

(March) 1983, published by Penthouse International Ltd., New York.

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

Hearing: 17 March 1983.

Decision: 18 March 1983.

Appearances: Mr Hillman for Comptroller of Customs. Mr Heron for importer, Gordon & Gotch (N.Z.) Ltd.

DECISION

THE January, February, and March 1983 numbers of *Penthouse* have been referred by the Customs Department for classification. This has been done at the request of the distributors, Gordon & Gotch (N.Z.) Ltd. Mr Hillman, who appeared for the Comptroller, submitted that the January issue be classified indecent but that the remaining 2 issues should be given an age restriction of 18 years. The distributors agreed with this view.

This is the fourth decision we have given in respect of the U.S. edition of *Penthouse*, in recent months. (See Decision Nos. 1033, 1038, and 1053). Because of what has been stated in those decisions we have not gone to any length to give detailed reasons for this decision. We have, of course, had regard for what has been said earlier.

In Decision 1053 in which we examined the January to December issues of that magazine for the year 1982, we made it clear that we were not prepared to make a section 15A order in order to permit *Penthouse* to be imported for the next 2 years, with an age restriction. We referred to the inconvenience and difficulty the distributor and the Comptroller might experience as a result of our ruling, but in order to try to alleviate their difficulties we set out broad guidelines in order to assist the parties when making their respective judgments as to the likely classification of future issues of the magazine. In summary, the Tribunal indicated that issues were likely to be classified as indecent if, in addition to their normal content, they contained pictorial scenes including the following:

1. Scenarios involving more than 2 models, and in which sex and violence and intimacy and/or deviant aspects of sex are depicted among the models;
2. Multiple model scenes which depict lesbian acts;
3. Heterosexual scenarios in which there is a high degree of intimacy (e.g., fellatio or cunnilingus or intercourse) depicted in the couple's actions.

Decision 1053 was released on 16 March 1983, and both the Comptroller and Mr Heron for the distributors have had an opportunity to peruse it before making their submissions in respect of the present 3 publications. The parties had obviously had regard to the third category above (heterosexual scenarios in which there is a high degree of intimacy) in accepting that the Tribunal would probably rule the January 1983 edition indecent. The article for concern in this issue is entitled *A Tempest for Two* and is contained at pages 134-147. It depicts scenes between a male and female model and is, in our view, needlessly and indecently explicit. We therefore propose to classify this issue as indecent.

The February and March 1983 issues are unexceptional and contain the usual *Penthouse* content. As we have indicated in our prior decisions, we are not prepared to rule material of this type indecent in the hands of adult readers. The formal orders will therefore be:

1. The January 1983 issue of *Penthouse* is declared indecent.
2. The February and March issues of *Penthouse* are declared indecent in the hands of persons under the age of 18 years.

District Court Judge W. M. WILLIS, Chairman.

3

The Standards Act 1965—Draft New Zealand Amendment Available for Comment

PURSUANT to subsection (3) of section 23 of the Standards Act 1965, notice is hereby given that the following draft amendment is being circulated.

Number and Title of Specification

DZ 5223:Part 2/AA Draft Amendment A to ANSI/ASME B31.4:1979. Liquid petroleum transportation piping systems. Gratis.

This amendment will place on record the declaration of ANSI/ASME B31.4:1979 as a New Zealand Standard and proposes New Zealand amendments to the American Standard. The American Regulatory Authorities in the Standard are substituted by New Zealand Authorities.

These documents will be published as NZS 5233: Code of practice for high pressure gas and petroleum liquids pipelines—Part 2: Petroleum liquids transportation pipelines.

Copies of ANSI/ASME B31.4:1979 may be ordered price \$27.70.

All persons who may be affected by this publication and who desire to comment thereon may obtain copies from the Standards Association of New Zealand, Wellington Trade Centre, 15-23 Sturdee Street (or Private Bag), Wellington.

The closing date for receipt of comment is 20 May 1983.

Dated at Wellington this 21st day of March 1983.

DENYS R. M. PINFOLD, Director,
Director, Standards Association of New Zealand.

(S.A. 114/2/8)

0

Export Performance Taxation Incentive—Supplement to the Schedule of Export Goods—Amendment No. 1

PURSUANT to section 156C (6) of the Income Tax Act 1976 (as amended by the Income Tax Amendment Act (No. 2) 1982), notice is hereby given by the Secretary of Trade and Industry that the Minister of Finance and the Minister of Overseas Trade have approved the amendments to the supplement to the Schedule of Export Goods (approval of which was notified in the supplement to the *New Zealand Gazette*, No. 41, 25 March 1983) set out in the Schedule hereto:

SCHEDULE

THE Supplement to the Schedule of Export Goods has been amended as follows to reduce the assistance available under the Export Performance Taxation Incentive in relation to certain fish products and certain horticultural products exported to Australia.

PART I

FISH caught by joint ventures and exported whole, headed and gutted, and fish which is further processed on board foreign flag vessels. All species of these goods falling under Heading Nos. 03.01 and 03.02 in Chapter 3 and Heading No. 16.04 in Chapter 16 of the Schedule of Export Goods are, when exported to Australia, deemed not to be export goods.

This amendment shall apply from the income year that commences on the 1st day of April 1983.

PART II

PROCESSED CORN—Frozen and canned corn falling under Export No. 07.02.21N (frozen corn) in Chapter 7 and Export No. 20.02.41X (canned corn) in Chapter 20 of the Schedule of Export Goods are, when exported to Australia, deemed not to be export goods.

This amendment shall apply from the income year that commences on the 1st day of April 1984.

PART III

FROZEN PEAS AND BEANS—Frozen peas and beans falling under Export Nos. 07.02.09P (peas, other) and 07.02.17Z (beans (green) other) in Chapter 7 of the Schedule of Export Goods, are, when exported to Australia, deemed not to be export goods.

This amendment shall apply from the income year that commences on the 1st day of April 1984.