

rape as a ground for abortion which was not strictly accurate.) TV 1 and the Corporation should have acknowledged the mistake. We do not accept that Mr Cockram's remark "However this seems to be the position . . ." a little earlier in the report excuses TV 1 from correcting an error particularly since the passage concerned opens "The Bill does tighten significantly . . .", which could be said to be so definite as to nullify the earlier qualification.

The society made lengthy submissions relating to the Corporation's later statement that the report was attempting to highlight a radical change in the criteria relating to permissible abortions. We do not think that it is necessary for this Tribunal to embark on an analysis of the legislation in this decision. Suffice it to say, it does not appear that the changes that occurred in the criteria were "radical" changes as claimed by the Corporation. The radical changes in the legislation related rather to the methods of control of the decision making process for authorising abortions.

The issue was of some importance. Many people would have obtained their first information about Parliament's decision on this key aspect of the legislation from Mr Cockram's report and their attitudes could have been moulded accordingly. It is a matter for regret that they were not subsequently told that the Bill and later the Act, did in fact provide that the mother's mental or physical health would be considered, Television One not having put the record straight.

While the Tribunal considers that Television One should have acknowledged the error, it would certainly accept the Director-General's view that to refer some months later in detail to the content of the news item was impracticable and would probably have caused confusion.

The Tribunal does not accept, however, that it necessarily remains impossible even now for Television One to broadcast a programme which might help to explain the criteria laid down in the Act even if this involves providing some explanation of any differing interpretations of the meaning of the legislation as it now stands.

Section 24 (1) of the Broadcasting Act 1976 provides that the Corporation should be responsible for maintaining in its programmes and their presentation, standards which will be generally acceptable in the community, and in particular it should have regard to

"(d) the accurate and impartial gathering and presentation of news, according to recognised standards of objective journalism."

The Tribunal finds that the report in the single respect referred to was not an accurate presentation of news and therefore upholds the complaint. However, the Tribunal declines to find that the Corporation was guilty of failure to present the news impartially.

#### Co-opted Members—

In accordance with the Act, the Tribunal co-opted Mr G. C. Ell and Mr G. R. Wear, two persons whose qualifications and experience were likely, in the opinion of the Tribunal, to be of assistance to the Tribunal in dealing with this complaint. They took part in the hearing and the deliberations of the Tribunal. The decision however, in accordance with the Act, is that of the permanent members.

Dated the 23rd day of November 1978.

For the Tribunal:

B. H. SLANE, Chairman.

Decision No. 10/78

#### Decision of the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by Thomas Francis Gill, pursuant to section 67 (1) (b).

WARRANT HOLDER: Broadcasting Corporation of New Zealand (Television One).

#### 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

The complaint referred to the Tribunal by Hon. T. F. Gill, Minister of Immigration, concerned a news item broadcast by Television One in its 6.30 p.m. news bulletin on Monday, 12 June, 1978. The programme concerned the treatment and prosecution of overstayers and originated from the Auckland newsroom. It comprised a report by Carol Archie in which

she presented the views of a prominent Tongan lawyer, Mr Clive Edwards, another Auckland lawyer, Mr Kevin Ryan, and the executive officer to the Race Relations Conciliator, Dr Peter Sharples.

The item was introduced by the newsreader thus:

"New Zealand immigration authorities were today accused of being cruel and ruthless in their dealings with Pacific Island immigrants. The claim comes from two Auckland lawyers who represent a large proportion of Auckland's overstayers and other immigrants. The lawyers say they are disturbed by the upsurge of court appearances for Pacific Islanders on overstaying charges and they claim humanitarian considerations are being overlooked if the numbers in Auckland courts increase."

The reporter, Carol Archie, then detailed the number of prosecutions in the Auckland Magistrate's Court each day and said that Mr Edwards was disturbed that many more Pacific Islanders were being charged as illegal immigrants than other nationalities.

The item presented the views of Mr Edwards and the other two persons interviewed and it was claimed that husbands and wives were being separated from each other and their children while others were being deported when they were ill. The claim was made that the concept of "humanitarianism" did not exist in the Immigration Division as, regardless of any case put up on humanitarian grounds, the department said "no". The manner in which Pacific Islanders were apprehended by field officers in Auckland was described by one of the lawyers as "very ruthless".

Mr Gill said that the persons interviewed were "critical of a group of public servants in the performance of their duties as immigration officials, the combined effect of which amounted to an unwarranted unsubstantiated and grossly unfair attack on those public servants".

The Minister summarised his complaint to the Tribunal as follows:

1. Because of its strong bias the news item should not and need not have been transmitted without a counter-balancing viewpoint;

2. That no effort was made to obtain such a viewpoint from Immigration officials or from me, as Minister of Immigration, or, presumably, from anyone else before transmission of the news item complained of; and

3. That Television One on this occasion failed to exercise impartiality in the gathering and presentation of news; and that Television One therefore denied certain public servants an effective right of reply to serious allegations made against them.

Mr Gill first complained to the Chairman of the Broadcasting Corporation of New Zealand by letter dated 14 June which was treated as a formal complaint and was supplemented by a further letter dated 15 June. The Minister pointed out that the two lawyers concerned handled cases for overstayers and had received an advertisement from the programme. The Minister pointed out that since the Act was passed giving overstayers who had been found guilty the right to appeal to the Minister, 52 cases had been finalised and of those 15 had been allowed and 37 declined. He mentioned this to counter the statement of Dr Sharples that as far as his office was concerned, "Of late our success rate has been nil . . .".

The Minister pointed out that under the Act the Minister had to be satisfied that "because of exceptional circumstances of a humanitarian nature it would be unduly harsh or unjust to deport the offender from New Zealand." Mr Ryan had complained on the programme that there had been no indication given as to what the Minister meant by those words. Obviously the impression had been given that the policy was laid down by the Minister and not by the legislation. In his original complaint and in his statement on television he referred to a letter from Mr Ryan which confined the statement of grounds in an appeal to the facts that the offender was 17 and had no work to return to in Tonga.

The Corporation dealt with the complaint on 8 August 1978 and in a letter dated 11 August set out its decision:

"In its examination of the case the board took particular note of the requirements of section 24 (1) (d) and (e) of the Broadcasting Act in the manner of accuracy and balance. It was noted that the item was presented in such a way that, if it did contain inaccuracies as you claim, these were presented as the opinions of Messrs Ryan, Edwards and Dansey and not of Television One; in this respect the board felt that subsection (d) above