

BEFORE THE BROADCASTING TRIBUNAL

B. H. Slane (Chairman), Lionel R. Sceats (Member), Janet C. Somerville (Member), G. C. Ell (Co-opted Member), G. R. Wear (Co-opted Member).

Hearing: 12 October 1978.

DECISION

Mr J. D. Dalgety, immediate past president of the Society for the Protection of the Unborn Child, has referred to the Tribunal a complaint made by the society in respect of a Television One news bulletin broadcast at 6.30 p.m. on 14 December 1977. Some or all of the item was repeated in another bulletin at 9.30 p.m. that night. It was a report by Television One's political editor, Mr F. Cockram on the progress of the Contraception, Sterilisation and Abortion Bill and the form in which it came out of the debate by the Committee of the House. Parliament had sat throughout the night and on the morning of 14 December, completing its report in the afternoon.

The relevant passage from Mr Cockram's report is as follows:

"When Parliament finally arose at about half past twelve this afternoon it had completed almost 30 hours of debate on the committee stages.

"Although it's clear the conservative lobby won through on most issues, there's still some uncertainty about the practical aspects of the law because of the confusion among tired M.P.'s with the multitude of amendments they had to consider.

"However, this seems to be the situation...

"There'll be a Supervising Committee of three... chaired by a Magistrate... to administer abortion law, license hospitals to perform abortions and appoint certifying consultants.

"If a woman wants an abortion she'll go to her doctor. From there her case will be referred to two certifying consultants. If they approve, her case will go to a fourth doctor, the operating surgeon.

"The Bill does tighten significantly the grounds on which an abortion may be authorised. It does this by an amendment to the Crimes Act to define what constitutes an "unlawful" abortion.

"The mental or physical state of the mother—or of the foetus—will not be one of the criteria considered when granting an abortion... an abortion won't be permitted even if the mother's life is in danger, if there is any other way of saving her.

"But despite some contradictory decisions it appears rape will be a ground for an abortion.

"Among many other decisions taken overnight, Parliament threw out a move to have the Bill referred to the public by way of a referendum at the next general election.

"The question now is whether Parliament has finally... after several years of agonising... produced legislation which is workable.

"This afternoon some very tired M.P.'s had varied views on that..."

The statement complained of is,

"The mental or physical state of the mother or of the foetus will not be one of the criteria considered when granting an abortion... an abortion won't be permitted even if the mother's life is in danger, if there is any other way of saving her."

There is no argument about the reference to the foetus. The objection is to the first part of the statement which the complainant says does not accurately report this part of the Bill as it stood after the committee had reported.

As national president of the society, Mr Dalgety wrote to the Director-General of Television One on 13 March 1978. He referred to the matter having been brought to the attention of news staff, but it appears that apart from a call by Mrs Marilyn Pryor to someone in the news room a couple of days after the broadcast no formal complaint was lodged until Mr Dalgety's letter. Copies of addresses made by Mr Dalgety and Mrs Pryor in February and March had been given to the channel and in these there were references made to the alleged inaccuracy of the news bulletin on 14 December.

The formal complaint was rejected by Television One which, in doing so, had cited the qualifications in the opening of Mr Cockram's report, the difficulty of reporting and interpreting the legislation after extended sittings and suggesting that the question of inaccuracy was a matter of opinion.

On 18 May a formal complaint was lodged by the society with the Broadcasting Corporation. The Corporation by letter

dated 14 July informed Mr Dalgety that it had made the following finding:

"The Corporation, as a result of its investigation under the complaints procedure accepted that the report was attempting to highlight a radical change in the criteria, relating to permissible abortion, namely the consideration whether any other means were available to avert the danger to the physical or mental health of the mother. The Corporation found, however, that in referring to this charge, the report has used language which was open to misunderstanding and the explanation could have been made with greater clarity and precision. To that extent the complainant had grounds for making his complaint.

"The Corporation requests TV 1 to review the extent and depth of its staffing arrangements made to cover the passing of the Contraception, Sterilisation and Abortion Act and to advise the news committee whether it has recommendations concerning such arrangements for future coverage of controversial topics of great complexity under conditions of possible difficulty."

Subsequently there appear to have been some public exchanges reported by television and radio on whether or not this amounted to the upholding of the complaint.

Section 25 of the Broadcasting Act 1976 provides that the Corporation shall receive and consider formal complaints about programmes broadcast by the Corporation where the complainant alleges the corporation has failed to comply with certain provisions of the Act.

Subsections (3) and (4) read as follows:

"(3) If a complaint is found to be justified, in whole or in part, the Corporation shall take appropriate action and shall inform the complainant in writing of the action taken.

"(4) If the complaint is found not to be justified in whole or in part, the complainant shall be notified of the decision."

The Corporation has not made it clear whether or not it accepts that the complaint was justified in whole or in part. The reference to the complainant having grounds to make his complaint is not the statement required under the Act.

The complainant under the same section is allowed to refer the complaint to the Tribunal if he is dissatisfied with the decision or with the action taken by the Corporation.

Mr Dalgety lodged his society's complaint with the Tribunal in August 1978.

The Tribunal heard carefully prepared submissions from Mr Dalgety on behalf of the society. Submissions were also made by the Corporation and the Tribunal had the benefit of some helpful comments from Mr Cockram.

Mr Dalgety made it very clear that he considered the earlier passages to be simple, accurate and impartial. His complaint concerned only the one sentence.

The Tribunal has had no difficulty in arriving at its decision that the passage complained of was not accurate.

It is clear that, under the Bill as reported back to the House, the mental or physical state of the mother would be considered when granting an abortion.

It should be understood that the report was made by an experienced Parliamentary journalist whom Mr Dalgety made clear his society regards as "an experienced commentator whose work on Television is enjoyed and admired by thousands of viewers." There was no question of impugning Mr Cockram's honesty.

(It seems likely that the addition by Parliament of the reporting of legislation as it passed through the House. He made clear to the Tribunal that the Bill as it came out of the House in committee differed from the form in which it was sent into the committee of the House. He pointed out two respects in which he said the Bill had been changed. He did accept that his wording was not as specific as it could have been but did not consider it inaccurate.

In terms of describing the changes that took place it is understandable that such an error could have been made. (It seems some other journalists made the same mistake.) However it is clear from reading the news report that the viewer would understand the comparison was being made with the existing law and not with the form of the Bill as it went to the Committee of the House.

It seems likely that the addition by Parliament of the proviso "that the danger cannot be averted by any other means" had also contributed to the wrong interpretation of the Bill by Mr Cockram. This proviso was repealed in 1978. Mr Dalgety criticised the paraphrase of this proviso in Mr Cockram's report. We do not agree the criticism is justified. He did not complain about the reference in the news item to