

shall do so in the alphabetical order in which they were presented at the hearing.

Professor Eric Barendt, Professor of Media law, London University, also a barrister of Gray's Inn, was very critical of the tripartite test. On a literal application of the test he considered each issue might be suspect though they would not be if the Tribunal took the view that all episodes ought to be found in a particular publication for the test to be applicable.

Louis Jacques Blom-Cooper, a Queen's counsel who took silk in March 1970 and was Chairman of the Press Council in the U.K. from January 1989 to December 1990, was of the opinion that the magazine would not be injurious to the public good.

Dr Guy Cumberbatch, Director of the Communications Research Group, Aston University, Birmingham, U.K., an Associate Fellow of the British Psychological Service and a publisher of over 50 research monographs, regarded *Penthouse*, while explicit, as being "soft" core. He considered such material to have no real effect other than temporary sexual arousal and that such material might even assist sex education.

Karen DeCrow, Attorney at Law, is in practice in New York State where she appears in both Federal and State Courts, specialising in constitutional law and sex discrimination. Active in the feminist movement since 1967, Ms DeCrow made it clear that she is totally opposed to censorship. She said it is not known if sexually explicit materials could cause harm. In commenting that President Johnson's commission found no link between crime and sexually explicit material, or violence and sexually explicitly materials, Ms DeCrow said that more recent research indicates the same lack of connection.

Professor Ronald Dworkin is Professor of Jurisprudence at Oxford University and also holds a Chair in Law at New York University. His opinion was expressed most succinctly in these words:

"The crucial distinction to respect . . . is a distinction between actual harm and offence. *Penthouse* undoubtedly and understandably offends many people. But it does not harm them in the way the statute must be understood to require before a publication may be banned."

John Evans, company director, a British subject and President of the International Division of General Media (*Penthouse* being one of General Media's publications) informed us that the magazine is available at most international airports around the world. However, the U.S. edition of *Penthouse* is banned in Saudi Arabia, Iran, Iraq (and occupied Kuwait), Pakistan and is not distributed on economic grounds in most of Africa. It is not distributed in Great Britain or the Republic of Ireland due to contractual agreements with the British edition of *Penthouse*. Mr Evans indicated that *Penthouse (U.S.)* is also distributed in Canada in accordance with Canadian customs guidelines. These guidelines prohibit the depiction of bestiality, incest, coprophilia, violence, degradation, use of juveniles, coercion or bondage. The publisher is concerned to reflect a healthy and forward looking attitude to sex integrated with other facets of modern living.

Hans Jurgens Eysenck, Professor Emeritus of Psychology at the University of London, a publisher of some 950 articles and 70 books, was the recipient of the Distinguished Scientist Award of the American Psychological Association in 1988. The pictorial section scenarios involving more than 2 models, in which sex and intimacy are depicted among them, are in his opinion not explicit but mostly suggest a high degree of intimacy. In his view the tripartite test, as it affects *Penthouse* pictorials, is arbitrary and inappropriate as a general rule. In his opinion a test requiring the indiscriminate infringement of one of its limbs or even requiring the infringement of all 3 limbs in the same publication, is inappropriate and should be discarded.

John Gardner, a Fellow of All Souls College, Oxford, and a

barrister of the Inner Temple, teaches comparative human rights and jurisprudence in the Law Faculty at Oxford. He has published work concerning the moral limits of the criminal law and the moral foundations of civil rights. In his affidavit he expressed the belief that the magazines in question are, in their sexual content, harmful to women. However, Mr Gardner is of the view that there can be no "injury to the public good" arising from the sexual material in *Penthouse* once the values of toleration in general and respect for particular people are taken into account.

Dr Lionel Richard Charles Haward, a clinical psychologist of Chichester and a Fellow of the British Psychological Society, said he knows of no scientifically acceptable evidence which proves that pictures of the kind published in *Penthouse* can be harmful. To the contrary he believes there is positive evidence that such pictures are associated with beneficial effects both to the individual and to society.

Berl Kutchinsky is Professor (Docent) of Criminology and Director of the Institute of Criminal Science at the University of Copenhagen. Professor Kutchinsky states that he has published about 200 books and articles in 7 languages, many on the subject of pornography. His affidavit concluded that:

"Older as well as the most recent evidence suggests that adverse effects of the availability of *Penthouse*, in the form of detriment to the behaviour, attitudes or mental health of intended or unintended readers, to the position of women in society, or to society in general, are not to be expected."

Sara Louise Maitland, a writer and theologian for the past 12 years, has a B.A. (Hons.) in English Language and Literature from Saint Anne's College, Oxford. Between 1985 and 1987 she was a member of the Archbishop of York's Working Party on Values in Contemporary British Society. While Mrs Maitland acknowledges that some women and particularly feminists are convinced that there is a connection between the *Penthouse* type of publications and the actual physical abuse of women, she says, along with many of other feminists, that she is not so convinced and that best sociological material supports this contention. Mrs Maitland referred also to the feminist view that the models themselves were being demeaned and exploited. Mrs Maitland disagreed. While conceding that the models were being demeaned, in a sense, she was of the view that they were certainly not being exploited and that they were better paid than most women.

Brian Neil Middleton of Auckland, managing director of Special Investigations & Security Limited of Auckland, stated that he had retired as a detective superintendent of the New Zealand Police in December 1986 after 30 years in the force. Mr Middleton's 3½-page affidavit concluded with his opinion that the 3 magazines read by him, the issues of May, July and 1988, were "not injurious to the public good".

John William Money born in Morrinsville, New Zealand on 8 July 1921, states that he is Emeritus Professor of Medical Psychology and of Paediatrics at the Johns Hopkins University School of Medicine and Hospital in Baltimore, U.S.A. Leaving New Zealand (for higher education) in 1947 after graduating from the University of New Zealand with an M.A. in Philosophy and Psychology (1943) and an M.A. in Education (1944), Professor Money's speciality became and still is psychoendocrinology and sexology. Last visiting New Zealand in 1987 Professor Money sites that he maintains interest in social and political developments in New Zealand. Professor Money considers that the Indecent Publications Tribunal, as a democratic institution, "has an inescapable obligation to pay attention to the rights of New Zealand's indigenous Polynesian population". In his view the Pakeha culture of New Zealand "has absolutely no right whatsoever to impose on Maori culture its own criteria of what is and what is not sexually indecent. The New Zealand Indecent Publications Tribunal ought to consult New Zealand's Maori on whether the