

The reasons given by the Corporation were:

1. The film had been publicly screened without cuts, although with an R16 classification. TVNZ showed the film "late".
2. A warning about the language was given before the film started.
3. The language had been used in real life and it was used in the historical context of the film.

Mr Leitch then made a formal complaint to the Broadcasting Tribunal and stated his dissatisfaction with the Corporation's decision to be because "the complaint was dismissed apparently on the grounds that what is acceptable in books and movie theatres is acceptable on television." Mr Leitch's view is that the broadcast of obscene language on television or radio is permissible only in the most extraordinary circumstances, and such circumstances did not exist here.

The Corporation does not ordinarily condone the use of such language either. Both Mr Fabian and the Secretary of the Corporation said so in letters to Mr Leitch. However the Corporation's position is that in the particular circumstances there was no breach of section 24(1)(c) of the Broadcasting Act 1976.

The following points raised by the Corporation, were considered by the Tribunal:

1. *Documentary*

The Corporation suggested that because the programme was a dramatised version of the uncovering of the Watergate scandal and was all based on fact, it was virtually a documentary. The language used was consistent with that in the book with the same title which was written by the reporters involved in the revelations. The Corporation says it can be assumed that they knew what language was actually used in the circumstances and therefore the use of such language was justified.

The Tribunal viewed video tapes of the whole programme. The programme was not a documentary, but was a dramatised version of the book.

2. *Radio Standards and Rules*

Rule 1.1(b) Radio Standards and Rules requires broadcasters to take into consideration currently accepted norms of decency and taste in language and behaviour, bearing in mind the context in which they occur. The film was shown in New Zealand cinemas in 1976, with no excisions, and legal advice at that time was that, in context, the language would not be in breach of the law. The film was shown all over the country. Apparently no complaints were made about the language at the time of cinema release. That would seem to us a fairly good indication that in this particular context the use of the word was within currently accepted norms of decency and taste in language. That was 7 years ago.

3. *Timing*

The programme was shown at 9 p.m., after a language warning. The Corporation said this time was allocated in an attempt to approximate in television terms the Government Film Censor's decision that the film have an R16 certificate. We feel it unlikely that everyone under the age of 16 would be in bed by 9 p.m. and perhaps a later commencement time might have been even more appropriate. However the viewing time was later than the usual Saturday night movie, and this, combined with the language warning, should have made it clear that it was not just a programme for general family entertainment. The subject matter, being an aspect of recent American history, might well be something parents would encourage their children to view, as Mr Leitch pointed out. This factor required extra care to be taken by the Corporation in their decision to broadcast, and it appears to us that careful consideration was given to the decision and the appropriate safeguard of the language warning was used, together with a later than usual commencement time.

Mr Leitch felt the Corporation's dismissal of his complaint was wrong for the further reason that it appeared to him to contradict their finding on a complaint by him in August 1981 about the use of precisely the same word. The reason his complaint was upheld on that occasion was that its broadcast by the Corporation was entirely accidental. It had ordered cuts to be made to the film prior to screening but because the film had been hired, rather than bought outright, the cut print was sent to Hong Kong for use there before the scheduled screening in New Zealand. Another uncut version was returned to TVNZ and shown before anyone realised it was not the same print as had been sent to Hong Kong. As TVNZ advised Mr Leitch, checking procedures were immediately instituted to prevent a repeat accident.

We do not consider it part of the Tribunals' task to review the decisions originally made to cut that film in order to decide this complaint.

Decision

The statement made by the character Ben Bradlee was "What kind of a crazy fuckin' story is this?" Mr Leitch watched the film only until that language occurred. Later the word "fuck" was used

4 times in 3 separate incidents. In each case the words were used in conversation and in context. In one case the deletion of the word would have meant the deletion of a story about President Johnson who is alleged to have used the word. The story was relevant to the film.

The Tribunal is not persuaded that it should uphold the complaint.

First, although the programme was not a documentary, it was a dramatised documentary. It sought to portray events which actually happened and the people who took part in them. The recreation of the real characters called for significant detail of their appearance, manner of movement, speech mannerisms and all the dynamic ingredients that go to make someone recognisable as a particular individual. Although there has to be condensation in editing, we do not consider that everything potentially offensive to the broadest possible audience has always to be omitted. Presumably it was a widely noticed characteristic of the editor Ben Bradlee that such words were part of his speech and it was therefore dramatically valid to reflect that in this script. Although, of course, it would be easy to overdo that sort of thing, we do not think that in this case it was overdone. (He uses the word later on 2 occasions.)

Secondly, it is not unimportant that Mr Leitch's was the only complaint. This suggests that the Corporation's judgment of the scheduling and the style of promotion and the advance warning reflected community standards.

Thirdly, if it were decided that it was undesirable to show the film with these words in them, then short of refusing to carry an important and serious film, it would have been necessary to excise complete sentences and even a short scene. The sound track could be deadened. Alternatively the programme could be shown late with a warning and this is what the Corporation decided to do. While it is possible that a casual viewer could have been tuned in and been offended we do not believe that the circumstances of the type of film, the context in which the words were used and the late hour would be likely to cause offence to the vast majority of viewers—and as far as it is known it did not cause any offence to anyone else who felt sufficiently annoyed to complain in the instance of "All the President's Men".

The word "fuck" has travelled some distance in usage even since the Tribunal's 1977 decision concerning its use in its functional sense in the course of an interview in which a rape victim quoted her attacker's words verbatim.

In "All the President's Men" it was used in a secondary or derivative meaning in which became popularly known during the Nixon presidency as an expletive. The word has carried a wide range of secondary meanings. For many years it has been considered grossly improper to use it conversationally in "mixed company".

The word therefore had a considerable shock value. Besides the functional meaning (describing sexual activity) it had an expletive meaning and a shock value when used under emotional pressure or in moments of extreme anguish, distress or violent anger. It is interesting to note that the Macquarie Dictionary, an Australian publication, gives a detailed analysis of the word, faithfully recording its wide varieties of use in every day speech.

While we cannot say the word was necessary to the film, we do believe it was used in a dramatically valid situation in a type of film where it was least likely to offend an audience. It is most unlikely that any teenager who was studying modern American history and who was, as Mr Leitch suggested, staying up to watch the film would not have heard the word used on countless occasions with the sort of meaning which it carried in the film.

This is not to say that such words should normally be used on television and nor does the Corporation suggest that they might. Broadcasting into homes is not the same as cinema release. The greatest caution should be exercised in permitting any use in television programmes.

The Tribunal has taken into account the need to reflect community standards in programmes and does not consider that this programme offended that principle, nor did it infringe the rule.

The complaint is not upheld.

Co-opted Members

Messrs Ell and Stephenson were co-opted as persons whose qualifications or experience were likely to be of assistance to the Tribunal in dealing with the complaint. They took part in the consideration of the complaint. They took part in the consideration of the complaint but the decision is that of the permanent members.

Dated the 15th day of March 1984.

For the Tribunal:

B. H. SLANE, Chairman.