the sporting events.

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.
go2603

Decision No. 51/89

COM 10/89

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by **Clifford Reginald Turner** of Hamilton:

Warrant Holder: Television New Zealand Ltd.:

Chairman: Judge B. H. Slane.

Member: Robert Boyd-Bell.

Co-opted Members: R. M. Carter and B. W. Stephenson.

Decision

Dated this 29th day of November 1989.

Introduction

During the evening of 29 June 1989, TVNZ Ltd. showed an advertisement on TV1 for a live telecast of a forthcoming rugby test match.

In the advertisement, a boy was shown coming into the house, going upstairs and taking an old All Black jersey out of a trunk. He dreams of becoming an All Black. Next, a large man dressed as a rugby player and then clearly as an All Black is shown aggressively running with the ball, would-be tacklers being shouldered aside. Then followed the spoken words:

"Television New Zealand and Steinlager Ltd. present the Second Test, France versus New Zealand, live, this Saturday on Television One."

The viewer then sees 2 captions the first showing the silver

fern and the words "New Zealand All Blacks" and in larger type "New Zealand's Finest".

Final titles show the Steinlager logo with the following information:

Television One
Saturday, 1 July 3 p.m.
Steinlager
Official Sponsor of the New Zealand
All Blacks

Mr Turner's Complaint to TVNZ Ltd.

Mr Turner wrote on 30 June formally complaining that it was "reprehensible for Television New Zealand to allow a brewery to use a child in its advertising".

Television New Zealand wrote back on 5 July 1989 saying it was necessary for Mr Turner to indicate on what grounds the complaint was based, before it could be considered.

Mr Turner replied on 8 July 1989 that he considered it was in bad taste to use a young boy in a liquor advertisement and asked that the advertisement be considered under the rule that requires programmes to be in good taste.

Television New Zealand's Response

On 3 August 1989, Television New Zealand wrote to Mr Turner declining to uphold the complaint. It was considered by Television New Zealand Ltd.'s Complaints Committee in the context of TV Rule 1 (1) (b). This rule requires broadcasters to ensure that programmes are in good taste in accordance with commonly accepted standards.

TVNZ stated that there was no question that the advertisement promoted the telecasting of a test match and acknowledge the sponsorship status of Steinlager Ltd.

TVNZ said that the boy did not appear at all in the final 15 seconds of the commercial featuring adult rugby. The advertisement was not in bad taste.

Mr Turner's Complaint to the Tribunal

Mr Turner then lodged his complaint with the Tribunal.

He repeated his claim that it is in bad taste to use a child in a liquor advertisement.

"TVNZ claims that the advertisement promoted the televising of a test match. I believe it promoted Steinlager Ltd.", he wrote.

TVNZ's Response to the Tribunal

TVNZ acknowledged that it could reasonably be described as liquor-related advertising, but it submitted that of itself it is not in bad taste for a young boy to appear. Further, the boy was not seen in close proximity or adjacent to the Steinlager logo or sponsorship acknowledgment. Rather, the advertisement if anything could be described as "refreshingly different" from others of the same type. No other complaints were received by the broadcaster.

Mr Turner's Comment

Mr Turner did not accept that the boy was not part of the promotion of Steinlager Ltd. products. The boy was undeniably taking part in promoting the interests of the company.

Mr Turner did not see the lack of complaints as having a bearing on the question of taste.

Decision

The clear purpose of the advertisement was to promote the television coverage of the event. It also promoted Steinlager Ltd.'s sponsorship.

The Tribunal does not consider that the advertisement was in bad taste given currently accepted norms and the way the child was used only in the part of the advertisement about dreaming to be an All Black and not when the voiced sponsorship

announcement was made and the word "Steinlager" appeared on screen.

Therefore the tribunal finds that in this respect the advertisement was not in bad taste and declines to uphold the complaint on that ground.

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.

go2604

Decision No. 54/89

COM 3/89

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint lodged with the Tribunal by a complainant (name suppressed by court order):

Warrant Holder: Broadcasting Corporation of New Zealand (now Radio New Zealand Ltd.)

Chairman: Judge B. H. Slane.

Member: Robert Boyd-Bell.

Co-opted Members: R. M. Carter and B. W. Stephenson.

Decision

Dated the 14th day of December 1989.

Introduction

The complaint concerned part of a report on child abuse broadcast in Radio New Zealand's "Checkpoint" programme on 6 September 1988. The report quoted the director of the Plunket Society to the effect that unless changes were made in legislation governing child abuse, there were likely to be more infants die at the hands of their parents as a result of child abuse.

The specific words of the reporter complained of were:

"... there are many other areas which need urgent attention. The cases such as the one in [locality named] recently where the foster parents of a girl beat her with a broom, forced her to drink from a toilet bowl and made her kneel with soap in her mouth for 16 hours..."

(Further details of the complaint appear later in this decision.)

At the time this report was broadcast, the complainant, one of a foster parent couple, was the subject of a depositions hearing to decide whether they should be sent for trial on certain charges. They were later found not guilty in the District Court of those charges and orders were made forbidding publication of names.

The complainant had decided not to complain to Radio New Zealand at the time the broadcast was made. The complainant did however complain in a solicitors' letter dated 10 January 1989 after having been sent for trial but before the trial took place in February.

Due to an initial failure of Radio New Zealand to identify the complaint in January 1989 as a formal one, it was referred to the Tribunal before consideration by Radio New Zealand. On 23 March 1989 the Tribunal suggested the complainant await the outcome of Radio New Zealand's formal consideration of the complaint. If the complainant did not consent to do so, the Tribunal was obliged to deal with the matter.

The complainant's solicitors said the complainant did not consent to await Radio New Zealand's determination.

The Tribunal decided no oral hearing was necessary as the facts were not substantially in dispute. However, as Radio New

Zealand did consider the complaint on 5 April, we have had regard to Radio New Zealand's finding as well as further submissions from the complainant's solicitors and Radio New Zealand's response.

Radio New Zealand's Finding

In her letter to the complainant's solicitors, the Chief Executive of Radio New Zealand stated that the Broadcasting Act 1976 laid down only one provision against which the matters raised could be determined, namely section 95C (1) (iii) which concerns the obligation imposed by section 24 (1) (e) to have regard to the accurate and impartial gathering and presentation of news according to the accepted standards of objective journalism. Accordingly it was against this provision that the formal complaint had been considered by the board.

Radio New Zealand upheld the complaint on the ground of inaccurate reporting only and directed that the complainant be informed that the board considered the breach, both generally and also specifically in regard to the number of persons involved in the report's references, as technical only. (It was referring here to the other persons and matters referred to in the radio report of which the words complained of were only a small part.)

Complaint to the Tribunal

As stated above, the complainant asked the Tribunal to uphold his various complaints to Radio New Zealand. These were that there was no allegation that the complainant and another accused had beaten the complainant with a broom: only the complainant had been alleged to have done that. In that respect the programme statement was incorrect and prejudicial to the other defendant (not a complainant). The complainant was going to plead justification for having done so. He would plead he was entitled to use force by way of correction pursuant to section 59 of the Crimes Act. The complaint to us was that these and other facts were not referred to in the report.

Further, only the co-accused had been alleged to have forced the young person to drink from a toilet bowl. In that respect the facts were also wrong, it was said. The co-accused had denied doing so. Both accused denied making the complainant kneel with soap in her mouth.

In addition to these claims of factual inaccuracy, the complainant said that the programme reported the toilet bowl and soap allegations as true, whereas the accused said they were false.

The solicitors for the complainant said the allegations made in the programme were unwarranted at a time when at that stage the accused had not been committed for trial. Even when they were committed for trial they remained matters yet to be considered by a jury.

Finally the complainant stated that the whole tenor of the programme (which was about child abuse) suggested that the accused persons were guilty. Generally, the whole programme was prejudicial to the complainant.

The complainant went on to say through his solicitors that, had the programme researched this aspect properly, it would not have used these details as an example of child abuse.

In addition, in a letter to the Tribunal dated 3 May commenting on Radio New Zealand's finding, the solicitors for the complainant said it was incomplete and, in describing the breach as "technical only", inadequate.

The solicitor's clients asked the Tribunal to reprimand the reporter and Radio New Zealand for:

- "(a) The number of serious factual errors in the report;
- (b) The timing of the programme and the negative inferences raised by the programme, in relation to the criminal proceedings which were then only at a preliminary stage in the trial process;

(c) The fact that the programme plainly suggested that the complainants were guilty of child abuse without attempting to ascertain any explanation or justification from the complainants or their representatives;

(d) The off-hand manner in which the detailed complaint was dealt with;

(e) The pointed lack of contrition or remorse expressed by Radio New Zealand having regard to the disturbing consequences the serious breaches referred to had on our clients."

Radio New Zealand's Submissions to the Tribunal

In its submissions, Radio New Zealand noted that the reference complained of was brief and of a general nature.

The complainant was not named or identified in the programme and the name suppression imposed by the court had been fully observed.

The subsequent acquittal showed the complainant was not prejudiced.

The allegation that the words complained of had caused distress to the complainant was of a general nature and no evidence was offered to substantiate it.

The question of accurate and impartial reporting remained to be determined.

Radio New Zealand stated that the reference was beyond argument both inaccurate and journalistically careless. Nevertheless, its board did not consider there had been a breach of impartiality but rather one of accuracy arising from that carelessness.

The board found no difficulty in agreeing that the various considerations could not excuse inaccuracy and the board therefore upheld the complaint on the particular ground of failure to ensure accuracy.

But taking into account all the circumstances it had directed that the complainant, when informed of the ruling, should be advised it was considered that the breach had been a technical one only.

Radio New Zealand considered an apology to the complainant was neither required by the Act nor justified in view of the passing nature of the reference to one case in a wider context of many cases.

Decision

The Tribunal is in agreement with Radio New Zealand's decision on the complaint to the extent that the inaccuracies in the broadcast should not have occurred. However we do not agree that it was a technical matter only. In matters of this nature, accuracy is of the essence and can be achieved by checking facts and accurate reporting.

There is however the central issue when criminal proceedings are pending or likely. This is the question of prejudice. Even though the complainant and co-accused were not identified, the item was broadcast in the district where the complainant was facing a depositions hearing and would appear for trial if that was the court's ruling (as it turned out to be). The particular district where the depositions were being heard was specifically mentioned in the report. There was a risk in this case that a local person who heard the report would have been able to identify the complainant. That local person might later serve on a jury hearing the case.

The Tribunal did not take into account in its decision the fact that the complainant was later found not guilty.

Broadcasters have an obligation to respect the legal principle fundamental to our criminal justice system that accused persons are deemed to be innocent until they are proved guilty. Accordingly, reports should indicate that individuals are *accused* of a particular crime or *alleged* to have committed them, even when the particular accused person is not personally identified.

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

go with a lot of dirty pictures. Illustrations and text are properly knit together.

The publication is neither sensational nor titillatory, but an open and indeed compassionate, attempt to instruct and inform other people in a like condition. I don't think the question of literary merit need arise with a book of this kind, but I will comment that the author has a fluent style and manages to convey an extraordinary range of information sensitively.

The matters which concerned other members of the Tribunal—no reference to AIDS; a discussion of S-M, and the mentioning of the place of drugs in the enhancement of sexual pleasure—concerned me also, but I feel these matters are ameliorated—

(a) The persons for whom the book is intended—homosexual males—are, above all others, most thoroughly aware of AIDS, and the dangers of certain sexual practices. It is generally agreed that gay male community has effectively promoted "Safe Sex": it is unlikely that this one, pre-AIDS as it were, publication is going to annihilate all the effective propaganda;

(b) *Men Loving Men* is a gay sex guide, and, as such, given that power role-playing and sado-masochistic activities are a part of the male gay "scene", would be failing its own purpose if it did not discuss these matters. It takes a low-key responsible tone, and emphasises consent and mutual understanding of limits, in this kind of relationship;

(c) The book does not advocate drug-use: again, it is placing information before its readers. Indeed, on page 129, the author specifically warns "most of these drugs... can be positively dangerous".

While the book is in some respect, outdated, its helpful non-sensational tone and the authority of its guidance and advice, outweigh that: those qualities, to my mind, also argue for making it available to those for whom it is intended. Rather than an "unconditionally indecent" classification, I would opt for "indecent in the hands of persons under 16 years of age."

Dated at Wellington this 29th day of May 1989.

K. A. HULME, Member.

Indecent Publications Tribunal.
go2626

Decision No. 36/89

Reference No.: IND 32/88

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: *Plaisir*, No. 10; *Peaches*, No. 40; *Cunnilingus*; *Strip Revue*, No. 4; *Chesty Girls*, No. 7; *Galerie*, No. 11; *Magazin International*, No. 2; *International Top Magazine*, No. 12; *International Top Magazine*, No. 14:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 13th day of October 1988.

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

Decision

These publications were commercially imported in May 1988 at Hamilton. The Collector of Customs seized these issues and the importer having subsequently disputed forfeiture the publications have been referred to the Tribunal prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

Strip Review, No. 4; *Peaches*, No. 40; *Chesty Girls*, No. 7; *Plaisir*, No. 10; *International Top Magazine*, No. 12 and 14; *Galerie*, No. 11

With the exception of the magazine *Strip Review* all of these publications portray photographs of the single female model nude or partly clothed with an emphasis on large breasts. The magazine *Strip Review* contains portfolios of photographs of naked or partly clothed female models, the majority of which are unobjectionable in terms of the legislation. The portfolios are presented with an accompanying text in German and in English of a mildly erotic nature.

The Tribunal is satisfied that these particular publications are not likely to be injurious to older readers but that they do contain material which is likely to be injurious to younger readers. Accordingly the Tribunal classifies each of these publications as indecent in the hands of persons under the age of 18 years.

Magazin International, No. 2

This is an unusual publication in that it collects in the 1 volume, 2 *Galerie* magazines and 1 *Swank* magazine each of which is self-contained and consists of various articles of both a sexual and non-sexual nature, black and white and coloured photographs and several portfolios of nude or semi-nude models. The Tribunal agrees with the submission made by Mr Wotherspoon on behalf of the Comptroller of Customs that "a significant amount of material in this publication would come close to contravening the tripartite test as a number of the photographs include excessive intimacy between 2 models and multiple model scenes which depict lesbian acts". That particular material certainly caused the Tribunal considerable concern but that which justifies the classification of unconditionally indecent which the Tribunal gives to this publication is contained in a photography portfolio under the title of "Scout Jamboree" towards the end of the publication. The photographic sequence depicts a young girl scout in various stages of undress and with 1 full colour photograph which shows considerable emphasis on the genital area. The Tribunal classifies as indicated this publication as unconditionally indecent.

Cunnilingus

This publication purports to be a study of case histories of male oral sex practices edited and with psychological comment by a Dr Douglas H. Ganlin. Included in the publication are various articles on incest, sex relations between humans and animals and sex with minors. In almost every case the alleged case histories describe extreme sexual activities and we agree with the submission of Mr Wotherspoon for the Comptroller of Customs that serious doubt is raised with regard to the honesty of purpose of the author.

For these reasons the Tribunal classifies this publication as unconditionally indecent.

Dated at Wellington this 6th day of June 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go2628

Decision No. 37/89

Reference No.: IND 60/88

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: *Drummer*, Issue 121, September 1988; *All American Man*, 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 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; Lustig 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:

International Topsy Girls, No. 4 and 5; *International Chesty Girls*, No. 8; *The Best of Escort*, No. 10; *Escort*, Vol. 7, No. 10, September 1987; *Escort*, Vol. 8, No. 1, January 1988; *Escort*, Vol. 8, No. 1, May 1988; *Escort*, Vol. 8, No. 6, April 1988:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 27th day of April 1989.

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

Decision

These publications were commercially imported through Auckland Airport on about the 22nd day of February 1989 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.

In addition to the submissions made on behalf of the Comptroller, a letter was received from an officer of Waverley International Ltd, the importer and that was taken into account when the Tribunal reached its decision in relation to all of these publications.

The following magazines have in the opinion of the Tribunal material which would be injurious to younger readers and each has been classified as indecent in the hands of persons under the age of 18 years:

International Topsy Girls, No. 5.

International Chesty Girls, No. 8.

The Best of Escort, No. 10.

Escort, Vol. 7, No. 10, September 1987.

Escort, Vol. 8, No. 1, January 1988.

Escort, Vol. 8, No. 4, May 1988.

Escort, Vol. 8, No. 6, April 1988.

The Tribunal unanimously finds *International Topsy Girls*, No. 4 to be unconditionally indecent because in its content is a photograph which displays a model with an injury which the Tribunal considers either intentionally or accidentally has been portrayed as having been shot or stabbed through the heart. Because of that indication of violence in that particular photograph the Tribunal classifies that particular issue of the publication as unconditionally indecent.

Dated at Wellington this 6th day of June 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go2632

Decision No. 40/89

Reference No.: IND 19/89

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: *Hustler*, Vol. 14, No. 1, July 1987; *He-She*, No. 1; *Buf*, Vol. 19, No. 5, October 1987; *Playbirds*, No. 112; *Scantily Clad*, Vol. 1, No. 1:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 27th day of April 1989.

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

Decision

These publications were privately imported through Wellington air freight on 9 January 1989 and were seized by the Collector of Customs. The importer having subsequently disputed forfeiture they have been referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

Hustler, Vol. 14, No. 1.

This publication has previously been referred to the Tribunal and has been classified unconditionally indecent in decisions 13/86, 18/87 and 53/88.

The Tribunal agrees with the Comptroller of Customs that the comments made in those earlier decisions applied to the present volume of *Hustler* which contains material which the Tribunal is satisfied is injurious to the public good. The Tribunal accordingly classifies this issue as unconditionally indecent.

He-She, No. 1.

This publication consists principally of photographs of multiple model scenes portraying excessive sexual activity, including oral and anal sex between the models portrayed. The Tribunal is satisfied that the material in this publication is injurious to the public good and classifies it as unconditionally indecent.

Buf, Vol. 19, No. 5.

Buf publication is produced along the same lines as *Gem* magazines and a number of additional copies of this publication were provided for consideration by the Tribunal by Mr Ellis who although not appearing in respect of this particular publication made an appearance on behalf of the importers of the magazine, Gordon and Gotch NZ Ltd. Mr Ellis advised the Tribunal that there were additional copies available in respect of the magazine and he invited the Tribunal to give consideration to the making of a serial restriction order in respect of this publication. The Tribunal considers this publication to have material which would be injurious to younger readers, and accordingly classifies it indecent in the hands of persons under the age of 18. The Tribunal likewise classifies those copies made available to the Tribunal by Mr Ellis as indecent in the hands of persons under the age of 18 years. As indicated Mr Ellis invited the Tribunal to issue a serial restriction order in relation to this publication and the Tribunal is satisfied that it is appropriate for such an order to issue. Accordingly in respect of the publication *Buf* the Tribunal issues a serial restriction order in terms of section 15A of the Indecent Publications Act 1963 classifying the publication *Buf* as indecent in the hands of persons under the age of 18 years.

Playbirds, No. 112.

This contains a number of photographs of the kind which the Tribunal is satisfied would be injurious to younger readers and accordingly classifies it as indecent in the hands of persons under the age of 18 years.

Scantily Clad, Vol. 1.

This publication is produced and printed in the United States of America. The contents are photographs of naked or partly naked female models in a number of poses some of which include explicit scenes of oral sex and simulated intercourse. Also included in the publication is a portfolio of photographs entitled "Learning the Ropes" on page 8, featuring scenes of bondage. The Tribunal finds that this publication contains material which is injurious to the public good and classifies it as unconditionally indecent.

Dated at Wellington this 6th day of June 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go2633

Decision No. 41/89

Reference No.: IND 13/89

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: *Friction*, February 1989; *Friction*, March 1989; *All American Man*, February 1988:

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 G. A. Ireland, counsel for the Lawrence Publishing Company NZ Ltd.—the importer.

Decision

These publications were commercially imported through parcels post, Auckland in January 1989. The publications having been seized by the Collector of Customs, the importer has disputed forfeiture and they have been referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

In his submission to the Tribunal in respect of these publications, Mr Ireland has asked the Tribunal once again to consider the making of a serial restriction order in respect of the publication *All American Man*. The Tribunal having further considered this particular publication is satisfied that there is a consistency of publication and that it is justifiable that a serial restriction order be made, classifying the publication *All American Man* as indecent in the hands of persons under the age of 16 years. This particular publication is likewise classified as indecent in the hands of persons under the age of 16 years.

In relation to the publications *Friction*, the Tribunal is not at this time prepared to issue a serial restriction order because there are some aspects of the publications which cause the Tribunal some concern. We would mention in relation to these publications the drawings and certainly the cartoons which appear in the February edition at page 45 onwards and the March edition at page 51 onwards. Both publications contain material which the Tribunal is satisfied would be injurious to the public good and classifies both 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.
go2635

Decision No. 42/89

Reference No.: IND 5/89

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: *Sexual Happiness for Women*; *Sexual Happiness for 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 26th day of April 1989.

Appearances: M. J. Wotherspoon for Comptroller of Customs. L. Elworthy a representative of Angus and Robertson Publishers.

Decision

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

Mr Elworthy on behalf of the publishers advised the Tribunal that both these magazines are essentially a new edition of *Sexual Happiness* which was first issued in New Zealand in 1986. Mr Wotherspoon for the Comptroller of Customs submits to the Tribunal that the publications are indeed what they profess to be and are well written, informative and contain material of help to the average member of society who is seriously seeking improvement in his or her sexual relationship. Because of the sections devoted to contraception the Tribunal classifies these publications as 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.
go2637

Decision No. 43/89

Reference No.: IND 52/88

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: *Letters & Erotic Sounds*, No. 31; *Experience Busting Out*, Vol. 1, No. 5; *Tower of Power*; *Trinity Brown*; *Debbie Does 'Em All*; *Dear Fanny*; *Legs Legs Legs*, Vol. 4, No. 3; *Women Who Dominate Men*, Vol. 1, No. 1; *Sweet Ass*, Vol. 4, No. 1; *Hong Kong 97*, No. 127; *Floppers*, Vol. 5, No. 1; *Fanny*, Vol. 16, No. 3; *Chunky Asses*, Vol. 5, No. 3; *Tops & Bottoms*, Vol. 1, No. 4; *Hot Legs*, Vol. 5, No. 3; *Bouncy Boobs*, Vol. 1, No. 2; *Fat & Hot*, Vol. 1, No. 1; *T.V. Transformations*, Vol. 1, No. 1; *Female Mimics*; *International*, Vol. 16, No. 7; *T.V. Exhibitionists*, Vol. 1, No. 1; *Tranzzy*, No. 1; *T.V. Queens*, Vol. 2, No. 4; *Drag Queens*, Vol. 5, No. 2; *T.V. Queens*, Vol. 2, No. 3; *How to Enlarge Your Penis*; *Reflections of Men*; *William Higgins' Star Search*; *Book of Blacks III*; *Prime Cuts*, No. 1.

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. No appearance on behalf of importer, Waverley Publishing Co Ltd.

Decision

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

In respect of the following publications the Tribunal is unanimously satisfied that they contain material which would be injurious to younger readers and accordingly classifies each as indecent in the hands of persons under the age of 18 years.

Experience Busting Out, Vol. 1, No. 5.

Legs Legs Legs, Vol. 4, No. 3.

Women Who Dominate Men, Vol. 1, No. 1.

Sweet Ass, Vol. 4, No. 1.

Hong Kong 97, No. 127.

Floppers, Vol. 5, No. 1.

Fanny, Vol. 16, No. 1.

Chunky Asses, Vol. 5, No. 3.

Tops & Bottoms, Vol. 1, No. 4.

Hot Legs, Vol. 5, No. 3.

Bouncy Boobs, Vol. 1, No. 2.

Female Mimics International, Vol. 16, No. 7.

T.V. Exhibitionists, Vol. 1, No. 1.

Tranzzy, No. 1.

T.V. Queens, Vol. 2, No. 4.

Drag Queens, Vol. 5, No. 2.

T.V. Queens, Vol. 2, No. 3.

Book of Blacks III.

In respect of the following publications the Tribunal is unanimous that they should receive an unconditionally indecent classification because of their portrayal of sexual matters in a manner which the Tribunal finds injurious to the public good.

Letters & Erotic Sounds, No. 31.

Tower of Power.

Trinity Brown.

Debbie Does 'Em All.

Dear Fanny.

T.V. Transformations, Vol. 1, No. 1.

The Tribunal finds that each of these following publications shows persons engaged in sexual activity of a nature which is clearly indecent.

Fat & Hot, Vol. 1, No. 1.

The display of the genital areas of the models that these photographs depict in this publication is of a nature which the Tribunal is satisfied goes well beyond that which would enable a lesser classification to be imposed.

How to Enlarge Your Penis.

Tribunal is satisfied that this is not only medically imprudent but that it also depicts activity of a kind which is injurious to the public good.

William Higgins' Star Search.

Prime Cuts, No. 1.

The first of these has a masturbation sequence and the second some photos which indicate masturbation and a sequence involving a model with battery and wire which the Tribunal is satisfied is injurious to the public good.

Reflections of Men.

The Tribunal is unanimously agreed that this publication does not contain material which would be injurious to any class of person and classifies it as not indecent.

Dated at Wellington this 6th day of June 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

go2638

Decision No. 44/89

Reference No.: IND 56/88

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:
Eroticon III; Forbidden Frolics:

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. No appearance by importer, McDonald Publishers (NZ) Ltd.

Decision

These publications were commercially imported through Auckland sea freight in September 1988 and were seized by the Collector of Customs. The importer having disputed forfeiture the publications have been referred to the Tribunal prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

Forbidden Frolics is a collection of stories based on Edwardian erotica and the Tribunal finds that it is quite well written and it agrees with the Comptroller that it lacks the repetition of crude and coarse language which is found in many similar publications which have been considered indecent by the Tribunal. There are however aspects of the publication which make it injurious to younger readers in the Tribunal's decision and accordingly it is classified as indecent in the hands of persons under the age of 18 years.

Eroticon III is a collection of tales from anonymous authors and again as in the case of *Forbidden Frolics* it differs from many of the books of a similar kind which come before the Tribunal in that the majority of stories treat sex in an adult rather than a prurient manner. Some of the stories are however of a very suspect kind dealing with sex in what can only be called a salacious way. The Tribunal finds that this book would also be injurious to younger readers and classifies it 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.

go2641

Decision No. 45/89

Reference No.: IND 58/88

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:
Amazons Special (Clyda-Superboobs); Amazons Special (Big Black Mammals); Amazons, Issue No. 13; *Amazons*, Issue No. 14; *50 + Plus*, Special No. 16; *Bounce*, No. 37; *Bounce*, No. 38; *Bounce Continental*, No. 1; *Peaches Continental*, No. 3; *Peaches Continental*, No. 4; *Peaches Continental*, No. 5; *Peaches*, No. 44; *Peaches*, No. 45; *Peaches*, No. 46; *Peaches Photo Gallery*, No. 6; *Peaches Photo Gallery*, No. 7; *Peaches Photo Gallery*, No. 8:

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. No appearance for importer, Waverley International.

Decision

These publications were commercially imported through the Port of Auckland in October 1988. The Collector of Customs seized these issues and the importer subsequently disputed forfeiture. The publications have been referred to the Tribunal prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

Most of these magazines feature photographs of single female models and there is little or no text. The magazines are a fetish type production with emphasis on the larger female breast. In respect of the following publications the Tribunal is satisfied

that they contain material which would be injurious to younger readers and classifies each as indecent in the hands of persons under the age of 18 years.

Amazons, Issue No. 13.

Amazons, Issue No. 14.

Bounce, No. 37.

Peaches, No. 44.

Peaches, No. 45.

Peaches, No. 46.

Peaches Photo Gallery, No. 6.

Peaches Photo Gallery, No. 7.

Amazons Special (Clyda-Superboobs).

In respect of *Amazons Special (Big Black Mammams)*, the content is more restrained and the Tribunal classifies this publication as indecent in the hands of persons under the age of 16 years it clearly containing material injurious to persons under that age.

The following publications are classified by the Tribunal as unconditionally indecent for the reasons which are briefly stated hereunder.

50 + Plus, Special No. 16.

This contains a comic strip which is clearly indecent and injurious to the public good and it also has what the Tribunal considers an over emphasis on the genitalia area of the models displayed.

Bounce, No. 38.

This contains a number of sequences involving multiple models engaged in sexual activities portrayed in a fashion which the Tribunal finds is clearly injurious to the public good.

Bounce Continental, No. 1.

This too contains an emphasis on genitalia which the Tribunal finds injurious to the public good and other material depicting sexual activity which justifies the indecent classification.

Peaches Continental, No. 3.

Peaches Continental, No. 4.

Peaches Continental, No. 5.

In the Tribunal's finding these differ significantly from those editions of *Peaches* which have received an R18 classification and their portrayals of the models and their activities are such that the Tribunal finds it would be injurious to the public good for those publications to be released.

Dated at Wellington this 6th day of June 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

go2643

Decision No. 47/89 (1)

Reference No.: IND 29/89

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: *Kingsize*, Vol. 19, No. 1 and 182 other magazines published by Parliament Publications:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 5th day of July 1989.

Minority Decision of R. E. Barrington and S. C. Middleton

This decision was referred to in the majority decision of the Tribunal (decision No. 47/89) and has arisen because of the Tribunal's concern that many of these magazines can only be described as coarse and crude but yet they cannot be declared

indecent. The Comptroller of Customs submission on these magazines referred to the view that a significant number of the photographs in them placed undue emphasis on the female genitalia with many of the models being posed in what are clearly contrived positions to accentuate women's genitalia. It is this kind of pictorial depiction which denigrates women, that is at issue here.

The issue of whether a publication is indecent within the meaning of the Act if it portrays women in a denigrating manner has been considered by the High Court within very narrow parameters; viz whether a publication containing a representational view of women which denigrates all women is indecent (*The Comptroller of Customs v. Gordon and Gotch (NZ) Ltd. Jeffries J. at page 22*).

The arguments raised by the High Court in this narrow discussion against the application of a test of denigration were: that there were definitional problems with "representational view". In *The Comptroller of Customs* the focus was on "representational" as meaning symbolic. Further arguments were whether a representation of a few members of a class could denigrate all of that class. This was thought to be a logical fallacy, and prostitution was used as an example of an activity which while participated in by individuals could not be said to denigrate all women; whether procedural fairness was provided for in the consideration of the magazines *Knave* and *Fiesta* because the possibility of the feminist viewpoint being applied had not been argued before the Tribunal. A further argument was that there was a distinction between "denigrate" in the sense of "to blacken" and degrade, debase or deprave. Attempts to link pictorial representation of women to denigration were regarded as vague, imprecise and illogical.

Over 2 years have lapsed since *The Comptroller of Customs* decision, and the argument as to whether there is a case to be advanced on the basis of denigration has still yet to be put before the Tribunal. This is partially because section 11 of the Indecent Publications Act does not provide a similar denigration factor to section 13 (2) (d) of the Films Act.

The extent and degree to which the manner in which the film denigrates any particular class of the general public by reference to the colour, race and ethnic or national origins, the sex, or the religious beliefs of the members of that class.

An almost identical provision is provided in section 21 (e) of the Video Recordings Act.

In *The Society for the Promotion of Community Standards v. Everard* the Court had a further opportunity to consider the issue of denigration under legislation which legitimately provided for it as a balancing factor to be applied to the film medium. McGechan J. commented at page 53.

In the end the view that the film denigrates women rather amounts to a general proposition that a film showing certain women undertaking exotic sexual practices blackens all women. I do not accept that proposition. If it is to be censorship policy, with the repercussions that could follow, parliamentary action is required.

From this it appears that the issue of denigration and whether it applies to films and videos requires parliamentary amendment.

To return to publications and further reasons why an argument based on denigration has not been advanced before the Tribunal. It may also be because to avoid the obiter of Jeffries J. in *The Comptroller of Customs* that an argument from the portrayal of one woman to then be applied to all women is an illogical fallacy, would require an argument on the basis of the portrayal of one specific person. As very few of the publications considered by the Tribunal are printed in New Zealand this is difficult.

It may also be that denigration was perceived to be too high a test, and whether material is "demeaning" in the sense of "lowering the dignity" may be easier to argue. Whatever the

reasons the indecent publications legislation does not provide for a consideration of denigration factors; the Court appears reluctant to apply it where it is available; and the arguments have not been put before the Tribunal in the last 2 years.

If they had, then members of the Tribunal would have given serious consideration to them in assessing these magazines.

The recent Report of the Ministerial Committee of Inquiry on Pornography at page 69 comments:

“the Indecent Publications Act gives an air of moral guardianship to the bodies that classifies work according to its terms. The later Acts [Video Recordings Act and Films Act] substitute that air with one of concern for people who may be “denigrated” by a work and with concern about the cumulative effect of media materials. Both of these concerns are in line with more modern analyses of the harm caused by the mass media.”

Thus while the Tribunal clearly must act under the legislative authority of the Indecent Publications Act, in so doing it is also acting in a way which is out of line with the most recent analyses of the meaning of what is harmful.

Many of the photographs in these magazines were demeaning if not also denigrating of specific women, and arguably of a specific class of people based on their sex. The argument that members of the Tribunal would like to have debated before it, is how brightly coloured photographs of women with their legs displayed in the most tortuous positions with their fingers straining open the outer lids of their vulva lips to concentrate as much as readers' attention as possible, on the inner vaginal area, and if it were possible up to the cervix of the vaginal canal; can not be said to not be demeaning of women. The context within which these photographs are placed is also relevant, for instance in a medical anatomy text book diagrams of women's inner genitalia are acceptable; in these publications the depictions are exploitative and degrading.

Dated at Wellington this 6th day of December 1989.

R. E. BARRINGTON and S. C. MIDDLETON, Members.

Indecent Publications Tribunal.

go2645

Decision No. 65/89

Reference No.: 45/89

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 publication: *Big 'N' Bouncy*, No. 3:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 4th day of October 1989.

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

Decision

This publication was privately imported through parcel post Auckland on 23 August 1989 and was seized by the Collector of Customs. The importer having subsequently disputed forfeiture, the publication has been referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

Although there was no appearance by or on behalf of the importer the Tribunal received and considered a letter of submissions from the importer.

The publication *Big 'N' Bouncy* concentrates as its name suggests on models with large breasts. A limited number of the photographs also place emphasis on the genitalia of the models displayed. The Tribunal is satisfied that there is material in this publication which would be injurious to

younger readers and classifies it as indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 1st day of November 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

go2647

Decision No. 66/89

Reference No.: IND 33/89 and 39/89

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: *Australian Hot Talk*, Volumes 12, 13, 14 and 15, published by P H Editorial Services Pty Ltd., Sydney, Australia:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 4th day of October 1989.

Appearances: M. J. Wotherspoon for Comptroller of Customs. G. F. Ellis counsel on behalf of importer and distributor, Gordon and Gotch New Zealand Ltd.

Decision

These publications were imported into New Zealand by Gordon and Gotch New Zealand Ltd., and quite properly referred by the importer to the Customs Department with the request that they be referred to the Tribunal for a decision on their classification in terms of the Indecent Publications Act 1963.

The publications are magazines containing a collection of short stories and readers letters all of which are of a sexual nature. The Tribunal agrees with Mr Wotherspoon that volumes 12, 13 and 14 are similar in content to the publication *Penthouse Forum* which is subject to a serial restriction order classifying it as indecent in the hands of persons under the age of 18 years. Mr Ellis supports the Comptroller in the request for an R18 classification and the Tribunal accordingly classifies volumes 12, 13 and 14 as indecent in the hands of persons under the age of 18 years.

In respect of volume 15, Mr Ellis on behalf of the importer and intended distributor, acknowledges that there are 2 changes which the publishers have made in respect of this particular edition as against the form and content of volumes 12, 13 and 14. Volume 15 is a larger type production and whereas most of the photographic content of volumes 12, 13 and 14 is in black and white display with a soft focus, volume 15 is a glossy type magazine with a greater emphasis on photographs, with a number of those photographs depicting male and female models in sexually intimate poses. Mr Ellis acknowledges that those photographs may well come within one of the provisions of the tripartite test because of the multiplicity of models displayed but he submits that this should not result in an unconditionally indecent classification. In support of that submission he pointed out to the Tribunal that there are no elements of the other 2 legs of the tripartite test namely, elements of sado-masochism or violence nor are there any displays of sexual activity with children or of any other type of activity which comes within the provisions of that test. Mr Ellis submitted that such sexual element as does appear in the publication should not warrant anything other than an age restriction classification.

The Tribunal does not agree with Mr Ellis in his submission and it is satisfied that a publication can quite properly be classified as unconditionally indecent even though that publication contains only 1 of the elements of the tripartite test. The magazine consists entirely of explicit sexual material both in its written and photographic content; it differs markedly from issues 12, 13 and 14 in its inclusion of a

significant number of photographs of a male and female model engaged in sexual activity. Other than the fact that the magazine is obviously of high quality in its photographic and general presentation, it contains none other of the elements which the legislation invites the Tribunal to consider in respect of issuing an age restriction classification, such as literary or artistic merit. The Tribunal is satisfied that this particular issue would be injurious to the public good and classifies it as unconditionally indecent.

Mr Ellis also invited the Tribunal to consider a serial restriction order classification in respect of issues 12, 13 and 14 and he suggested in the event that the Tribunal was not prepared to grant an age restriction classification to issue 15, that that serial restriction order could be issued in terms that it be limited to magazines of a similar size layout and content as issues 12, 13 and 14. Mr Ellis also indicated to the Tribunal that there was some uncertainty as to what format the publishers would use in respect of future issues of this particular publication. The Tribunal is not at this stage prepared to consider the issue of a serial restriction order but it would be prepared to reconsider such an application once the publishers decision has clearly been made as to what future issues of the magazine will contain.

Dated at Wellington this 17th day of November 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go2650

Decision No. 67/89

Reference No.: 34/89, 42/89, 47/89

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: *Australian Penthouse Black Label Edition*, Vol. 10, No. 6, No. 7, No. 8, No. 9, No. 10:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 4th day of October 1989.

Appearances: M. J. Wotherspoon for Comptroller of Customs. No appearance by or on behalf of various importers. G. F. Ellis counsel on behalf of publishers and on behalf of Gordon and Gotch New Zealand Ltd., importers and distributors of *Penthouse New Zealand Edition*.

Decision

These publications were privately imported through parcel post by various importers and were seized by the Collector of Customs. As the importers have 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.

In decision 33/88 of 28 July 1988 the Tribunal issued a serial restriction order in terms of section 15A of the Indecent Publications Act 1963 classifying all Australian edition *Penthouse* publications as indecent in the hands of persons under the age of 18 years. That decision was reached following the consideration by the Tribunal of a number of Australian *Penthouse* publications which the Tribunal determined as having a presentation which was uniform and constant but which all contain material which would clearly be injurious to the younger reader. The *Australian Penthouse Black Label Editions* are sold in New Zealand by mail order from Australia and at the present time there appears to be no intention to have a commercial importation with distribution through retail outlets. The *Black Label Editions* are almost identical to the standard Australian *Penthouse* magazine which also has a New Zealand edition. The very significant difference in the

publications results from each of the *Black Label Editions* containing a photographic sequence featuring multiple model scenes, some heterosexual and others of lesbian orientation. Mr Wotherspoon on behalf of the Comptroller of Customs invited the Tribunal to classify the *Black Label Editions* as unconditionally indecent because of that photographic sequence in each publication of multiple model scenes depicting sexual activity.

Some of the private importers have made written submissions to the Tribunal and the general tenor of those submissions is firstly that the publications are not injurious to the public good and should not be classified as unconditionally indecent and secondly that they are private importations not intended for sale or distribution to other persons.

Mr Ellis on behalf of the publisher acknowledged that there was a significant difference between the *Black Label Edition* and the standard Australian and New Zealand edition but submitted that that difference was not sufficient to justify the Tribunal in classifying the *Black Label Edition* as unconditionally indecent. Mr Ellis submitted that there were no other aspects of the publication which offended against the other legs of the tripartite test and that the Tribunal should classify the publication with an age restriction. Mr Ellis also invited the Tribunal to consider the classification of the particular editions on the basis that they were imported by private importation by subscription from Australia. He submitted that such private importation allowed for a stronger content than if distributed through normal retail outlets.

The Tribunal is satisfied that the inclusion of the multiple model scenes in each of these editions takes them past the bench mark which enables an R18 classification in respect of all other *Penthouse* publications from Australia to the point where these publications would be injurious to the public good and classifies each as unconditionally indecent.

Dated at Wellington this 17th day of November 1989.

R. R. KEARNEY, Chairman.

Indecent Publication Tribunal.
go2651

Decision No. 68/89

Reference No.: IND 35/89

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: *Playgirl (Australian)*, Vol. 1, No. 3; *Playgirl (Australian)*, Vol. 1, No. 5; *Playgirl (Australian)*, Vol. 1, No. 7; *Playgirl (Australian)*, Vol. 1, No. 12, Ritter Geller Communications Inc.; *Playgirl (Australian)*, No. 41, The Federal Publishing Co Ltd.; *Adult Fantasy*, Issue 6; *Adult Fantasy*, Vol. 1, No. 11, Goldstar Publications; *The Best of Club International*, No. 15, Paul Raymond Publications Ltd.; *The Best of Fox*, December/January, Vol. 1, No. 5; *Best of Fox*, Winter 1987, Vol. 2, No. 4, Montcalm Publishing Corp.; *Best of Razzle*, Summer Special No. 3; *Escort*, Vol. 4, No. 2; *Escort*, Vol. 4, No. 4; *Escort*, Vol. 4, No. 5; *Escort*, Vol. 4, No. 8; *Escort*, Vol. 5, No. 9; *Escort*, Vol. 8, No. 9; *Escort*, Vol. 8, No. 10; *Escort*, Vol. 8, No. 11; *Escort*, Vol. 8, No. 12; *Escort*, Vol. 8, No. 13; *The Best of Escort*, No. 5; *The Best of Escort*, No. 13; *Paul Raymond's Model Directory*, Vol. 6, No. 2; *Paul Raymond's Model Directory*, Vol. 6, No. 3; *Paul Raymond's Model Directory*, Vol. 6, No. 4; *Paul Raymond's Model Directory*, Vol. 3, No. 3; *Paul Raymond's Model Directory*, Vol. 2, No. 8; *Paul Raymond's Model Directory*, Vol. 3, No. 4; *Paul Raymond's Model Directory*, Vol. 4, No. 3; *Paul Raymond's Model Directory*, Vol. 5, No. 2; *Paul Raymond's Model Directory*, Vol. 5, No. 4; *Paul Raymond's Model Directory*, Vol. 6, No. 1, Paul Raymond Publications Ltd.; X.S., First Issue; X.S., No. 2; X.S., Vol. 2, No. 1; X.S., Vol. 2, No. 2; X.S., Vol. 2, No. 3;

X.S., Vol. 2, No. 4; X.S., Vol. 2, No. 5, Galaxy Publications; Fox, May 1987, Vol. 4, No. 1; Fox, September 1987, Vol. 4, No. 3; Fox, November 1987, Vol. 4, No. 4; Fox, March 1988, Vol. 4, No. 6; Fox, September 1988, Vol. 5, No. 3; Fox, January 1989, Vol. 5, No. 5, Montcalm Publishing Corp.; Cheri, March 1985, Vol. 9, No. 8; Cheri, July 1985, Vol. 9, No. 12; Cheri, April 1988, Vol. 12, No. 9, Cheri Magazine Inc.; Cheri, Vol. 1, No. 3, Lopian Pty Ltd. (Aul); Cheri, May 1988, Vol. 12, No. 10, Cheri Magazine Inc.; High Society, March 1988, Vol. 12, No. 11; High Society, February 1988, Vol. 12, No. 10; High Society, April 1988, Vol. 12, No. 12; High Society, May 1988, Vol. 13, No. 1; High Society, June 1988, Vol. 13, No. 2; High Society, July 1988, Vol. 13, No. 3; High Society, August 1988, Vol. 13, No. 4; High Society, October 1988, Vol. 13, No. 6, High Society Magazine; Hustler, April 1987, Vol. 13, No. 10; Hustler, June 1987, Vol. 13, No. 12; Hustler, November 1987, Vol. 14, No. 5; Hustler, September 1988, Vol. 15, No. 3; Hustler, October 1988, Vol. 15, No. 4; Hustler, November 1988, Vol. 15, No. 5; Hustler, January 1989, Vol. 15, No. 7, Hustler Magazine Inc.; Hooker, August 1986, Vol. 6, No. 5, Adam George Inc.; Hustler Letters, July 1988, Vol. 2, No. 2; Hustler Letters, March 1988, Vol. 1, No. 11, Hustler Magazines Inc.; Listen With Rustler, Vol. 4, No. 1; Listen With Rustler, Vol. 4, No. 4; Listen With Rustler, Vol. 4, No. 6, Goldstar Publications Ltd.; Penthouse (US Edition), January 1988, Vol. 19, No. 5; Penthouse (US Edition), May 1988, Vol. 19, No. 9; Penthouse (US Edition), June 1988, Vol. 19, No. 10; Penthouse (US Edition), July 1988, Vol. 19, No. 11; Penthouse (US Edition), August 1988, Vol. 19, No. 12; Penthouse (US Edition), September 1988, Vol. 20, No. 1; Penthouse (US Edition), October 1988, Vol. 20, No. 2; Penthouse (US Edition), November 1988, Vol. 20, No. 3; Penthouse (US Edition), December 1988, Vol. 20, No. 4; Penthouse (US Edition), January 1989, Vol. 20, No. 5; Penthouse (US Edition) February 1989, Vol. 20, No. 6; Penthouse International Ltd.; Raider, Vol. 2, No. 7; Raider, Vol. 3, No. 7; Raider, Vol. 3, No. 5, Goldstar Publications Ltd.:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 4th day of October 1989.

Appearances: M. J. Wotherspoon for Comptroller of Customs. No appearance on behalf of importers. G. F. Ellis, counsel on behalf of the publishers of a number of the publications and on behalf of possible New Zealand importers and distributors.

Decision

These publications were privately imported through parcel post, Auckland in May 1989 although some additional publications have been imported at other times by private importers. The publications having been seized by the Collector of Customs the importers have subsequently disputed forfeiture and 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 received a written submission from a private importer of *Playgirl (Australian)* and has given consideration to that written submission along with the written and oral submissions of the Comptroller of Customs and Mr Ellis.

Mr Ellis advised the Tribunal that he had spoken to the private importer and advised him of his client's interest in a number of the publications, and of his intention to apply to the Tribunal on behalf of the publishers of the publications X.S. and *Penthouse (US Edition)* to be joined in the proceedings before the Tribunal in respect of those publications, and to further apply for an adjournment of the hearing in respect of both of those publications until such time as the publishers could

submit evidence to the Tribunal and also be represented, possibly by Mr Jeffrey Robertson, Q.C., the English counsel for the publishers. There being no opposition to the application to join the publishers as parties to the proceedings the Tribunal makes an order joining them accordingly. Mr Ellis was asked what attitude he would take on behalf of the publishers of X.S. magazine and *Penthouse (US Edition)* in the event that the Tribunal was prepared to reach a determination that either, or both of these, could be the subject of an age restriction classification. Mr Ellis advised the Tribunal that in such an event his client would not object to the classification and that it would withdraw its application to adjourn in respect of any such publication.

The publications before the Tribunal in respect of this particular file are many and various with the principal common link that they are all to a greater or lesser degree sexually explicit. In the Tribunal's finding some justified an age restriction of 16, others an age restriction of 18 and yet others an unconditionally indecent classification. The decisions are accordingly sub-listed hereunder in respect of those particular classifications.

Playgirl (Australian), Vol. 1, No. 3.

Playgirl (Australian), Vol. 1, No. 5.

Playgirl (Australian), Vol. 1, No. 7.

Playgirl (Australian), Vol. 1, No. 12.

These publications are clearly aimed at the female market and in the main the articles are of a non sexual nature with the nude male models who are depicted in the centre pages presented in a discreet manner. Some of the issues contain a section entitled "Erotica" which details readers sexual encounters. In respect of these publications the Tribunal is satisfied that they would be injurious to younger readers and classifies each as indecent in the hands of persons under the age of 16 years.

Playgirl (Australian), No. 41.

Unlike the other *Playgirl* magazines this publication is aimed at the male market and consists of photographs of nude or semi-nude female models. The articles and cartoons contained in the magazine are almost entirely of a sexual nature and the Tribunal is satisfied that this publication would be injurious to younger readers and classifies it as indecent in the hands of persons under the age of 18 years.

Adult Fantasy, Issue 6.

Adult Fantasy, Vol. 1, No. 11.

The Best of Club International, No. 15.

Best of Fox, December/January, Vol. 1, No. 5.

Best of Fox, Winter 1987, Vol. 2, No. 4.

Best of Razzle, Summer Special, No. 3.

Escort, Vol. 4, No. 2.

Escort, Vol. 4, No. 4.

Escort, Vol. 4, No. 5.

Escort, Vol. 4, No. 8.

Escort, Vol. 5, No. 9.

Escort, Vol. 8, No. 9.

Escort, Vol. 8, No. 10.

Escort, Vol. 8, No. 11.

Escort, Vol. 8, No. 12.

Escort, Vol. 8, No. 13.

The Best of Escort, No. 5 and No. 13.

Paul Raymond's Model Directory, Vol. 6, No. 2.

Paul Raymond's Model Directory, Vol. 6, No. 3.

Paul Raymond's Model Directory, Vol. 6, No. 4.

Paul Raymond's Model Directory, Vol. 3, No. 3.

Paul Raymond's Model Directory, Vol. 3, No. 4.

Paul Raymond's Model Directory, Vol. 2, No. 8.
Paul Raymond's Model Directory, Vol. 4, No. 3.
Paul Raymond's Model Directory, Vol. 5, No. 2.
Paul Raymond's Model Directory, Vol. 5, No. 4.
Paul Raymond's Model Directory, Vol. 6, No. 1.

X.S., First Issue.

X.S., No. 2.

X.S., Vol. 2, No. 1.

X.S., Vol. 2, No. 2.

X.S., Vol. 2, No. 3.

X.S., Vol. 2, No. 4.

X.S., Vol. 2, No. 5.

Fox, May 1987, Vol. 4, No. 1.

Fox, September 1987, Vol. 4, No. 3.

Fox, November 1987, Vol. 4, No. 4.

Fox, March 1988, Vol. 4, No. 6.

Fox, September 1988, Vol. 5, No. 3.

Fox, January 1989, Vol. 5, No. 5.

These publications are heterosexual in orientation, and with the exception of some of the *Escort* issues, contain single female models with varying degrees of emphasis on genitalia. Such articles, cartoons and letters as are contained in the magazines are almost entirely of a sexual nature.

Previous issues of *Adult Fantasy*, *Escort* and other Paul Raymond publications have been recently considered by the Tribunal and in decision 57/88 ruled indecent in the hands of persons under the age of 18 years. In decision 55/89 the Tribunal issued a serial order in respect of *Escort*, however, the publications before the Tribunal on this occasion are not covered by that serial order having been imported prior to the order coming into force.

The Tribunal is satisfied that each of these publications would be injurious to younger readers and classifies each as indecent in the hands of persons under the age of 18 years.

Cheri, March 1985, Vol. 9, No. 8.

Cheri, July 1985, Vol. 9, No. 12.

Cheri, April 1988, Vol. 12, No. 9.

Cheri, Vol. 1, No. 3.

Cheri, May 1988, Vol. 12, No. 10.

High Society, March 1988, Vol. 12, No. 11.

High Society, February 1988, Vol. 12, No. 10.

High Society, April 1988, Vol. 12, No. 12.

High Society, May 1988, Vol. 13, No. 1.

High Society, June 1988, Vol. 13, No. 2.

High Society, July 1988, Vol. 13, No. 3.

High Society, August 1988, Vol. 13, No. 4.

High Society, October 1988, Vol. 13, No. 6.

Hustler, April 1987, Vol. 13, No. 10.

Hustler, June 1987, Vol. 13, No. 12.

Hustler, November 1987, Vol. 14, No. 5.

Hustler, September 1988, Vol. 15, No. 3.

Hustler, October 1988, Vol. 15, No. 4.

Hustler, November 1988, Vol. 15, No. 5.

Hustler, January 1989, Vol. 15, No. 7.

Hooker, August 1986, Vol. 6, No. 5.

Hustler Letters, July 1988, Vol. 2, No. 2.

Hustler Letters, March 1988, Vol. 1, No. 11.

Listen With Rustler, Vol. 4, No. 1.

Listen With Rustler, Vol. 4, No. 4.

Listen With Rustler, Vol. 4, No. 6.

Penthouse (US Edition), January 1988, Vol. 19, No. 5.

Penthouse (US Edition), May 1988, Vol. 19, No. 9.

Penthouse (US Edition), June 1988, Vol. 19, No. 10.

Penthouse (US Edition), July 1988, Vol. 19, No. 11.

Penthouse (US Edition), August 1988, Vol. 19, No. 12.

Penthouse (US Edition), September 1988, Vol. 20, No. 1.

Penthouse (US Edition), October 1988, Vol. 20, No. 2.

Penthouse (US Edition), November 1988, Vol. 20, No. 3.

Penthouse (US Edition), December 1988, Vol. 20, No. 4.

Penthouse (US Edition), January 1989, Vol. 20, No. 5.

Penthouse (US Edition), February 1989, Vol. 20, No. 6.

Raider, Vol. 2, No. 7.

Raider, Vol. 3, No. 7.

Raider, Vol. 3, No. 5.

The above publications contain photographs of single female nudes many of which have concentration directed to the female genitalia. In addition these publications also have a significant number of multiple model scenes showing acts of sexual intimacy between the models displayed.

The Tribunal has in the past considered various issues of a number of these publications and in decision 14/88 it classified the publication *Cheri* as unconditionally indecent with the same classification given in respect of *High Society* for the same reason in decision 38/88 and *Hustler* in decisions 13/86, 18/87 and 53/88. More recently *United Stated Penthouse* was likewise declared unconditionally indecent in decision 57/88. All of these publications contain elements of multiplicity and of sexual activity of a kind which the Tribunal is satisfied requires that they be classified as unconditionally indecent as they are injurious to the public good. The Tribunal accordingly classifies each of these publications as unconditionally indecent.

Playgirl (Australian), Vol. 1, No. 3.

Playgirl (Australian), Vol. 1, No. 5.

Playgirl (Australian), Vol. 1, No. 7.

Playgirl (Australian), Vol. 1, No. 12.

At the request of Mr Wotherspoon the Tribunal in addition to classifying these publications gave consideration to a serial restriction order and the Tribunal is satisfied that such an order would be appropriate. In making such a serial restriction order the Tribunal points out that this does not apply to the publication *Playgirl (Australian)*, No. 41, or other magazines under that title having the same format as *Playgirl (Australian)*, No. 41. Accordingly the Tribunal makes a serial restriction order in terms of section 15A of the Indecent Publications Act 1963 classifying *Playgirl (Australian)* as indecent in the hands of persons under the age of 16 years.

Dated at Wellington this 17th day of November 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

go2652

Decision No. 68/89

Reference No.: IND 36/89

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 publication:
Australian Variations For Liberated Lovers, No. 15:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 4th day of October 1989.

Appearances: M. J. Wotherspoon for Comptroller of Customs. G. F. Ellis, counsel on behalf of publisher. No appearance by or on behalf of importer.

Decision

This publication was privately imported through parcel post, Nelson on or about 6 June 1989 and it was seized by the Collector of Customs. The importer having subsequently applied for waiver of forfeiture the publication has been referred to the Tribunal for classification. Mr Ellis on behalf of the publisher submitted to the Tribunal that this publication has a similarity to the publications *Forum* and *Hot Talk*. Mr Ellis however accepted that there was in this publication a greater concentration on multiple model photo sequences. Mr Ellis submitted that apart from that leg of the tripartite test there was no other evidence before the Tribunal that the magazine contained any material which offended against the other legs of that test and that the Tribunal should not classify the publication as unconditionally indecent but limit its circulation by an appropriate age restriction.

In decision 15/87 the Tribunal found 2 editions of *Australian Variations for Liberated Lovers* and 5 editions of *Penthouse Variations for Liberated Lovers* to be unconditionally indecent.

The Tribunal agrees with the Comptroller of Customs in the submission presented by Mr Wotherspoon that this magazine is similar in format to those considered in decision 15/87 and that a similar classification of unconditionally indecent is appropriate for the very same reasons as expressed in that decision. Accordingly the Tribunal classifies this publication as unconditionally indecent.

Dated at Wellington this 17th day of November 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go2653

Decision No. 71/89

Reference No.: 41/89

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 publication:
Australian Playboy The Stars: A Pictorial Tribute:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 4th day of October 1989.

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

Decision

This publication was commercially imported through sea freight, Auckland on the 9th day of May 1989 and was seized by the Collector of Customs. The importer having subsequently disputed forfeiture, the publication has been referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

This magazine contains a pictorial selection of nude and semi-nude film stars and although it does include some multiple model scenes the Tribunal agrees with the Comptroller of Customs in Mr Wotherspoon's submission that "this activity is discreetly portrayed".

The Tribunal is satisfied that this publication contains material which would be injurious to younger readers and classifies it as indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 17th day of November 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go2654

Decision No. 72/89

Reference No.: 43/89

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 publication: *Gay*, Issue No. 157:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 4th day of October 1989.

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

Decision

This publication was privately imported through parcel post, Auckland on the 20th day of July 1989 and was seized by the Collector of Customs. The importer having subsequently disputed forfeiture, the publication has been referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

This publication is a male homosexual magazine containing explicit photographs of homosexual sexual activity including anal and oral sex. Most of the text contained in the magazine is sexually orientated and previous issues of this publication have been considered by the Tribunal and classified as unconditionally indecent (decisions 26/88 and 39/88).

The Tribunal is satisfied that this publication contains material which is injurious to the public good and classifies it as unconditionally indecent.

Dated at Wellington this 17th day of November 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go2655

Decision No. 73/89

Reference No.: IND 55/89

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: *An Author in Search of Six Characters*, *Butterscotch*, *Trashman Lives:*

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 28th day of November 1989.

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

Decision

These publications were commercially imported through air freight, Christchurch on 23 August 1989 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 publications are all in comic strip form. They are all of a sexual nature with some elements of violence and the latter aspect is certainly what caused the Tribunal concern in respect

of the publication *Trashman Lives* and on that basis alone that publication might well have required an indecent classification. In the end result the Tribunal did not have to reach a final conclusion on that aspect as it was clearly of the opinion that at the very best, from the distributors and publishers point of view, each of the publications would require at least an age restriction classification. Such a finding then requires the Tribunal to give consideration to the provisions of section 11 (3) of the Indecent Publications Act 1963 which provides:

"When the Tribunal decides that any picture-story book likely to be read by children is indecent in the hands of children under a specified age that picture-story book shall be deemed to be indecent in the hands of all persons."

The Tribunal is satisfied that these publications are likely to be read by children and accordingly in terms of section 11 (3) they are deemed to be indecent in the hands of all persons and are so classified.

Dated at Wellington this 22nd day of December 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

go2656

Decision No. 74/89

Reference No.: IND 53/89

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 publication: *Foreskin*:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 28th day of November 1989.

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

Decision

This publication was privately imported through parcel post, Auckland on 11 September 1989 and was seized by the Collector of Customs. The importer having subsequently disputed forfeiture the publication was referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

This publication is a paperback book of some considerable research totally devoted to the social and historical attitudes towards the uncircumcised male. The Tribunal sees the publication as having very limited public appeal. It is a work which would be harmful to younger readers and the Tribunal accordingly classifies it as indecent in the hands of persons under the age of 16 years.

Dated at Wellington this 22nd day of December 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

go2657

Decision No. 76/89

Reference No.: IND 38/89

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 publication: *The Wank Art Colouring Book*:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 4th day of October 1989.

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

Decision

The *Wank Art Colouring Book* was supplied to the Customs Department by the importer, C. Murgatroyd, an Australian musician, who indicated an intention to visit New Zealand in the near future. Mr Murgatroyd requested that the Customs Department submit the publication to the Tribunal to obtain a classification in respect of indecency.

The publication is produced by a Melbourne rock n' roll band titled "The Other Wankers" and its presentation is designed for young tertiary students and purports to be a legitimate health education programme to encourage sexual abstinence. The book is intended to be distributed at the same time as the band performs on a university campus.

The Comptroller of Customs in a submission placed before the Tribunal by Mr Wotherspoon asked the Tribunal to consider whether the publication came within the provisions of section 11 (3) of the Indecent Publications Act 1963, which requires the Tribunal to classify as indecent any picture-story book likely to be read by children under a specified age if the Tribunal reaches a conclusion that an age restriction should be given to the publication.

In submitting the publication originally, Mr Murgatroyd provided the Tribunal with newspaper cuttings relating to the group "The Other Wankers" and he has subsequently provided the Tribunal with a lengthy written submission with respect to the publication and the object which it seeks to achieve.

The publication consists of full page black and white drawings which are intended to be coloured in by the reader and these drawings are principally of grotesque human and animal and undetermined bodies of a most grotesque kind and many of the scenes depicted show masturbation and other sexual activities which many persons may find disturbing, because of their grotesque and bizarre nature.

The Tribunal obtained the opinion from a person who is a professional involved in the art world and he has advised the Tribunal that the drawings:

"do not rate highly in terms of draughtsmanship or aesthetic quality. It is possible that the artist's intention was to create decadently erotic images such as those made by Aubrey Beardley in the yellow book early in the century. However, the quality of drawing, composition and conception is not distinguished, though imaginatively bizarre in this publication".

Following the original hearing the Tribunal advised Mr Murgatroyd that he could, if he wished, make further submissions and was informed that the Tribunal was seeking the opinion of a person in the art world which in fact subsequently was obtained by the Tribunal.

Some members of the Tribunal were disturbed by the publication to the point where they gave consideration to an unconditionally indecent classification, but after a very full discussion and consideration of the issues those present unanimously agreed that a special restriction classification should be given to the publication. The Tribunal classifies this publication as indecent in the hands of persons under the age of 18 years and orders that the sale of the publication be restricted to persons over the age of 18 years, who attend concerts presented by "The Other Wankers" which concerts are part and parcel of the intended presentation of *The Wank Art Colouring Book* and further orders that the publication be shrink wrapped.

Dated at Wellington this 22nd day of December 1989.

R. R. KEARNEY, Chairman.
Indecent Publications Tribunal.
go2659

Decision No. 77/89
Reference No.: IND 51/89

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 publication: *The Modern Girls Guide to Safe Sex*:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 28th day of November 1989.

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

Decision

In late September 1989 Penguin Books imported 99 copies of the publication *The Modern Girls Guide to Safe Sex*. The publications were seized by the Collector of Customs at Auckland and the importer has subsequently disputed forfeiture. The publication was referred to the Tribunal with a request that I as chairman, should in terms of the powers given to me under section 14A of the Indecent Publications Act 1963, place an interim restriction order on the publication in such terms as I considered justified.

At the time when that publication was referred to me the author Kas Cooke was to appear on a Television New Zealand programme promoting safe sex and that programme screened on 30 September 1989.

The Tribunal noted that the Customs Department came in for a good deal of criticism for their action in seizing the publication and referring it to the Tribunal. The Customs Department has a statutory obligation to take such action where its officers believe that the publication or publications seized might require a restricted classification or unconditionally indecent classification. The Comptroller of Customs and the officers of the department have no power to make such classifications themselves and they have no option but to take the action which they quite properly took. This decision now formally endorses the interim decision and classifies this publication as indecent in the hands of persons under the age of 16 and that age restriction is required because of the provisions of the Contraception, Sterilisation and Abortion Act 1977.

Dated at Wellington this 22nd day of December 1989.

R. R. KEARNEY, Chairman.
Indecent Publications Tribunal.
go2661

Decision No. 79/89
Reference No.: IND 49/89

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: *Penthouse Couples*, Black Label Edition, No. 5; *Penthouse Letters*, No. 24; *Penthouse Variations for Liberated Lovers*, No. 17:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 28th day of November 1989.

Appearances: M. J. Wotherspoon for Comptroller of Customs.

G. F. Ellis, counsel on behalf of the Australian publisher and New Zealand importer.

Decision

These publications were commercially imported through parcels post, Auckland on 18 August 1989 and were seized by the Collector of Customs. The importer subsequently disputed forfeiture and the publications were referred to the Tribunal for classification, prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

Penthouse Letters, No. 24

The Comptroller of Customs through Mr Wotherspoon submitted that this publication would be harmful to younger readers and suggested an R18 classification, and that classification was supported by Mr Ellis.

The Tribunal agrees with the Comptroller's submission and accordingly classifies this publication as indecent in the hands of persons under the age of 18 years.

Penthouse Couples, Black Label Edition, No. 5

This publication unlike the standard *Australian Penthouse*, contains no written articles and is comprised of a series of picture scenarios featuring multiple model scenes of lesbian and heterosexual activity. There is very little text. In respect of this publication Mr Ellis represented the publisher only, as the publication is sold direct to the customer by mail order. Mr Ellis acknowledged that it was unrealistic not to anticipate an unconditionally indecent classification in respect of this publication in view of the Tribunal's classification for a similar publication from the same series in decision 67/89, but he submitted to the Tribunal that the Tribunal should not cancel or otherwise interfere with the existing serial order in respect of the *Australian Penthouse* publications. In decision 33/88 of 28 July 1988, the Tribunal issued a serial restriction order in terms of section 15A of the Indecent Publications Act 1963, classifying all Australian edition *Penthouse* publications as indecent in the hands of persons under the age of 18 years. We simply note in this decision that that order is not intended to cover *Black Label Australian Penthouse* and those copies of that particular format of this publication which have so far come before the Tribunal, clearly show a tendency to display a much more explicit portrayal of the models in this publication. The Tribunal accepts Mr Ellis's submission and will not at this stage cancel the serial restriction order. The Tribunal classifies this publication as unconditionally indecent.

Penthouse Variations for Liberated Lovers, No. 17

In decision 15/87 and more recently in decision 69/89, the Tribunal has found previous editions of this publication to be indecent. Mr Ellis did not argue in favour of any other decision in respect of this particular publication, but without conceding that such a decision was justified. For the same reasons as expressed in earlier decisions, the Tribunal classifies this publication as unconditionally indecent.

Dated at Wellington this 22nd day of December 1989.

R. R. KEARNEY, Chairman.
Indecent Publications Tribunal.
go2662

Decision No. 80/89
Reference No.: IND 50/89

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 publication: *Private*, Issues 70, 71, 72, 73, 76, 77, 78, 79, 80, 81, 82, 83, 84 and 85:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 28th day of November 1989.

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

Decision

These publications were commercially imported through Wellington parcel post on or about 14 July 1989 and were seized by the Collector of Customs. The importer subsequently disputed forfeiture and the publications have been referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

These publications are very much hard core publications which contain single model and multiple model scenes of explicit sexual activity and intimacy, and each places undue emphasis on the female genitalia. The Tribunal classifies these publications as unconditionally indecent and it brings to the notice of the community that a serial order was made in terms of section 15A of the Indecent Publications Act 1963, classifying private magazines published between 4 August 1989 and 4 August 1991 as unconditionally indecent and that order remains in force.

Dated at Wellington this 22nd day of December 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

go2664

Decision No. 81/89

Reference No.: IND 57/89

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: *Honcho*, Vol. 12, No. 1, 2, 3, 4 and 5; *Just Men*, Vol. 6, No. 2, 3, 4 and 5; *Torso*, Vol. 7, No. 9, 10, 11 and 12; *Torso's Stallion*, Vol. 1, No. 11 and 12, Vol. 2, No. 1, 2 and 3; *Advocate Men*, August 1989, September 1989, October 1989 and November 1989; *Mandate*, June 1989, July 1989, August 1989 and September 1989; *Men of Advocate Men*, May 1989, July 1989 and September 1989:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 28th day of November 1989.

Appearances: M. J. Wotherspoon for Comptroller of Customs. Written submission was received from G. A. Ireland, counsel for the Lawrence Publishing Co NZ Ltd.

Decision

These publications were commercially imported through Auckland air freight on 19 October 1989 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.

Honcho, Vol. 12, No. 1, 2, 3, 4 and 5.

Just Men, Vol. 6, No. 2, 3, 4 and 5.

Torso, Vol. 7, No. 9, 10, 11 and 12.

Torso's Stallion, Vol. 1, No. 11 and 12; Vol. 2, No. 1, 2 and 3.

These magazines are aimed at the male homosexual market and consist principally of photographs of male models in a variety of poses. The Tribunal has previously had a number of each of these magazines before it for classification and as the Comptroller has pointed out in the submission presented by Mr Wotherspoon each has had a variety of classifications some unconditionally indecent others classified as restricted to sale to persons over the ages of either 16 or 18.

The Tribunal agrees with the submission made by Mr Ireland and supported by Mr Wotherspoon that these particular publications do not contain material of a kind which would justify an unconditionally indecent classification. There is, however, material of a kind that would clearly be injurious to younger readers and accordingly each of these publications is classified as indecent in the hands of persons under the age of 18 years.

Advocate Men, August 1989, September 1989, October 1989 and November 1989.

Mandate, June 1989, July 1989, August 1989 and September 1989.

Men of Advocate Men, May 1989, July 1989 and September 1989.

These publications were submitted to the Customs Department by the importer with the invitation that they should be referred to the Tribunal for renewal of existing restriction orders. The Tribunal has seen a consistency both in form and content in respect of these publications of a kind which would justify the making of a serial restriction order on the same basis as previously existed. Each of these publications is accordingly classified as indecent in the hands of persons under the age of 18 years and each of the publications is the subject of the issue of a serial restriction order classifying the publications as indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 22nd day of December 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

go2665

Decision No. 82/89

Reference No.: IND 59/89

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 publication: *Stronger Love Safer Sex*:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 28th day of November 1989.

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

Decision

This publication was commercially imported through air freight Auckland on 4 October 1989 and was seized by the Collector of Customs. The importer having subsequently disputed forfeiture the publication has been referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

The Tribunal agrees with the submission by Mr Wotherspoon that the publication is an informative book containing a great deal of useful information including the prevention of sexually transmitted diseases, particularly AIDS. The Tribunal also agrees with Mr Wotherspoon that it is a well produced book with a moralistic approach to love and sex. Because the publication contains advice on contraception the Tribunal is required in terms of the provisions of the Contraception, Sterilisation and Abortion Act 1977 to classify the publication as indecent in the hands of persons under the age of 16 years and so classifies it.

Dated at Wellington this 22nd day of December 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go2667

Decision No. 84/89

Reference No.: IND 60/89

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 publication: *Young Man's Image*:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 28th day of November 1989.

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

Decision

This publication was privately imported through Auckland Airport on 23 October 1989 and was seized by the Collector of Customs. The importer having subsequently disputed forfeiture the publication was referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

The magazine is comprised almost entirely of photographs of men engaging in explicit sexual activity including anal and oral sex. The Tribunal is satisfied that the publication is injurious to the public good and classifies it as unconditionally indecent.

Dated at Wellington this 21st day of December 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go2668

Decision No. 89/89

Reference No.: IND 67/89

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 an interim restriction order in terms of section 14A of the Indecent Publications Act 1963 in respect of the following publication: *Men's World*, Vol. 1, No. 8 and 9:

Chairman: Judge R. R. Kearney.

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

Interim Restriction Order

These 2 publications were referred to me by the Comptroller of Customs with the request that an interim restriction order be made classifying both issues of the publication as indecent in the hands of persons under the age of 18 years. Mr Wotherspoon appeared before me in support of that application and after considering the publications, I am satisfied that his submission on behalf of the Comptroller of Customs is an appropriate one. I accordingly make an interim restriction order in terms of section 14A of the Indecent Publications Act 1963, classifying this publication as indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 22nd day of December 1989.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go2669

Justices of the Peace Act 1957

Justice of the Peace Resignation

It is noted for information that

Cecil Gordon Thomas of 9 Oxford Street, Taradale, Napier has resigned his appointment as Justice of the Peace for New Zealand.

Dated at Wellington this 27th day of February 1990.

D. OUGHTON, Secretary for Justice.
go2642

Law Practitioners Act 1982

Order for Striking Off Practitioners Name

M. 61/90

In the matter of the Law Practitioners Act 1982:

Pursuant to section 119 of the Law Practitioners Act 1982, notice is hereby given that on the 22nd day of May 1989, the New Zealand Law Practitioners Disciplinary Tribunal ordered as follows:

1. That the name of the practitioner Sean Damien Williams, be struck off the roll of barristers and solicitors of the High Court of New Zealand.
2. That the practitioner pay to the New Zealand Law Society the sum of \$2,120.00 in respect of the costs and expenses of and incidental to the inquiry by the Tribunal.
3. That the practitioner pay to the Auckland District Law Society the sum of \$1,288.00 towards the costs and expenses of and incidental to the enquiry by its District Council.
4. That the names of the clients referred to in the charges not be published.

Dated at Wellington this 14th day of February 1990.

J. D. EARLES, Registrar.
go2588

Order for Striking Off Practitioners Name

M. 62/90

In the matter of the Law Practitioners Act 1982:

Pursuant to section 119 of the Law Practitioners Act 1982, notice is hereby given that on the 29th day of November 1989, the New Zealand Law Practitioners Disciplinary Tribunal ordered as follows:

1. That the name of the practitioner Peter Leonard Kennedy be struck off the roll of barristers and solicitors of the High Court of New Zealand.
2. That the practitioner pay to the New Zealand Law Society the sum of \$960.00 in respect of the costs and expenses of and incidental to the inquiry by the Tribunal.
3. That the practitioner pay to the Canterbury District Law Society the sum of \$2,700.00 towards the costs and expenses of and incidental to the enquiry by its Council.

Dated at Wellington this 16th day of February 1990.

J. D. EARLES, Registrar.

go2589

Oaths and Declarations Act 1957

Officers in the Department of Social Welfare Authorised to Take Statutory Declarations

Pursuant to section 9 of the Oaths and Declarations Act 1957, I hereby authorise the holders for the time being of the offices in the service of the Crown specified in the Schedule below to take statutory declarations under the said Act.

Schedule

Department of Social Welfare

Assistant Director General, Northern.
Regional Executive Officer (Corporate Services), Northern.
Assistant Director (Corporate Services), Kaitaia.
Assistant Director (Corporate Services), Whangarei.
Assistant Director (Corporate Services), Takapuna.
Assistant Director (Corporate Services), Central Auckland.
Assistant Director (Corporate Services), Grey Lynn.
Assistant Director (Corporate Services), Panmure
Manager, Area Welfare Office, Dargaville
Manager, Area Welfare Office, Orewa
Manager, Area Welfare Office, Kawakawa.
Director, Kaikohe.
Assistant Director (Corporate Services), Kaikohe.
Director Northern Service Office, Auckland.
Director Northern Service Office, Royal Oak.

Assistant Director (Corporate Services), Royal Oak.

Dated at Wellington this 21st day of February 1990.

PHILIP WOOLLASTON, Associate Minister of Justice.

(Adm. 3/28/3/30)

go2612

Officer in the Nelson-Marlborough Regional Council Authorised to Take Statutory Declarations

Pursuant to section 9 of the Oaths and Declarations Act 1957, I hereby authorise the holder for the time being of the office in the service of the local authority specified in the Schedule below to take statutory declarations under the said Act.

Schedule

Nelson-Marlborough Regional Council

Director of Management Services.

Dated at Wellington this 21st day of February 1990.

PHILIP WOOLLASTON, Associate Minister of Justice.

(Adm. 3/28/3/3)

go2613

Revocation of Authorisation to Take Statutory Declarations

Pursuant to section 9 of the Oaths and Declarations Act 1957, I hereby revoke the authorisation held by the officers in the service of the Crown named in the Schedule below to take statutory declarations.

Schedule

Department of Social Welfare

Regional Director, Northern.

Regional Executive Officer, Northern.

Assistant Director (Administration), Northern.
Assistant Director (Administration), Kaitaia.
Assistant Director (Administration), Whangarei.
Assistant Director (Administration), Takapuna.
Assistant Director (Administration), Auckland.
Assistant Director (Administration), Grey Lynn.
Assistant Director (Administration), Panmure.
Area Welfare Officer, Kaikohe.
Area Welfare Officer, Royal Oak.
Area Welfare Officer, Dargaville.
Area Welfare Officer, Mount Roskill.
Area Welfare Officer, Orewa.

Dated at Wellington this 21st day of February 1990.

PHILIP WOOLLASTON, Associate Minister of Justice.

(Adm. 3/28/3/30)

go2644

Sale of Liquor Act 1962

Corrigendum

In the notice headed notice of intention to vary hours of sale of liquor at licensed premises—Waikato Licensing Committee, published in the *New Zealand Gazette* of 22 February 1990, No. 26, page 514, 2 November 1989, should read 22 November 1989.

Dated at Wellington this 5th day of March 1990.

D. OUGHTON, Secretary for Justice.

(Adm. 2/72/5)

go2611

Notice of Intention to Vary Hours of Sale of Liquor at Licensed Premises—Northland Licensing Committee

Pursuant to section 221A (14) of the Sale of Liquor Act 1962, as amended by section 22 (1) of the Sale of Liquor Amendment Act 1976, I, David Oughton, Secretary for Justice, hereby give notice that the Northland Licensing Committee on 20 February 1990, made an order authorising variations of the usual hours of trading for the licensed premises known as the DB Onerahi Hotel, Whangarei.

To the intent that on days other than those on which licensed premises are required to be closed for the sale of liquor to the general public the hours for the opening and closing of the said premises shall be as follows:

(a) *On every Friday and Christmas Eve (Christmas Eve not being a Saturday).* Opening at 11 o'clock in the morning and closing at 11 o'clock in the evening.

(b) *On every Saturday (including Christmas Eve but not including New Year's Eve).* Opening at 11 o'clock in the morning and closing at 11 o'clock in the evening.

(c) *On the Thursday preceding Easter.* The hotel shall close at 11 o'clock in the evening (being one hour after the usual hour of closing).

(d) *On every New Year's Eve.* Opening at 11 o'clock in the morning at 00.30 o'clock in the morning of New Year's Day.

(e) *On every other day.* Opening at 11 o'clock in the morning and closing at 10 o'clock in the evening.

Dated at Wellington this 5th day of March 1990.

D. OUGHTON, Secretary for Justice.

(Adm. 2/72/5)

go2610

Notice of Intention to Vary Hours of Sale of Liquor at Licensed Premises—Northland Licensing Committee

Pursuant to section 221A (14) of the Sale of Liquor Act 1962, as amended by section 22 (1) of the Sale of Liquor Amendment Act 1976, I, David Oughton, Secretary for Justice, hereby give notice that the Northland Licensing Committee on 20 February 1990, made an order authorising variations of the usual hours of trading for the licensed premises known as the Twin Pines Tavern, Haruru Falls.

To the intent that on days other than those on which licensed premises are required to be closed for the sale of liquor to the general public the hours for the opening and closing of the said premises shall be as follows:

(a) *On every Friday and Christmas Eve (Christmas Eve not being a Saturday)*. Opening at 11 o'clock in the morning and closing at 11 o'clock in the evening.

(b) *On every Saturday (including Christmas Eve but not including New Year's Eve)*. Opening at 11 o'clock in the morning and closing at 11 o'clock in the evening.

(c) *On every New Year's Eve*. Opening at 11 o'clock in the morning and closing at 00.30 o'clock in the morning of New Year's Day.

(d) *On every other day*. Opening at 11 o'clock in the morning and closing at 10 o'clock in the evening.

Dated at Wellington this 5th day of March 1990.

D. OUGHTON, Secretary for Justice.

(Adm 2/72/5)

go2614

Notice of Intention to Vary Hours of Sale of Liquor at Licensed Premises—Waikato Licensing Committee

Pursuant to section 221A (14) of the Sale of Liquor Act 1962, as amended by section 22 (1) of the Sale of Liquor Amendment Act 1976, I, David Oughton, Secretary for Justice, hereby give notice that the Waikato Licensing Committee on 27 November 1989, made an order authorising variations of the usual hours of trading for the licensed premises known as the Tahuna Tavern, Huia Street, Tahuna.

To the intent that on days other than those on which licensed premises are required to be closed for the sale of liquor to the general public the hours for the opening and closing of the said premises shall be as follows:

(a) *For Friday and Saturdays only*. The usual hour of closing is varied to 11 o'clock in the evening.

(b) The usual hour for opening for Monday to Saturday remains at 11 o'clock in the morning.

This variation is only for the period of the year when daylight saving is in force.

This notice replaces the notice in the *New Zealand Gazette*, 11 January 1990, No. 1, page 15.

Dated at Wellington this 5th day of March 1990.

D. OUGHTON, Secretary for Justice.

(Adm. 2/72/5)

go2615

Securities Act 1978

Appointment of the Chairman of the Securities Commission

Pursuant to section 11 of the Securities Act 1978, as amended by sections 2 and 4 of the Securities Amendment Act 1986, Her Majesty the Queen has been pleased to appoint

Peter Donald McKenzie, barrister of Wellington

as the Chairman of the Securities Commission for a period of 1 year on and from 12 February 1990.

Dated at Wellington this 12th day of February 1990.

W. P. JEFFRIES, Minister of Justice.

go2640

Wine Makers Act 1982

Kiwifruit Export Review Panel

Pursuant to section 25 (2) of the Wine Makers Act 1982, as amended by section 3 (2) of the Wine Makers Amendment Act 1985 and section 14 (4) of the Wine Makers Regulations 1982, Amendment No. 1 the Minister of Justice has been pleased to reappoint

Graham Morgan Oldfield, orchardist of Kumeu.

Michael Jame Mellon, company director of Christchurch.

Malcolm John Reeves, lecturer of Palmerston North; and

Warren Mills Preston, managing director of Tauranga

and appoint

Timothy Gerald Washbourn Goulcoter, winemaker of Napier; and

Owen Leslie Park, orchardist of Pakowhai

to be members of a panel for the purpose of reviewing decisions made by the director of public health not to issue an export certificate for kiwifruit wine in accordance with the regulations.

D. OUGHTON, Secretary for Justice.

go2636

Transport

Public Works Act 1981

Order in Council Declaring Land to be Motorway in Blocks II, V, VII and XII, Belmont Survey District Partially Revoked

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 26th day of February 1990

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

Pursuant to section 138 (2) of the Public Works Act 1981, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby revokes the Order in Council dated the 22nd day of December 1954 and published in *New Zealand Gazette* of 22 December 1954, No. 80 at page 2070, declaring land to be motorway in Blocks II, V, VII and XIII, Belmont Survey District as to the land described in the Schedule hereto.

Schedule

Wellington Land District

All that piece of motorway containing 3887 square metres, situated in Block VII, Belmont Survey District adjoining or passing through part Lot 1, D.P. 44088 shown marked "B" on S.O. Plan 32637, lodged in the office of the Chief Surveyor at Wellington.

C. J. HILL, for Clerk of the Executive Council.

go2586

Treasury

Public Finance Act 1989

Notice of Guarantee Given Pursuant to Section 59 (1) of the Public Finance Act 1989—Export Credit Insurance Facility for Hungary and Poland Under Section 10 of the Export Guarantee Act 1964

Pursuant to section 59 (2) of the Public Finance Act 1989, the Minister of Finance makes the following statement:

On 15 February 1990, I, David Francis Caygill, Minister of Finance, gave a guarantee pursuant to section 59 (2) of the Public Finance Act 1989, subject to the following terms and conditions:

Objective—To provide export credit insurance in conjunction with the Government trade initiative to promote New Zealand trade with Poland and Hungary.

Policy Issued To—Banks carrying on business in New Zealand.

Applications—To be made by the Bank/Exporter in respect of each Irrevocable Letter of Credit.

Criteria

1. Sale contracts to provide for payment under an Irrevocable Letter of Credit issued by either Bank Handlowy w Warawie

of Poland, or Hungarian National Bank, or Hungarian Foreign Trade Bank, providing for payment on properly accepted Bills of Exchange with a credit period not longer than 180 days from the date of sight of documents.

2. Goods to be of New Zealand origin.

3. Letters of Credit to be confirmed by the Banks without recourse.

Cover—Eighty-five percent of the value of the sum due under the Irrevocable Letter of Credit.

Losses payable in New Zealand dollars (Letters of Credit expressed in foreign currency to be converted at the buying rate of exchange of the Confirming Bank on the date of payment by the Confirming Bank to the beneficiary).

Premium—Premium will be charged on the value of the Irrevocable Letter of Credit at the following rates:

Poland 2.16%

Hungary 1.25%

Facility Ceiling—NZ\$5 million maturity limit per contract(s) for any one exporter with any one buyer.

Dated at Wellington this 21st day of February 1990.

DAVID CAYGILL, Minister of Finance.

go2627

Authorities and Other Agencies of State

PostBank

Post Office Savings Bank Regulations 1985

Bonus Bonds Weekly Prize Draw No. 1, 3 March 1990

Pursuant to the Post Office Savings Bank Regulations 1985, notice is hereby given that the result of the weekly Prize Draw No. 1 for 3 March is as follows:

One prize of \$50,000: 6993 646077

Twenty-five prizes of \$5,000: 222 864730, 679 992158, 878 301518, 1027 873291, 1613 274878, 1817 917226, 2021 130133, 2211 272741, 2482 377951, 3022 199920, 3782 262147, 4588 319889, 4696 906711, 4795 955100, 5293 856631, 5390 388262, 5489 891173, 6098 800953, 6797 615493, 7495 788803, 8697 570570, 8988 384725, 9291 669943, 9597 421463 and 9782 241368.

DAVID CAYGILL, Minister of Finance.

au2631

Reserve Bank

Reserve Bank of New Zealand Act 1964

Statement of Assets and Liabilities of the Reserve Bank of New Zealand as at the Close of Business on Wednesday, 1 November 1989

<i>Liabilities</i>	\$(000)	<i>Assets</i>	\$(000)
Overseas liabilities—		Overseas assets—	
Denominated in overseas currencies—		Denominated in overseas currencies—	
(a) Short term	3,646,921	(a) Short term	3,979,119
(b) Long term	—	(b) Long term	40,463
Denominated in New Zealand currency—		(c) Holdings of I.M.F. special drawing rights	926
(a) Short term	4,634	Denominated in New Zealand currency—	
(b) Long term	—	(a) Short term	—
	3,651,555	(b) Long term	2,072
Allocation of special drawing rights by I.M.F.	306,688	Gold	14,353
Deposits—			4,036,933
(a) Government:		Advances and discounts—	
Crown Settlement Account	—	(a) Government:	
Other	104,249	Crown Settlement Account	160,303
(b) Settlement banks	47,885	Other	37,936
(c) Stabilisation accounts	136,392	(b) Settlement Banks:	

<i>Liabilities</i>	\$(000)	<i>Assets</i>	\$(000)
(e) Other	43,575	One day advance	170,000
Reserve Bank Bills	332,101	Other	720
Currency in circulation	1,111,209	(c) Other	272
Other liabilities	1,143,356		369,231
Reserves—	232,700	Term loans—	
(a) General reserve	300,384	(a) Government	1,094,588
(b) Other reserves	50,047	(b) Marketing organisations	37,500
(c) Profit and loss appropriation from			1,132,088
appropriation account	—	Investments in New Zealand—	
	350,431	(a) New Zealand Government Securities	1,344,770
		(b) Other	4,933
		Other assets	1,349,703
			240,085
	<u>\$7,128,040</u>		<u>\$7,128,040</u>

G. K. FROGGATT, Chief Manager, Corporate Services.
au2592

Land Notices

Conservation

Reserves Act 1977

Change of Purpose of a Reserve and Vesting in the Queenstown-Lakes District Council

Pursuant to the Reserves Act 1977, and to a delegation from the Minister of Conservation, the Regional Conservator, Otago Conservancy, Department of Conservation hereby changes the purpose of the reserve described in the Schedule hereto, from a local purpose reserve (site for a community centre) to a local purpose reserve (site for a community centre and plunket rooms and doctors rooms), and further, vests the said reserve in the Queenstown-Lakes District Council, in trust, for that purpose.

Schedule

Otago Land District—Queenstown-Lakes District

546 square metres, more or less, being Sections 7 and 8, Block IX, Town of Arrowtown. All certificate of title 46/30. S.O. Plan 14012.

Dated at Dunedin this 25th day of February 1990.

J. E. CONNELL, Regional Conservator.

(C.O.: CML 17/4)

ln2587

2/1

Authorisation of the Exchange of Part of a Reserve for Other Land

Pursuant to the Reserves Act 1977, and to a delegation from the Minister of Conservation, the Regional Conservator for the Waikato Region of the Department of Conservation, hereby authorises the exchange of that part of the Government Purpose (Wildlife Management) Reserve, described in the First Schedule hereto, for the land described in the Second Schedule hereto.

First Schedule

Taranaki Land District—Waitomo District

1.9353 hectares, more or less, being Sections 15 and 16, Block XIII, Mapara Survey District and Section 1, S.O. 12659, situated in Block XIII, Mapara Survey District. Part Certificate

of title 108/238, S.O. Plan 12659. Subject to Proclamation 217613 defining the middle line of the North Island Main Trunk Railway.

Second Schedule

Taranaki Land District—Waitomo District

19.2725 hectares, more or less, being parts Lot 2, D.P. 7844, being more particularly shown as Lots 5, 6 and 7, L.T. 15844, situated in Block XIII, Mapara Survey District. Part certificate of title H1/366. Subject to Proclamation 217613 defining the middle line of the North Island Main Trunk Railway.

Dated at Hamilton this 28th day of February 1990.

G. E. ROWAN, Regional Conservator, Waikato Region.

(DOC Ref: R.O.: RSC 071)

ln2621

ICL

Classification of Reserves and Vesting in the Manukau City Council

Pursuant to the Reserves Act 1977, and to a delegation from the Minister of Conservation, the Regional Conservator, Auckland Conservancy of the Department of Conservation, hereby classifies the reserves, described in the Schedule hereto, as reserves for the purposes specified at the end of the respective descriptions of the said reserves, and further, vests the said reserves in the Manukau City Council in trust for those purposes.

Schedule

North Auckland Land District—Manukau City

6310 square metres, more or less, being Lot 76, D.P. 102232, situated in Block XI, Otahuhu Survey District. All certificate of title 57C/988 [Recreation Reserve].

70 square metres, more or less, being Lot 9, D.P. 102232, situated in Block XI, Otahuhu Survey District. Part *Gazette* Notice C. 080776.2 (Part *New Zealand Gazette*, 1989, page 6025). [Local Purpose (Accessway) Reserve].

Dated at Auckland this 27th day of February 1990.

G. H. CAMPBELL, Regional Conservator, Auckland.

(Files H.O. Res. 2/2/97; R.O. LBY 170131)

ln2622

Iwi Transitional Agency

Maori Affairs Restructuring Act 1989

Maori Land Development Notice

Pursuant to section 21 of the Maori Affairs Restructuring Act 1989, the General Manager, Iwi Transition Agency hereby gives notice as follows:

Notice

1. This notice may be cited as Maori Land Development Notice Rotorua 1990, No. 2.
2. The notice referred to in the First Schedule hereto is hereby revoked.
3. The land described in the Second Schedule hereto is hereby released from Part II of the Maori Affairs Restructuring Act 1989.

First Schedule

Date of Notice	Reference	Registration No.
29 January 1971	<i>New Zealand Gazette</i> , 4 February 1971, No. 8, page 158	

Second Schedule

South Auckland Land District

All that those pieces of land described as follows:

Area ha	Being
86.98	Waiohau B 12B1, situated in Blocks XIV and XV, Rangitaiki Lower Survey District, Partition Order dated 13 October 1960.

Dated at Rotorua this 27th day of February 1990.

For and on behalf of the General Manager, Iwi Transition Agency.

M. J. McMILLAN, Programme Manager.

(M.A. H.O. 15/3/205; D.O. 5322)
In2584

New Zealand Railways Corporation

New Zealand Railways Corporation Act 1981

Declaring Land at Te Koura to be Acquired for Railway Purposes

Pursuant to sections 24 and 30 of the New Zealand Railways Corporation Act 1981 and section 20 of the Public Works Act 1981, the Chief Executive of the New Zealand Railways Corporation hereby declares that, an agreement to that effect having been entered into, the land described in the Schedule hereto is hereby acquired for and on behalf of Her Majesty the Queen for railway purposes.

Schedule

South Auckland Land District—Ruapehu District

2793 square metres, situated in Block IX, Tuhua Survey District, being part Lot 1, D.P. 7231; as shown marked 'D' on plan L.O. 35744 (S.O. 57282), lodged in the office of the New Zealand Railways Corporation of Wellington.

Dated at Wellington this 1st day of March 1990.

P. K. TROTMAN, for Chief Executive, New Zealand Railways Corporation.

(NZR L.O. 31114/51B/20)
In2616

Declaring Land at Te Koura to be Acquired for Railway Purposes

Pursuant to sections 24 and 30 of the New Zealand Railways Corporation Act 1981 and section 20 of the Public Works Act 1981, the Chief Executive of the New Zealand Railways Corporation hereby declares that, an agreement to that effect having been entered into, the land described in the Schedule hereto is hereby acquired for and on behalf of Her Majesty the Queen for railway purposes.

Schedule

South Auckland Land District—Ruapehu District

5280 square metres, being part Section 19, Block V, Tuhua Survey District; as shown marked 'B' on plan L.O. 35744 (S.O. 57282, lodged in the office of the New Zealand Railways Corporation at Wellington.

Dated at Wellington this 1st day of March 1990.

P. K. TROTMAN, for Chief Executive, New Zealand Railways Corporation.

(NZR L.O. 31114/51A/21)
In2617

Declaring Land at Penrose to be Set Apart for Railway Purposes

Pursuant to sections 24 and 30 of the New Zealand Railways Corporation Act 1981 and section 52 of the Public Works Act 1981, the Chief Executive of the New Zealand Railways Corporation hereby declares the land described in the Schedule hereto to be set apart for and on behalf of Her Majesty the Queen for railway purposes.

Schedule

North Auckland Land District—Auckland City

All that piece of land containing 688 square metres, situated in Block I, Otahuhu Survey District, being part Lot 1, L.T. 135335, more particularly described as part Lot 2 of Section 17, Suburbs of Auckland. Part conveyance 53299 (D.I. 15A/500).

Dated at Wellington this 2nd day of March 1990.

P. K. TROTMAN, for Chief Executive, New Zealand Railways Corporation.

(NZR L.O. 16719/161)
In2618

Survey and Land Information

Local Government Act 1974

Transfer of Unformed Legal Road in Block VIII, Whangape Survey District, Far North District

Pursuant to section 323 of the Local Government Act 1974, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, hereby declares that the lands described in the Schedule hereto, have been transferred to the Crown by the Far North District Council, pursuant to the said section 323, and on the publication of this notice, the said land shall be deemed to be Crown land subject to the Land Act 1948.

Schedule**North Auckland Land District***Far North District*

9.3180 hectares, more or less, being unformed legal road adjoining Parts Section 13, Part Section 16, Sections 36 and 38 and Crown land situated in Block VIII, Whangape Survey District. Shown as 'A' on S.O. Plan 63314.

6982 square metres, more or less, being unformed legal road adjoining Sections 12 and 36, situated in Block VIII, Whangape Survey District. Shown as 'B' on S.O. Plan 63314.

Dated at Auckland this 27th day of February 1990.

D. D. MILLAR, District Manager.

(DOSLI Ak. D.O. 20/2/10)

In2580

ICL

Public Works Act 1981**Declaring Road to be Stopped in Rodney District**

Pursuant to section 116 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares the portions of road described in the Schedule to be stopped.

Schedule**North Auckland Land District**

Area m ²	Adjoining or passing through
183	Lot 1, D.P. 118662 and legal road; marked "B" on plan.
1374	Lot 2 and parts Lot 3, D.P. 33723 and legal road; marked "C" on plan.

Shown marked as above mentioned on S.O. Plan 63140, lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 26th day of February 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 72/1/2A/0/378)

In2572

ICL

Land Subject to Certain Rights Held for Electricity Purposes (Housing) Set Apart for State Housing Purposes in Ruakaka, Whangarei District

Pursuant to section 52 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares the land described in the Schedule to be set apart, subject as to the land firstly described to the fencing covenants in conveyance 296528 and transfer 504292 and to the fencing and restrictive covenant in transfer 333092.2, subject as to the land secondly described to the fencing covenants in conveyance 296528, transfers 504292 and 192861.2 and to the restrictive covenant in transfer 192861.2, subject as to the land thirdly described to the fencing and restrictive covenant in transfer 360513.3, and subject as to the land fourthly described to the fencing covenants in conveyance 296528 and transfer 504292, to the fencing and restrictive covenant in transfer 503330.2 and to the electricity easement in gross granted in transfer 954785.1 for State housing purposes.

Schedule**North Auckland Land District**

Area m ²	Being
743	Lot 47, D.P. 75388. All certificate of title No. 32A/282.

Area m ²	Being
651	Lot 46, D.P. 75388. All certificate of title No. 32A/281.
783	Lot 44, D.P. 75388. All certificate of title No. 32A/279.
766	Lot 28, D.P. 75388. All certificate of title No. 32A/263.

(North Auckland Land Registry)

Dated at Auckland this 26th day of February 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 92/13/26/6)

In2573

ICL

Declaring Stopped Road in Kaipara District to be Vested

Pursuant to section 117 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares the portions of stopped road described in the Schedule to be vested in John McMillian Muir of Waimamakau, farmer and Elizabeth Audrey Muir, his wife, subject to memorandum of mortgage B. 781233.7, North Auckland Land Registry.

Schedule**North Auckland Land District**

Area m ²	Being
2601	Section 2.
8215	Section 49, Block X, Waipoua Survey District.

Shown marked as above mentioned on S.O. Plan 57490, lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 25th day of February 1990.

D. D. MILLAR, District Manager.

(Lands Ak. D.O. 50/15/2/0/57490)

In2574

ICL

Declaring Stopped Road in Kaipara District to be Vested

Pursuant to section 117 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares the portions of stopped road described in the Schedule to be vested in John William Allen of Paparua, farmer and Barbara Jean Allen, his wife, as tenants in common in equal shares.

Schedule**North Auckland Land District**

Area m ²	Being
5530	Section 3.
5808	Section 50, Block X, Waipoua Survey District.

Shown marked as above mentioned on S.O. Plan 57490, lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 25th day of February 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 50/15/2/0/57490)

In2575

ICL

Declaring Land to be Road in Mangonui, Far North District

Pursuant to section 114 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland,

declares the land described in the Schedule hereto to be road, which shall vest in The Far North District Council.

Schedule

North Auckland Land District

Area ha	Being
1.6868	Part Lot 1, D.P. 45290; marked "A" on S.O. Plan 62953.
0.7367	Part Lot 1, D.P. 45290; marked "B" on S.O. Plan 62954.
0.8899	Part Allotment 2, S.O. Plan 18530; marked "C" on S.O. Plan 62954.

Shown on the plans marked as above mentioned and lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 25th day of February 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 50/15/10/0/62953-54)

ICL
ln2576

Stopped Road in Manukau City to be Vested

Pursuant to section 117 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares that the portion of stopped road described in the Schedule shall be amalgamated with the land in certificate of title, volume 1699, folio 20, subject to memoranda of mortgage B. 755891.1 and B. 037579.1 and memorandum of priority B. 755891.2, North Auckland Land Registry.

Schedule

North Auckland Land District

846 square metres, being Section 1, S.O. Plan 63149, lodged in the office of the Chief Surveyor at Auckland. (Road Stopped Gazette notice C. 073864.2, North Auckland Land Registry).

Dated at Auckland this 25th day of February 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 15/6/0/63149)

ICL
ln2577

Declaring Land to be Road, Road Stopped and Land Taken in the Far North District

Pursuant to Part VIII of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares:

(i) Pursuant to section 114, the land described in the First Schedule to be road which shall vest in The Far North District Council, and

(ii) Pursuant to section 116, the road described in the Second Schedule to be stopped, and

(iii) Pursuant to section 119 (1), the land described in the Third Schedule to be taken and vested in The Far North District Council.

First Schedule

North Auckland Land District

Area m ²	Being
3142	Part Allotment NE59, Maungataniwha Parish; marked "A" on plan.
313	Part Allotment 60, Maungataniwha Parish; marked "D" on plan.
692	Part Allotment 60, Maungataniwha Parish; marked "E" on plan.

Area
m² Being

160 Part Allotment 60, Maungataniwha Parish; marked "F" on plan.

Shown marked as above mentioned on S.O. Plan 59853, lodged in the office of the Chief Surveyor at Auckland.

Second Schedule

North Auckland Land District

4989 square metres, adjoining or passing through part Allotment NE 59, Maungataniwha Parish; shown marked "C" on S.O. Plan 59853, lodged in the office of the Chief Surveyor at Auckland.

Third Schedule

North Auckland Land District

4285 square metres, being part Allotment NE 59, Maungataniwha Parish; shown marked "B" on S.O. Plan 59853, lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 25th day of February 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 50/15/10/0/59853)

ICL
ln2578

Declaring Land to be Road and Road Stopped in Far North District

Pursuant to Part VIII of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares:

(i) Pursuant to section 114, the land described in the First Schedule to be road, which shall vest in The Far North District Council, and

(ii) Pursuant to section 116, the portions of road described in the Second Schedule to be stopped.

First Schedule

North Auckland Land District

Area ha	Being
1.1085	Part Section 15, Block VII, Rangaunu Survey District; marked "A" on plan.
0.9345	Part Section 16, Block VII, Rangaunu Survey District; marked "B" on plan.

Shown marked as above mentioned on S.O. Plan 56572, lodged in the office of the Chief Surveyor at Auckland.

Second Schedule

North Auckland Land District

Area ha	Adjoining or passing through
0.5644	Section 16, Block VII, Rangaunu Survey District, Section II, Block XI, Rangaunu Survey District, part Old Land Claim 31, Block XI, Rangaunu Survey District; marked "C" on plan.
1.4277	Section 15, Block VII, Rangaunu Survey District, Section 10, Block XI, Rangaunu Survey District, Section 50 and part Section 35, Block VIII, Rangaunu Survey District; marked "D" on plan.

Shown marked as above mentioned on S.O. Plan 56572, lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 25th day of February 1990.

D. D. MILLAR, District Manager.

(Lands Ak. D.O. 50/15/3/0/56572)

ICL
ln2579

Crown Land Set Apart for a State Primary School in the City of Palmerston North

Pursuant to section 52 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Wellington, declares the land described in the Schedule hereto to be set apart for a State primary school and to remain vested in the Crown.

Schedule

Wellington Land District—Palmerston North City

3.2834 hectares, situated in the City of Palmerston North, being Section 1, S.O. 35422. All *Gazette* notice 929571.1 (*New Zealand Gazette*, 9 June 1988, No. 98, at page 2326).

Dated at Wellington this 21st day of February 1990.

E. C. MELDRUM, District Manager.

(Wg. D.O. 5/99/0/211; 890335)

In2581

iCL

Land Held for the Purposes of Buildings of the General Government Set Apart for the Generation of Electricity (Housing) at 20, 22 and 28 Kutai Street, Turangi

Pursuant to section 52 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Wellington, declares the land described in the Schedule hereto to be set apart for the generation of electricity (housing) and to remain vest in the Crown.

Schedule

Wellington Land District—Taupo District

Area m ²	Being
1214	Section 9, Block VI, Town of Turangi. All certificate of title, No. 33D/932.
1214	Section 10, Block VI, Town of Turangi. All certificate of title, No. 33D/933.
1214	Section 12, Block VI, Town of Turangi. All certificate of title, No. 33D/934.

Dated at Wellington this 21st day of February 1990.

E. C. MELDRUM, District Manager.

(Wg. D.O. 92/25/0/11/13; 25890311, 25890312, 25890314)

In2582

iCL

Amending a Notice Declaring Land to be Road and Road Stopped in Hokonui Survey District, Southland District

Pursuant to section 55 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager of the Department of Survey and Land Information, Invercargill, hereby amends the notice dated the 17th day of January 1990, published in *New Zealand Gazette*, 25 January 1990, No. 9 at page 261, by omitting reference to 'B' in the area thirdly described in the First Schedule and substituting it with 'C'.

Dated at Invercargill this 20th day of February 1990.

R. W. G. DALGLISH, District Manager.

In2583

iCL

Land Acquired for Road, Molesworth Street, New Plymouth

Pursuant to section 20 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the Acting District Manager, Department of Survey and Land Information, New Plymouth declares that, agreements to that effect having been

entered into, the land described in the Schedule hereto is hereby acquired for road and shall vest in the New Plymouth District Council on the date of publication of this declaration in the *Gazette*.

Schedule

Taranaki Land District—New Plymouth District

Area m ²	Being
32	Part Lot 1, D.P. 15403; marked "H" on S.O. Plan 12983.

As shown marked as above mentioned on the plan numbered as above-mentioned lodged in the office of the Chief Surveyor at New Plymouth.

Dated at New Plymouth this 28th day of February 1990.

R. F. SCHWASS, Acting District Manager.

(DOSLI N.P. D.O. 10/5)

In2585

iCL

Road Realignment in Opotiki District

Pursuant to section 20 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the Chief Surveyor/District Manager, Department of Survey and Land Information, Gisborne, declares that, an agreement to that effect having been entered into, the land described in the Schedule is acquired for road, which pursuant to section 60 (2) of the *Transit New Zealand Act 1989*, forms part of State Highway No. 35 and shall vest in the Crown on the date of publication in the *Gazette*.

Schedule

Gisborne Land District

Area m ²	Being
3541	Part Omaio 28, marked 'B' on plan.
ha	
1.1678	Part Omaio 43, marked 'C' on plan.

Both in Block V, Haparapara Survey District, as shown on S.O. Plan 7475, lodged in the office of the Chief Surveyor at Gisborne.

Dated at Gisborne this 20th day of February 1990.

R. WINMILL, Chief Surveyor/District Manager.

(Na. D.O. 28/1078)

In2598

Land Acquired for Road in Far North District

Pursuant to section 20 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares that, an agreement to that effect having been entered into, the land described in the Schedule is acquired for road which shall vest in The Far North District Council on the date of publication in the *Gazette*.

Schedule

North Auckland Land District

442 square metres, being part Matarau C2 Block; shown marked "A" on S.O. Plan 65181, lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 28th day of February 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 50/15/10/0/65181)

In2599

iCL

Amending a Notice Acquiring an Interest in Land for Irrigation Purposes in Bay of Islands, Far North District

Pursuant to section 55 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, amends the notice dated the 8th day of December 1988, published in the *New Zealand Gazette* of 15 December 1988, No. 214, page 5405, acquiring an interest in land for irrigation purposes in Bay of Islands, Far North District, pursuant to section 20 of the Public Works Act 1981, by deleting from the operative clause thereto the words "Transfer No." and substituting "Transfers 030503.1 and".

Dated at Auckland this 28th day of February 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 25/30/40)
ln2600

1CL

Amending a Declaration Declaring Stopped Road to be Vested, in Great Barrier Island

Pursuant to section 55 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, amends the declaration dated the 3rd day of October 1989, published in the *New Zealand Gazette* of the 12th day of October 1989, No. 181, page 5097, declaring stopped road to be vested, in Great Barrier Island, pursuant to section 117 of the Public Works Act 1981, by deleting from the legal description of the land secondly described in the First Schedule the number "467" and substituting the number "80" and by deleting from the legal description of land described in the Second Schedule the number "No. A. 162069" and substituting the number "No. A. 62069".

Dated at Auckland this 28th day of February 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 23/401/0)
ln2601

1CL

Land Acquired for Road in Far North District

Pursuant to section 20 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares that, an agreement to that effect having been entered into, the land described in the Schedule is acquired for road which shall vest in The Far North District Council on the date of publication in the *Gazette*.

Schedule

North Auckland Land District

712 square metres, being part Lot 9, D.P. 27209; shown marked "A" on S.O. Plan 65182, lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 1st day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 50/15/10/0/65182)
ln2646

1CL

Declaring Land to be Road and Road Stopped in Whangaroa, Far North District

Pursuant to Part VIII of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland declares:

- (i) Pursuant to section 114, the land described in the First Schedule to be road which shall vest in The Far North District, and

- (ii) Pursuant to section 116 the portions of road described in the Second Schedule to be stopped.

First Schedule

North Auckland Land District

Area ha	Being
1.0420	Part Allotment NE 89, Kohumaru Parish; marked "A" on S.O. Plan 63128.
0.2088	Part Allotment NE 89, Kohumaru Parish; marked "A" on S.O. Plan 63571.

Shown on the plans marked as above mentioned and lodged in the office of the Chief Surveyor at Auckland.

Second Schedule

North Auckland Land District

Area m ²	Adjoining or passing through
2112	Allotment SE 93, Kohumaru Parish; marked "B" on plan.
8580	Part Allotment NE 89, Allotment SE 93 and Allotment 92, Kohumaru Parish; marked "C" on plan.

Situated in Block VII, Maungataniwha Survey District.

Situated in Blocks VII and VIII, Maungataniwha Survey District.

Shown marked as above mentioned on S.O. Plan 63571, lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 1st day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 50/15/14/0/63128)
ln2648

1CL

Land Held for Police Purposes (Residences) Set Apart for State Housing Purposes at Mount Wellington

Pursuant to section 52 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares the land described in the Schedule to be set apart for State housing purposes.

Schedule

North Auckland Land District

756 square metres, being Lot 82, D.P. 43373. Part Proclamation 15596, North Auckland Land Registry.

Dated at Auckland this 1st day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 17/1/0/28)
ln2658

1CL

Land Acquired for Road and for Sanitary Works (Sewage Disposal Marsh) at Taipa, Far North District

Pursuant to section 20 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares that, an agreement to that effect having been entered into, the land firstly, secondly and thirdly described in the Schedule hereby is acquired for road and the land fourthly described in the Schedule hereby is acquired for sanitary works (sewage disposal marsh) which shall vest in The Far North District Council on the date of publication in the *Gazette*.

Schedule**North Auckland Land District**

Area ha	Being
3.8830	Part Allotment 57, Taipa Parish; marked "A" on plan.
0.8806	Part Section 33, Block IV, Mangonui Survey District; marked "B" on plan.
0.1128	Part Allotment 57, Taipa Parish; marked "C" on plan.
7.1100	Part Allotment 57, Taipa Parish and part Section 33, Block IV, Mangonui Survey District; marked "D" on plan.

Shown marked as above mentioned on S.O. Plan 65075 and lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 1st day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 50/15/10/0/65075)

ICL

In2660

Land Held for Police Purposes (Residences) Set Apart for State Housing Purposes at Ellerslie, Auckland City

Pursuant to section 52 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares the land described in the Schedule to be set apart for State housing purposes.

Schedule**North Auckland Land District**

35.3 perches (893 square metres), being Lot 77, D.P. 40387. Part Proclamation 14717, North Auckland Land Registry.

Dated at Auckland this 1st day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 17/89/3)

ICL

In2663

Land Acquired for Road in Manukau City

Pursuant to section 20 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares that, agreement to that effect having been entered into, the land described in the Schedule is acquired for road which shall vest in The Manukau City Council on the date of publication in the *Gazette*.

Schedule**North Auckland Land District**

Area m ²	Being
1249	Part Lot 1, D.P. 83859; marked "A" on S.O. Plan 63768.
416	Part Lot 2, D.P. 83859; marked "B" on S.O. Plan 63768.
5692	Part Lot 1, D.P. 60336; marked "C" on S.O. Plan 63738.

Shown on the plans marked as above mentioned and lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 1st day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 15/6/0/63738)

ICL

In2666

Declaring Land to be Road and Road Stopped in Rodney District

Pursuant to Part VIII of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares:

(a) Pursuant to section 114, the land described in the First Schedule to be road which shall vest in The Rodney District Council, and,

(b) Pursuant to section 116, the portion of road described in the Second Schedule to be stopped.

First Schedule**North Auckland Land District**

130 square metres, being part Lot 1, D.P. 129387; shown marked "B" on S.O. Plan 64101, lodged in the office of the Chief Surveyor at Auckland.

Second Schedule**North Auckland Land District**

1029 square metres, adjoining or passing through part Lot 1, D.P. 129387; shown marked "A" on S.O. Plan 64101, lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 1st day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 15/11/0/64101)

ICL

In2670

Land Acquired for Motorway and in Connection with a Motorway in Auckland City

Pursuant to section 20 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares that, an agreement to that effect having been entered into, the land firstly described in the Schedule is acquired for motorway and the stopped road secondly described in the Schedule is acquired in connection with a motorway which shall vest in the Crown on the date of publication in the *Gazette*.

Schedule**North Auckland Land District**

Area m ²	Being
1	Stopped road adjoining Allotment 27, Section 45, City of Auckland; marked "D" on plan.
214	Stopped road adjoining part Lots 28, 29, 61 and 62 of Allotments 7, 8, 12, 13 and 14 and Allotment 33, all in Section 46, City of Auckland; marked "F" on plan.

Shown marked as above mentioned on S.O. Plan 62204, lodged in the office of the Chief Surveyor at Auckland (part *Gazette* notice C. 059497.3, North Auckland Land Registry).

Dated at Auckland this 1st day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 71/2/8/0/105)

ICL

In2671

Declaring Land to be Road in Auckland City

Pursuant to section 114 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland declares the land described in the Schedule to be road, which shall vest in The Auckland City Council.

Schedule**North Auckland Land District**

236 square metres, being part Lot 57 and 58 of Allotments 31 and 32, Section 54, City of Auckland; shown marked "N" on S.O. Plan 62203, lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 1st day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 72/2/8/0/105)
ln2672

ICL

Declaring Land to be Road and Road Stopped in Mangonui, Far North District

Pursuant to Part VIII of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland declares:

(a) Pursuant to section 114, the land described in the First Schedule to be road which shall vest in The Far North District Council, and

(b) Pursuant to section 116, the portion of road described in the Second Schedule to be stopped.

First Schedule**North Auckland Land District**

5865 square metres, being part Section 28, Block VII, Opoe Survey District; shown marked "A" on S.O. Plan 61388, lodged in the office of the Chief Surveyor at Auckland.

Second Schedule**North Auckland Land District**

6730 square metres, adjoining or passing through parts Section 28, Block VIII, Opoe Survey District and Section 6, Block VII, Opoe Survey District; shown marked "B" on S.O. Plan 61388, lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 1st day of March 1989.

D. D. MILLAR, District Manager.

(Ak. D.O. 50/15/10/0/61388)
ln2673

ICL

Land Acquired for Road in Whangarei District

Pursuant to section 20 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares that, an agreement to that effect having been entered into, the land described in the Schedule is acquired for road which shall vest in The Whangarei District Council on the date of publication in the *Gazette*.

Schedule**North Auckland Land District**

54 square metres, being part Lot 2, D.P. 66737; shown marked "A" on S.O. Plan 63576, lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 1st day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 50/15/15/0/63576)
ln2674

ICL

Declaring Road to be Stopped in Auckland City

Pursuant to section 116 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares the portion of road described in the Schedule to be stopped.

Schedule**North Auckland Land District**

129 square metres, adjoining or passing through Lot 1, D.P. 74088 and Lot 1, D.P. 46773; shown marked "A" on S.O. Plan 61992, lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 1st day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 15/84/0/61992)
ln2675

ICL

Stopped Road in Whangarei District Vested

Pursuant to section 117 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, declares the part of stopped road described in the Schedule shall be amalgamated with the land in certificate of title 57D/849, North Auckland Land Registry.

Schedule**North Auckland Land District**

1560 square metres, being Section 1 on S.O. Plan 58517, lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 1st day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 50/15/11/0/58517-18)
ln2676

ICL

Declaring Land to be Road in Whangarei District

Pursuant to section 114 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares the land described in the Schedule to be road, which shall vest in The Whangarei District Council.

Schedule**North Auckland Land District**

351 square metres, being part Lot 169, D.P. 101299; shown marked "H" on S.O. Plan 60407, lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 2nd day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 50/15/11/0/60407)
ln2677

ICL

Land Acquired for Road in Waimamaku, Far North District

Pursuant to section 20 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares that, an agreement to that effect having been entered into, the land described in the Schedule is acquired for road which shall vest in the Crown on the date of publication in the *Gazette*.

Schedule**North Auckland Land District**

Area m ²	Being
2762	Part Waimamaku B2B; marked "A" on S.O. Plan 57511.
1086	Part Waimamaku B2D2; marked "B" on S.O. Plan 57511.
21	Part Waimamaku B2B; marked "E" on S.O. Plan 57511.

Area m ²	Being
523	Part Waimamaku B2D2; marked "H" on S.O. Plan 57511.
3881	Part Waimamaku B2B; marked "J" on S.O. Plan 57511.
474	Part Waimamaku B2D2; marked "C" on S.O. Plan 57512.

Shown on the plans marked as above mentioned and lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 1st day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 72/12/1/0/99)

ln2678

1CL

Declaring Road to be Stopped at Waimamaku, Far North District

Pursuant to section 116 of the Public Works Act 1981, and to a delegation from the Minister of Land, the District Manager, Department of Survey and Land Information, Auckland, declares the portions of road described in the Schedule to be stopped.

Schedule

North Auckland Land District

Area m ²	Adjoining or passing through
467	Waimamaku B2D2; marked "C" on S.O. Plan 57511.
1532	Part Waimamaku B2B; marked "D" on S.O. Plan 57511.
466	Part Waimamaku B2B; marked "F" on S.O. Plan 57511.
314	Waimamaku B2D2; marked "G" on S.O. Plan 57511.
1441	Waimamaku B2D1; and B2D2; marked "A" on S.O. Plan 57512.

Dated at Auckland this 1st day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 72/12/1/0/99)

ln2679

1CL

Land Acquired for Road and in Connection With a Road at Ruakaka, Whangarei District

Pursuant to section 20 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares that, agreements to that effect having been entered into, the land described in the First Schedule is acquired for road and the land described in the Second Schedule is acquired in connection with a road which shall vest in The Whangarei District Council on the date of publication in the *Gazette*.

First Schedule

North Auckland Land District

Area ha	Being
1.2644	Part Allotment 346, Ruakaka Parish; marked "A" on S.O. Plan 52610.
0.4670	Part Allotment S.W. 51, Ruakaka Parish; marked "J" on S.O. Plan 52611.
0.2992	Part Allotment N.W. 50, Ruakaka Parish; marked "K" on S.O. Plan 52611.
0.0035	Part Allotment 132, Ruakaka Parish; marked "L" on S.O. Plan 52611.

Shown on the plans marked as above mentioned and lodged in the office of the Chief Surveyor at Auckland.

Second Schedule

North Auckland Land District

Area m ²	Being
530	Part Allotment 346, Ruakaka Parish; marked "B" on S.O. Plan 52610.
2216	Part Allotment 346, Ruakaka Parish; marked "C" on S.O. Plan 52610.
4770	Part Allotment 346, Ruakaka Parish; marked "D" on S.O. Plan 52610.
491	Part Allotment 346, Ruakaka Parish; marked "F" on S.O. Plan 52610.
2000	Part Allotment 346, Ruakaka Parish; marked "F" on S.O. Plan 52610.
89	Part Allotment S.W. 51, Ruakaka Parish; marked "M" on S.O. Plan 52611.
272	Part Allotment N.W. 50, Ruakaka Parish; marked "N" on S.O. Plan 52611.

Shown on the plans marked as above mentioned and lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 2nd day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 50/15/15/0/52609-11)

ln2680

1CL

Declaring Road to be Stopped and Land Taken in Ruakaka, Whangarei District

Pursuant to section 116 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares the portions of road described in the Schedule to be stopped.

Schedule

North Auckland Land District

Area m ²	Being
5137	Allotments S. 41 and 346, Ruakaka Parish; marked "G" on S.O. Plan 52610.
1994	Part Allotment N.E. 40 and Allotment 346, Ruakaka Parish; marked "H" on S.O. Plan 52610.
4135	Part Allotment 132 and Allotment 346, Ruakaka Parish; marked "I" on S.O. Plan 52610.
5904	Part Allotments 132, N.W. 50 and S.W. 51, Ruakaka Parish; marked "O" on S.O. Plan 52611.
3238	Allotment S.M. 41, Ruakaka Parish; marked "P" on S.O. Plan 52609.

Shown on the plans marked as above mentioned and lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland on the 2nd day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 50/15/15/0/52609-11)

ln2681

1CL

Land for Buildings for General Government Set Apart for State Housing Purposes in Aranui Road, Mount Wellington

Pursuant to section 52 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares the land described in the Schedule hereto to be set apart for State housing purposes.

Schedule**North Auckland Land District**

All those pieces of land described as follows:

Area m ²	Being			
815	Lot 1, L.T. 132138. All Auckland Land Registry.	Being	C.T. 77B/688,	North
772	Lot 2, L.T. 132138. All Auckland Land Registry.		C.T. 77B/669,	North
736	Lot 3, L.T. 132188. All Auckland Land Registry.		C.T. 77B/670,	North
734	Lot 4, L.T. 132138. All Auckland Land Registry.		C.T. 77B/671,	North
1109	Lot 5, L.T. 132138. All Auckland Land Registry.		C.T. 77B/672,	North
3794	Lot 6, L.T. 132138. All Auckland Land Registry.		C.T. 77B/673,	North

Dated at Auckland this 2nd day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 72/1/2A/20/0)
ln2682

1CL

Declaring Land Taken at Mangapai, Whangarei District

Pursuant to section 119 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Auckland, declares the land described in the Schedule to be taken and vested in The Whangarei District Council.

Schedule**North Auckland Land District**

11.8 perches (298 square metres), being part Allotment 1, Mangapai Parish; shown coloured sepia edged sepia on S.O. Plan 40559, lodged in the office of the Chief Surveyor at Auckland (part Proclamation 17802, North Auckland Land Registry).

Dated at Auckland this 2nd day of March 1990.

D. D. MILLAR, District Manager.

(Ak. D.O. 50/15/15/0/40559)
ln2683

1CL

Regulation Summary

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Pursuant to the Acts and Regulations Publication Act 1989, notice is hereby given of the making of regulations as under:

Authority for Enactment	Title or Subject-matter	Serial Number	Date of Enactment	Price Code	Postage and Packaging
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Fair Trading Act 1986	Children's Night Clothes (Product Safety Standard) Regulations 1990	1990/43	5/3/90	3-BX	\$2.00
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ps2649

General

Tower Corporation

Tower Corporation Bill

Notice of Intention to Apply for Leave to Introduce a Bill

Take notice that Tower Corporation intends to promote a private Bill, the objects of which are to provide for the restructuring of Tower Corporation and to permit that corporation to be further restructured.

The promoter of the Bill is Tower Corporation, whose address to which communications or notices concerning the Bill may be sent is Tower Corporation, P.O. Box 590, Wellington.

A copy of the proposed Bill may be inspected in accordance with Standing Order 263 of the House of Representatives at the District Court, Wellington.

Tower Corporation, per:

A. J. ELLIS, Company Secretary/Legal Counsel.
gn2193



