

Co-opted Members

Messrs Macbeth and Downey were co-opted as persons whose qualifications and experience were likely to be of assistance to the Tribunal in determining the complaint. They took part in the hearing and the deliberations of the Tribunal but the decision is that of the permanent members.

Dated the 30th day of March 1984.

Signed for the Tribunal:

B. H. SLANE, Chairman.

Decision No. 11/84
COM 1/83

Before the Broadcasting Tribunal

IN the matter of the Broadcasting Act 1976, and in the matter of a complaint by the NEW ZEALAND PUBLIC SERVICE ASSOCIATION.

Warrant Holder—BROADCASTING CORPORATION OF NEW ZEALAND (Television One):

Chairman: B. H. Slane.

Members: L. R. Sceats, A. E. Wilson.

Co-opted Members: G. C. Ell, B. W. Stephenson.

DECISION

The Programme

Television One's 6.30 p.m. news bulletin on Thursday, 12 May 1983 contained a report of a fire overnight in Dunedin. The fire was a large one: It took an hour to bring under control and did half a million dollars' worth of damage. A young man had been charged with arson. Although it appears that the building destroyed was not an historic one, the site was of historic interest, being the place where New Zealand's first paper mill had been. The burned building was Whitcoulls' paper and cardboard store. So the story had several features giving it a strong interest in the public.

The newsreader read the item to camera. There was no visual material to support it. At the end of the item the reader said:

"We had hoped to show pictures of the fire, shot by a freelance cameraman but that material had been blacked by the Public Service Association. We're sorry about that."

The complaint

Just over two weeks after the broadcast, one of the Senior Advisory Officers for the New Zealand Public Service Association, ("the PSA", Mr A. J. Simpson, sent a formal complaint to the Broadcasting Corporation of New Zealand ("the Corporation"). Mr Simpson subjected to the words which attributed the lack of pictures to action by the PSA. He said that the availability or otherwise of visual material was not intrinsic to the item. He expressed the view that, if the Corporation wished to report an industrial dispute, it should do so by stating the facts of the dispute and, if necessary, by running comment from the parties involved. He objected to the report on the basis that it ascribed responsibility only to one side.

Mr Simpson made it clear that he did not wish to argue the industrial rights and wrongs of the matter. He based his complaint on the requirement of fairness expressed in the Broadcasting Act 1976, s. 24 (1) (d) which calls for:

"The accurate and impartial gathering and presentation of news, according to recognised standards of objective journalism."

Mr Simpson considered it a departure from that standard to attribute the lack of visual material only to the PSA. He said:

"... it is a matter of record that the dispute arose from a disagreement over the application of certain management guidelines as between this Association and as (sic) between sections of the management itself. The actions of all 3 parties were intrinsic to the dispute but only the union was mentioned in the item."

Mr Simpson suggested that it would have been more strictly factual and more neutral if the reader said something along the lines that pictures were not available "because of an industrial dispute between the Public Service Association and the management of Television New Zealand."

The Corporation's Finding

The Corporation did not uphold the complaint. In a letter to Mr Simpson dated 11 July 1983, the Secretary of the Corporation, Mr McLean, said:

"The Corporation considered reports which indicated that, at the time of the broadcast, the reasons for not handling the visual material associated with the item were not given by PSA representatives to news or personnel executives. It was also noted that it is a quite common editorial practice to inform audiences when visual material cannot be shown. Having

regard to the absence of reasons for the action by PSA members, the use of the expression 'blacked' was not considered to be inaccurate, and in the circumstances the Corporation was unable to uphold the complaint."

Referral to the Tribunal

Mr Simpson was not satisfied with the Corporation's answer. He referred his complaint to the Tribunal in its original form. He did not ask for a hearing. The Corporation made further submissions by letter and these have been circulated. The Tribunal has asked for further information from the parties by letter and their replies have also been circulated to the parties. The Corporation also produced the relevant correspondence, including letters from Mr Simpson relating to the industrial aspects of the incident.

The Corporation in its submissions made 3 points:

1. A fire of any dimension is usually covered by television. If it occurs within a reasonable period prior to a news transmission, viewers expect a news organisation to screen pictures. In the circumstances, it was quite proper for the news organisation to give the public a reason why they could not see for themselves the dimension of the fire.
2. The fire was the topic of the item, not an industrial dispute which, if the facts had been known, might well have produced a separate news item. It submitted that the words used concerning the PSA "blacking" the item were accurate.
3. The Corporation was in no position to report fully the reasons for the PSA action at the time the news item went to air.

The Issues

Mr Simpson's complaint raises some important issues. Industrial reporting bristles with problems and so does the reporting of other events which have been affected as a consequence of an industrial dispute. The requirements of objectivity and impartiality are no less strict and the difficulties of achieving them are often just as great in the latter case. The reporting of industrial matters often focusses more on the consequences than on the issues of the dispute itself, as the consequences are often of more immediate public interest.

Reporters and sub-editors have to be on guard against an unconscious bias. Occasionally, when an industrial dispute is mentioned in a news report about the consequences, an unfortunate newsroom shorthand creeps in, in which the more neutral "industrial" is replaced by "union", as in "union action", "union strike", "union troubles", or "union dispute". While the inference may never have been intended, it is nevertheless there to be taken that the union was the cause of the problem. In reality it is just as possible that an employer's action may have been the direct cause. The use of such shorthand may constitute a failure to meet the standard of impartiality and objectivity required by section 24 (1) (d). It was well put on another occasion by the Director-General of Television New Zealand, Mr Allan Martin, who Mr Simpson quoted in his complaint to the Corporation:

"There might be, albeit unintentionally, an inference that the responsibility for industrial disputes belongs to the unionists and not management. I imagine this results from the notion that management is the status quo which the unions attempt to modify and in some cases radically change. When negotiations break down, overt action may be the only weapon available to employees. Industrial disputes are generally regarded as news and direct attention (presumably direct action) to resolve them is usually regarded as increasing news interest. In this event, the public might be left with the impression that such action is irresponsible, when the reasons for it might be an uncompromising and intractable attitude by management. Your point here is well made and our news staff have been reminded of the need for complete impartiality in these matters.

The Circumstances

The industrial and the programme-related strands of this case have quite separate identities but they are intertwined in such a way that the complaint cannot be dealt with in complete isolation from the industrial relationship between the parties. For one thing, the broadcasting organisation whose news broadcast is complained of was itself the object of the industrial action which is reported. That was all the more reason for it to be careful as to its objectivity.

The issue is whether, in the circumstances, it was fair for the Corporation to attribute responsibility for the "blacking" to the PSA alone.

If, as Mr Simpson suggests, the "blacking" should have been attributed to an industrial dispute, it is necessary to inquire whether there was a dispute to attribute it to. At first glance, it may seem self-evident that industrial action always occurs in the context of an industrial dispute. However, this is not always the case. The so-called "political" strike is an example: the employees serve no claims on the employer, he has nothing to respond to and no action on his part will stop the strike. In those circumstances, it would be