

itself in the finish lacks honesty of purpose and ran off the rails of that which might be described as creative directorship. We do not know enough about the film (nor really is it our function) to condemn it. However, for the reasons and misgivings we have already expressed we think we have enough information before us to be able to classify the May 1980 issue as indecent.

Before concluding we should advert to the submissions received from Mr Smyth who was one of the importers. He complained that as an adult and as a regular subscriber to *Penthouse* he was not likely to be corrupted by reading the 2 present issues. This is a point often made by importers but it is enough to say that the Tribunal does not classify the publication for the benefit of the importer but for the community at large. As to the question of the reader's maturity, we refer Mr Smyth to our comments in the recent *Penthouse* decision where those matters are dealt with. They are directly applicable to the present case as well.

Mr Smyth also complained that the May 1980 issue of *Penthouse* was equally (if not more) forthright as the present issue. He argued that if the May issue had passed the Tribunal we would have to pass this issue.

We have not at any stage seen the May 1981 issue of *Penthouse*. We have no power to rule on publications other than those specifically referred to us and as we have already said, the May issue was not.

It may be some answer to Mr Smyth's complaint of possible discrimination that when we did have cause to examine some 1981 issues (in decision No. 1033) we noted with concern the marked deterioration in the photographic sections of the magazine, and in fact ruled one indecent, and said (stretching tolerance to the limits) that the others were close to the line. It is for the very reason that we are concerned about individual issues of the publication that we refuse to make a section 15A order to impose a general restriction on *Penthouse* for the next 2 years. If standards continue to decline further issues of *Penthouse* could easily be individually declared indecent.

The final point was that Mr Smyth complained about the action of the distributor in failing to import the magazine. He stated that they appeared to be more interested in protecting their profits (lest the banning of the present publications should prejudice further imports of the magazine) at the cost of the well-being of the subscribing public.

We think the opposite is the case. Gordon and Gotch appear to be sensible distributors and importers. As a result of advice received by them on the standard of the 2 issues the subject of this decision they decided the risk of condemnation was too high. They were right (insofar as their assessment of the Tribunal's view was concerned). In the circumstances the distributor seems to have acted in an eminently responsible manner.

In conclusion we do not think it is necessary to traverse the remaining specific matters in section 11 (1) (b-f) in any detail. They have been taken into account, but cannot help to save the present issues. Much of what was said about subsidiary issues in decision No. 1033 is applicable to the present issues.

For the above reasons we declare *Penthouse* ((U.S. Edition) Volume 11, Nos. 9 and 10), (May and June 1980) to be indecent.

W. M. WILLIS, District Court Judge, Chairman.

Decision No. 1039
Reference No. Ind 11/82

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:

Centurians Whole Catalog of the Exotic and Bizarre, published by Centurian Publications, California:

Judge W. M. Willis (Chairman), Mesdames H. B. Dick, L. P. Nikera, Messrs J. V. B. McLinden, I. W. Malcolm.

Hearing: 25 May 1982.

Decision: 7 October 1982.

Appearances: Mr McNiece for Comptroller of Customs. Written submissions from importer, Mr M. R. Hewton.

DECISION

This private importation was seized from the post in Auckland. It has been referred for classification because forfeiture is disputed. While some of the photographs are grotesque

(some could be said to be unobjectionable) the whole purpose of the magazine is to promote the bizarre. Bondage appliances feature entirely through the 146 pages while most of the products advertised depict nude or near-nude females attired in bondage gear. The Tribunal has had occasion recently to consider other bondage publications and it pointed out that in the wrong hands dangerous practices could result (decision No. 1026).

The Comptroller sought a classification of indecency but in a lengthy submission Mr Hewton finished by claiming the right as a citizen of New Zealand to make his own decision on what he could or should be able to read in his own home. That, of course, is the argument which has developed between those who maintain that there should be no censorship of books and the opposing view of those who consider that the views of this Tribunal are, if anything, too liberal. It is the Tribunal's function to administer the Act as it is drawn. The substance of decision No. 1026 has a direct relationship with some of the contents of this publication so that in the end result the Tribunal agrees with the submission of the Comptroller that the magazine should be classified as indecent.

W. M. WILLIS, District Judge, Chairman.

The High Court Sittings 1983

WE, three of the Judges of the High Court of New Zealand in pursuant of the powers vested in us by the Judicature Act 1908, hereby appoint that during the year 1983 sittings of the High Court for the dispatch of civil and criminal business will be held at The High Court Houses in the following places:

AUCKLAND

CRIMINAL TRIALS AND CIVIL ACTIONS BEFORE JUDGE AND JURY
AS from 1 February, the Court will sit each week commencing on Monday.

ALL OTHER CLASSES OF BUSINESS

THE Court will sit each weekday from 1 February.

WELLINGTON

CRIMINAL TRIALS AND CIVIL ACTIONS BEFORE JUDGE AND JURY
AS from 1 February, the Court will sit each week commencing on Monday.

ALL OTHER CLASSES OF BUSINESS

THE Court will sit each weekday from 1 February.

CHRISTCHURCH

CRIMINAL TRIALS AND CIVIL ACTIONS BEFORE JUDGE AND JURY
AS from 1 February, the Court will sit each week commencing on Monday.

ALL OTHER CLASSES OF BUSINESS

THE Court will sit on such days as may be required.

DUNEDIN

CRIMINAL TRIALS AND CIVIL ACTIONS BEFORE JUDGE AND JURY
AND ALL OTHER CLASSES OF BUSINESS

THE Court will sit during the weeks commencing:

7 and 14 February	22 and 29 August
21 and 28 March	12 and 19 September
26 April	17 and 25 October
2 May	7 and 14 November
13 and 20 June	5 and 12 December
18 and 25 July	

HAMILTON

CRIMINAL TRIALS AND CIVIL ACTIONS BEFORE JUDGE AND JURY
AS from 1 February, the Court will sit each week commencing on Monday.

ALL OTHER CLASSES OF BUSINESS

THE Court will sit on such days as may be required.

HOURS OF SITTINGS AND FIXTURES

1. Sittings will commence at 10 a.m. daily during the periods above stated (except on public holidays and during vacations).

2. Fixtures for all business will be allocated by the Registrar in accordance with the rules and administrative directions of the Court.

Given under our hands at Wellington this 14th day of October 1982.

R. K. DAVISON, C.J.
J. P. QUILLIAM, J.
J. B. O'REGAN, J.