

Mr Hudson's submissions can be summarised as follows:

- (a) The purpose of the item was to examine the actions of the KGB in New Zealand, in the light of the then recent expulsions. The outcome of the Sutch trial was incidental to the point being made that Dr Sutch was involved with a reputed KGB agent.
- (b) The 2 persons who appeared had, between them, been directly involved in the administration of the Security Intelligence Service for 26 years. It is hard to see who would be qualified academically to comment, given the nature of the subject.
- (c) Mr Simpson had misquoted the story in saying that a statement that there was no hard evidence of Soviet financing of the SUP was in "flat contradiction" of the statement that Mr Sofinsky had been caught handing money over. The lack of "hard evidence" referred to *continuing* financing, and not to the Sofinsky incident.
- (d) The claim in the item that a Moscow influence is apparent in the SUP's attitude to foreign policy is supported by an accurate summary of an article in the SUP's own newspaper.
- (e) The facts (i) that Mr Knox addressed the Council for World Peace and (ii) that Mr O'Brien is a former Labour MP, are matters of public record.

Mr Hudson conceded that the statement that "Party members have gained for themselves a large number of influential trade union posts" was open to criticism. He said the accuracy of the word "large" depends on what one regards as influential unions, and that this was not clear from the context.

Mr France's memo supported some of the submissions made by Mr Hudson. He submitted that the range of opinion presented was adequate, given the aim of the item and he said he was at a loss to understand where the journalist adopted an editorial stance. He considered that Mr Simpson's allegations were harsh.

Mr France made his own summary of the item in the course of defending most of the contents of it. He acknowledged that it could be said that Dr Sutch's acquittal should have been mentioned to set the record absolutely straight but he reiterated that the Sutch case was referred to only incidentally to the item's main purpose of examining Soviet activity.

Mr France also addressed himself to the complaint that the item appeared to draw a link between a number of organisations and public personalities. He said:

"There is plenty of evidence to support the assertion that the SUP sponsored the formation of the Council for Peace. The report that the President of the FOL had addressed a conference illustrated merely the status of the Council. The reference to Mr O'Brien merely quoted him as Chairman of the Council and in no way connected the Council with the Labour Party. Note Mr O'Brien is described as a *former* Labour MP."

Mr France did not offer any evidence of the alleged sponsorship nor did he suggest what "sponsorship" might mean in the context of the item.

Decision

- (a) *Range of viewpoints*—The duty to allow expression of a range of viewpoints is imposed by the Broadcasting Act 1976, s. 24 (1) (e) which states that the Corporation shall have regard to ...

"(e) The principle that when controversial issues of public importance are discussed, reasonable efforts are made to present significant points of view either in the same programme or in other programmes within the period of current interest."

The Broadcasting Rules Committee's Television Programme Rule 5.1 (g) emphasises that this is an area in which a rigid approach is unhelpful. Fairness in all the circumstances is the over-riding concern:

"Rule 5.1 (g) No set formula can be advanced for the allocation of time to interested parties on controversial public issues. Services should aim to present all significant sides in as fair a way as possible and this can be done only by judging every case on its merits. That a particular person represents a majority or a minority faction should not have an over-riding effect on any decision on allocation of air-time. These decisions should be based on such considerations as the integrity of the person concerned, on previous allotments of air-time to all factions, and on the merit and news value of such a person's view."

We are told that the Soviet Embassy declined to appear. That was their decision to make. Their choice does not mean that statements adverse to them in the programme had to be muted, as long as those statements were within the bounds of fairness. In considering whether the SUP should have been invited to appear, we take into account that much of the item re-covered old ground. There was some new material but it was in the nature of peripheral detail, rather than substantial new allegations. In the circumstances, was it essential in the interests of fairness to interview someone to re-state old denials? Or was it sufficient to acknowledge those denials in the script? While one could argue that the programme would have been better balanced with a contribution from an SUP spokesperson, we think there is room for disagreement among detached, professional journalists as to whether it was essential to a fair presentation to invite someone to appear in person. In those circumstances we think it was within the programme editor's discretion to make do with an acknowledgment of the SUP's denial in the script. This did not give rise to such an imbalance that one could say s. 24 (1) (e) or Programme Rule 5.1 (g) was breached. The Tribunal does not uphold that aspect of the complaint.

- (b) *"Editorialising"*—Mr Simpson seems to use the word "editorialising" in a wide meaning which encompasses a failure to properly support an assertion of fact with evidence. Thus he says:

"The connection drawn between the policies of the Soviet government, the SUP and a larger section of the trade union movement is a highly political and controversial matter and it is the grossest editorialising coming from the commentary of [the reporter] particularly when it is clear that it is also a series of inferences based on wrong facts concerning the nature of the relationship between the FOL and the ICTFU."

We think this was more a case of a failure properly to support assertions of fact than of expressing an editorial opinion. In this area, the Tribunal considers that one part of the item was open to serious criticism. We refer to the passage in which, after mentioning to the article in the SUP newspaper and the formation of a New Zealand Council for World Peace, the reporter went on to say:

"The affiliation of the Council is obvious, when one takes note of its Chairman, a former Labour MP, Gerald O'Brien."

We must say that we do not find the "affiliation" of the Council at all obvious. In his submission, Mr Hudson says that it is a matter of public record that Mr O'Brien is a former Labour MP. That is true, but the sentence says more than that. Mr France's defence of the same sentence does not stand up either. He says:

"The reference to Mr O'Brien merely quoted him as Chairman of the Council and in no way connected the Council with the Labour Party. (The Tribunal's emphasis.) Note Mr O'Brien is described as a *'former* Labour MP'."

We think the sentence is easily capable of the very meaning which Mr France denies that it carries. Reasonable people, on hearing the statement, would reasonably take it as a suggestion that there is some sort of connection between the Council for World Peace and the Labour Party. The Tribunal accepts that no such meaning was intended but the programme must be judged by what it said, not by what it meant to say or what its authors thought it said. It must be tested by the meaning that it would convey to the ordinary viewer. In relation to this sentence, the Tribunal upholds the complaint.

In a part of his complaint quoted earlier in this decision, Mr Simpson argued for a narrow role for reporters. He felt that they should be confined to providing linking information or to the role of "interlocutor". The Tribunal does not consider that the role is so limited. A reporter is not confined to a colourless recital of hard, primary facts. He or she is entitled to draw inferences from the published views of people or of organisations, if such inferences are there to be taken. Without the scope to do this, reporters could not provide much insight into political, industrial or economic affairs, to name just three examples. If there are similarities between the views of different people or organisations, it is open to a reporter to point to them but any suggestion of a causal connection should be properly supported. If the inferences drawn are too far-fetched and reflect adversely on someone, that can be a matter for a valid complaint on the grounds of unfairness.

Mr Simpson himself acknowledged that there is sometimes a fine line in this area. We do not consider that the item contained any further breach in this respect, beyond what the Corporation has already acknowledged. Mr Hudson accepted that the reference to "a large number of influential trade union posts" was open to