

show what the abortion operation in fact involves." He also criticised the answers given to him by the corporation and Television Two.

He considered that a decision should have been taken by the corporation "to explain to viewers that a complete oversight had been made on the part of the corporation in failing to show the stage of development of the unborn child at the time of the operations of the Aotea Abortion Hospital and to show what the abortion operation in fact involves and why there is such a deep controversy about it."

A specific complaint about the programme related to the cross-sectional diagram of the female reproductive organs "without showing the body of a foetus in the uterus" and to the "general bias of the programme". As examples of that, he said the programme showed hard working doctors, counsellors, etc., at the abortion clinic carrying on a simple safe procedure.

He objected to the programme on the grounds that in New Zealand the media and particularly television had failed to show what abortion was and had failed to give adequate coverage to the development of life from conception.

At Mr O'Neill's request because he was calling witnesses the hearing was held in Dunedin and arrangements were made for him to see a replay of the programme for the benefit of expert witnesses.

The Tribunal had the benefit of very well presented and detailed submissions from Mr O'Neill in writing before it viewed the programme. It also had at the time it viewed the programme the response to these submissions from South Pacific Television (TV2).

In his initial nine page submission, Mr O'Neill made his personal views on abortion perfectly clear. It would not be unfair to say that he takes an uncompromising view, considering the law laid down by Macnaghten J. in *R. v. Borne* in 1938 as a serious erosion of the position regarding the unborn child. He assisted in the formation of the Society for the Protection of the Unborn Child in Dunedin in 1971 and has campaigned for what he regards as a human rights issue.

He said, "The right to life is intrinsic and intended killing of innocent and defenceless lives whether born or unborn is a matter which must be prescribed by the law universally. One sees in the attempt to discriminate in this respect then that an inviolable principle will have been breached and further inroads upon it will inevitably follow." And later, "I do not agree with the intended killing of unborn children in any circumstances and I am not alone in this belief . . . It is a view which should be given place by the media together with the explanation of the facts on which it is based. I and those sharing this view look forward to the attainment of a society which does not condone intended killing of unborn children in any circumstances and where every child will be accepted and welcomed and taken care of."

Mr O'Neill's views have been set forth since he wanted them to be known to the Tribunal and further because it was clear that because of his view and the interpretation he placed on a number of matters that it was quite impossible for him to take a neutral view of any programme concerned with abortion. The Tribunal therefore had to look at the substance of his complaints and try to apply some more objective assessment of the programme than that which he or a person of similarly strong views on the other side of the debate could provide.

The fact, therefore of Mr O'Neill considering the programme to be biased was not considered particularly relevant to our consideration except to the extent that it was the reason why the complaint was before us and that the points that he considered to be biased should be considered carefully by the Tribunal. He prepared a thorough case against the programme.

Mr O'Neill asked the Tribunal for a decision that would require Television Two to show a programme which would correct what he considered to be the deficiencies and that this decision should be made and the programme screened before the debate on the impending legislation took place at the end of the Parliamentary session. However, because of the view taken by the members of the Tribunal it was not found necessary to issue a decision in haste.

The Tribunal has therefore had the opportunity of carefully considering all the evidence, the submissions most cogently put forward by Mr O'Neill and the submissions from the executive producer of the programme, Mr George Andrews, who represented the corporation.

#### Decision

Mr O'Neill's complaint that the media in New Zealand and particularly television have failed to show what abortion is and has failed to give adequate coverage to the development of life from conception is not a matter which this Tribunal can rule upon.

Suffice it to say that the Tribunal considers that in relation to the objectives of the programme it does not consider it necessary to set out again to a public (which has had the abortion debate and a Royal Commission with the reporting of submissions and the impending issue of its report) a detailed explanation of what is being aborted. It would be quite wrong to suggest that in every programme a comprehensive definition should be entered upon before some aspect of the subject could be discussed. In this case the programme was about the Aotea Hospital and it is considered unlikely that anybody could possibly have seen the programme without knowing what the function of the hospital was.

The programme complained about was one of a topical documentary series produced by Mr Andrews for Television Two and was designed to coincide with the publication of the report of the Royal Commission on Contraception, Sterilisation, and Abortion which would be of major public interest and which might determine the future of the Aotea Hospital.

Mr Andrews considered that, "The backdrop to its deliberations and indeed to all of the recent debate in New Zealand about abortion was the existence and continuing operation of the Auckland Medical Aid Centre. Just as clearly, the outstanding advantage of the film documentary is its ability—unlike the print medium or radio—to show what actually occurs at an event or location and allow viewers to make up their own minds on the issues involved."

More than usual time was available for the preparation of the programme which enabled the assembly of library footage from Television One, Television Two, and the BCNZ.

It was therefore decided to separate from the actual filming of the activities at the centre the polarised comment which had always surrounded it. Mr Andrews said it was decided the comment would be provided by the spokesmen of the opposing groups in the historical sequences; the facts of the clinic's day-to-day routine would by contrast be presented without comment or interpretation of any kind. To underline the distinction a male voice was used for the historical sequences and the centre's activities were narrated by a woman's voice.

The Tribunal in viewing the programme in the light of the submissions it had received came to this conclusion:

While detecting some technical faults explicable in the exigencies of topical television the Tribunal found it to be a fair compilation of the public history of the clinic and its current operations.

The reasons for presenting the programme seemed to have been in the best traditions of public information broadcasting. The hospital had been the centre of the controversy and was perhaps the most visible sign of challenge to accepted laws and morality on abortion.

A Royal Commission which had sat so long on this and related issues of population control might well have offered some decisive guidance to legislators which would in turn affect the future of the clinic in some decisive way.

The alternative presentation of yet another debate on the abortion issue would have been singularly inappropriate on the eve of such a report. In the context of the commission's activities and the constraints on the television medium such a definitive exercise would also have been impracticable.

The Tribunal does not consider that the programme was biased.

In a highly controversial issue such as the continuing debate on the law and practice of abortion hard-liners on both sides will have become polarised and tend to become incensed when anything appears which is not favourable to their viewpoint. The very fact therefore that the Auckland Medical Aid Centre should be depicted on television would be an affront to a number of sincere anti-abortion campaigners.

There is in fact an element of promotion when anything or anybody is featured in a programme. There is publicity. But the fact that the centre was carrying out a type of work which many people in New Zealand are violently opposed to is not justification for declining to present a programme on what it did.

It is also true that the depiction of something or someone in a programme reveals aspects which are unfavourable to the subject and that was certainly so in the opinion of this Tribunal in relation to the centre.

The Tribunal rejects the approach of Mr O'Neill in his evidence of analysing each 30 seconds or minute segment of the programme and giving it a rating for or against abortion or for or against the hospital, but even on this analysis it was clear that some of the items which he regarded as being favourable to the hospital were in the opinion of this Tribunal unfavourable to the hospital.

The complainant also claimed that the segment of news films which showed Catholics saying the rosary outside Parliament buildings was inserted to produce anti-Catholic feeling which would react against the Society for the Protection of the Unborn Child. His witness, Dr C. T. H. R. Ehrhardt, an