

REGISTER OF CLASSIFICATION DECISIONS

Title of Publication: End Of The Spear

Other Known Title: Walk His Trail

Medium: DVD

Director/Author: Jim Hanon

Producer/Publisher: Bill Ewing et al.

Country of Origin: United States

Language: English, Embera, with English subtitles

Applicant: Society for Promotion of Community Standards

Distributor: Not Applicable

Classification:	Objectionable except if the availability of the publication is restricted to persons who have attained the age of 13 years.
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Descriptive Note: Medium level violence with some disturbing scenes.

Display Conditions: Nil

Date of entry in Register: 28 July 2008

Date of direction to issue a label: 28 July 2008

OFLC No: 801432

Unexcised version of publication:

	Components	Running time
Menu:	Play Language Selection Scene Selection Special Features	
Feature:	End Of The Spear	111.15

Other timed components:	20th Century Fox	0.07
	Deluxe Digital Studios Notice	0.10
	Beyond the Gates of Splendour	1.58
Other components:	Copyright Warning Notice	
	Overseas Classification Notice	
	FBI Ant-Piracy Notice	
Total running time:		113.30

Excisions: No Excisions Recommended

Reasons for excisions:

Not Applicable

Summary of reasons for classification:

Section 3(1) of the Films, Videos, and Publications Classification Act 1993

The Board finds the DVD *End of the Spear* passes through the “gateways” of cruelty and violence in that it “describes , depicts or expresses, or otherwise deals with” those matters in such a manner that the unrestricted availability of the publication is likely to be “injurious to the public good”.

The Board considers the *End of the Spear* to be objectionable in terms of section 3(1) of the Act because of the inclusion of a number of scenes of violence and/or cruelty. These include:

- the initial attack from another village with the use of spears and machetes, and the apparent killing of a baby and adults. Although the scenes were not as graphic as in some other publications, the consequences of the violence and cruelty were often expressed on the victims’ faces;
- the killing of the five missionaries using spears and the implication that two women used machetes on one of the missionaries;
- the killing of various animals including the jaguar with a spear, monkeys which were not killed for food, and the stone-throwing at the dog;
- the protracted death scene of one of the missionaries, with the extreme suffering of the father;
- the killing of Moipa, although the impact was less than the death of the missionaries as Moipa, in true warrior style, suppressed feelings of pain;
- there were a number of flashbacks to the killings which reinforced the effect of the violence and cruelty on others;
- in respect to cruelty, the Board does not have knowledge as to the accuracy of the interference of children being buried alive with a dead parent, or children being excluded from the tribe.

Section 3(1) establishes a two-tier test. The ‘gateway’ matters must be either “described, depicted, or expressed or otherwise dealt with”. The second test is whether the manner in which the gateway matters are dealt with mean that the publication is

likely to be injurious to the public good. There is description and depiction of violence and/or cruelty as outlined in the above paragraphs. There is also implied violence and/or cruelty shown by the expressions on the victims' faces, for example. While the incidents above are often shot in a manner which leaves the violence implied, the Board finds that the manner of depiction is sufficient to meet the section 3(1) threshold.

The Board also finds that because the publication is narrated largely by a child, and is from the child's perspective, it may encourage children to identify with the contents of the publication.

There is further likelihood of identification by children, because the publication is based reportedly on real life, and loss of a father at a young age may well increase the young viewer's feeling of powerlessness. The child in *End of the Spear* tried to prevent his father going on the mission, but his pleas were unsuccessful.

The Board finds the examples of violence and cruelty described earlier reach the level that would be "injurious to the public good" unless restricted.

Section 3(1A)

The Board considered section 3(1A) of the Act as there were a number of scenes of naked or partially naked children and young people. The Board did not consider that any of the images were "reasonably capable of being regarded as sexual in nature", however, and finds that this section does not apply.

Section 3(2)

The Board did not consider that section 3(2) applied to *End of the Spear* as the publication did not meet any of the tests contained in sections 3(2)(a) to (f) of the Act.

Section 3(3)

As the Board finds that the threshold in section 3(1) has been met, and section 3(2) does not apply, it must give particular weight to "the extent and degree to which, and the manner in which" the publication addresses the issues in sections 3(3)(a) to (e) of the Act.

Section 3(3)(a)(i)

The Board considered "the extent and degree to which, and the manner in which" *End of the Spear* describes, depicts or otherwise deals with the matters in sub clauses (i) to (v) inclusive. The Board finds that only section 3(3)(a)(i) applies. Section 3(3)(a)(i) applies to the infliction of serious physical harm, or acts of significant cruelty.

The Board accepted the submission from the Society for the Promotion of Community Standards (the Society) that there was an attempt to downplay much of the violence, with the actual impact and penetration of spears seldom seen. At times, however, the consequences were seen and emphasised. This was particularly the case in the scenes of the father's murder, which was protracted and repeated in brief flashbacks.

The manner in which the child's perspective is portrayed during the father's murder was enhanced by the child's voice calling for his father on the plane radio. This makes the scene more poignant and real.

For the final third of the publication, the cycle of violence is largely broken, and actively rejected. The Board finds this is a balancing factor and lessens the impact of the earlier violence and cruelty to some extent.

Section 3(3)(c)

The Office of Film and Literature Classification submitted that the portrayal of the tribe in the publication "degrades or dehumanises or demeans" the members of the tribal group. The Board has considered if the publication provides only a partial view of the culture and thereby demeans members of the tribe. However, on the basis of the limited material provided upon which to base a decision, it is unable to determine this matter.

Section 3(3)(e)

The Board considered whether the publication "represents (whether directly or by implication) that members of any particular class or the public are inherently inferior to other members of the public by reason of any characteristic of members of that class, being a characteristic that is a prohibited ground of discrimination specified in section 21(1) of the Human Rights Act 1993". It is arguable that the publication represents that members of the tribe, being heathen, were inferior to the Christian missionaries. Religious belief is a prohibited ground of discrimination under section 21(1) of the Human Rights Act.

During submissions, the Society stated that it wished to provide anthropological studies to support its case. Those studies were not provided, however, a reference to one study was provided. The Board requires to be provided with the paper rather than simply a reference.

The Society did provide a DVD of a documentary *Beyond the Gates of Splendour* which has been watched by the Board. In the documentary, two anthropologists who have undertaken research (including fieldwork) with the Waodani, give their analysis of the Waodani practice of spearing, and Waodani themselves express their own experiences and observations. This material confirms that spearing was a culturally acceptable way of avenging wrongs and venting anger.

The Waodani interviewed, related how people were speared and their deaths avenged in like manner by kinsmen of the deceased who in turn were speared to death in subsequent attacks. To the Waodani such events, if not commonplace, were unremarkable. In the 1950's the Waodani population had declined significantly, due in part to the increased incidence of spearing. According to the anthropologists, conversion to Christianity signaled to other potentially hostile groups that spearing had been renounced as a method of dispute resolution. This brought about an end to the cycle of killing by spearing.

To this extent, the DVD *End of the Spear* does not demean the Waodani, as spearing was culturally condoned, although it does demonstrate a Christian bias suggesting that Waodani needed to be saved by conversion. However, the DVD tells the story from the missionaries' point of view and in that context, such a bias is to be expected, and indeed is made apparent from the outset.

The Board assessed whether there was direct or implied evidence made available to it that the portrayal of the tribal people was represented as inherently inferior to the Christian missionaries. The Board accepts that one interpretation open to it is that it is arguably implied that such inferiority was portrayed in the publication, but the Board takes it no further than this.

Section 3(4)

The Board considered a number of matters set out in sections 3(4)(a) to (f) of the Act that go into the effect and merit of the publication.

Section 3(4)(a)

The Board must consider the dominant effect of the publication as a whole. The Board finds that the dominant effect of the publication on the minds of persons for whom it was intended, or into whose hands it is likely to go, is of a story of a father/son dynamic. It may also have special significance for those people familiar with the historical event. The dominant effect is of a series of medium level scenes of violence, followed by a portrayal of forgiveness and redemption.

Section 3(4)(b)

The impact of the medium is of a proficient production, with heightened drama through camera and sound work. Being aural and visual, the impact and effect is higher than for other types of publication.

Section 3(4)(c)

The Board considers that the DVD will have significance for evangelical groups, with some limited social, cultural and educational value.

Section 3(4)(d)

The Board finds that the persons, classes or age groups for whom the publication is intended, or likely to be made available, may be a wide target audience, with a view to educating them in Christian missionary work, and some tenets of the Christian faith.

Section 3(4)(e)

The Board finds the purpose of the publication is educational, with limited entertainment value.

Section 3(4)(f)

The Board finds that the DVD will generally be used for educational rather than entertainment purposes. The Board does not base its conclusions on any historical authenticity of the events the publication purports to recall.

Section 3B

Section 3B of the Act provides for a publication to be age restricted if it is likely to be injurious to the public good for the specified reasons.

The Board finds that the DVD will be disturbing to younger persons. The Board does not consider, however, that young people aged 13 or above would be greatly disturbed or shocked by the more violent scenes in *End of the Spear* and would be able to put the depictions into context. The Board does not consider it is likely to significantly increase the risk of young people aged 13 or above being harmed, as set out in clauses (b) and (c) of section 3B(4).

Further Provision Concerning Australian Cross Rating

It is accepted that the Act provides for cross-rating of publications from Australia. On the evidence available to it, there appears to be two versions of *End of the Spear* and no definite proof as to which of these versions has been classified in Australia. The Board therefore does not place weight on the Australian rating in this case.

Bill of Rights

In making its decision in respect of *End of the Spear*, the Board has considered the *Living Word* decision which states:

“The balancing required by s3 must be infused by due consideration of the application of the Bill of Rights”.

The Board finds that the decision it has made is the least restrictive available to it, in accordance with the considerations it must have regard to under the various sections of the Act and the New Zealand Bill of Rights Act 1990.

The Board considered the 5-step test suggested by the Court of Appeal in *Moonen 1*. In a later decision, *Moonen v Film & Literature Board of Review* (2002) NZLR 754, 760 (hereinafter referred to as *Moonen 2*) the Court of Appeal emphasised that the 5-step process was not meant to be prescriptive and that other approaches are open. The Board notes that aspects of the approach would appear to require the Board to make judgements on the consistency of the Bill of Rights Act with the Films, Videos, and Publications Classification Act.

The Age Restriction

It is the Board’s opinion that restriction of viewing by persons under 13 years of age is justified, due to Society’s wish to protect children and young persons from likely

injury, yet providing the minimum interference with the rights under the Bill of Rights Act.

It is the Board's expert opinion, because of the extent and nature of the activities in section 3(i) of the Act in *End of the Spear* and the way they are presented, it "is likely to be injurious to the public good" if the publication is not restricted to those aged 13 years or over.