

Section 24 of the Broadcasting Act 1976 provides:

(1) The corporation shall be responsible for maintaining, in its programmes and their presentation, standards, which will be generally acceptable in the community, and in particular it shall have regard to—

(c) The observance of standards of good taste and decency;

(d) The accurate and impartial gathering and presentation of news, according to recognised standards of objective journalism;

Mr Simpson considered both those requirements had been breached. He said he did not believe it amusing or acceptable to make fun of the manner of speaking of particular individuals. He said the announcer would be deeply hurt if an English person were to poke fun at the "colonial" way in which the announcer spoke. Whatever may have been the acceptability of humour in the original joke of Peter Sellers, it is no longer regarded as anything but very bad taste to make "jokes" of this sort, he said.

Mr Simpson also offered the view that it was the announcer's job to present the news and no part of his task to add extraneous comments of one sort or another.

The corporation did not uphold the complaint. It had regard to the continued acceptance among the public of recordings of the late Peter Sellers in which he portrayed "Indian" accents.

In referring the application to the Tribunal Mr Simpson claimed the corporation had failed to understand the nature of the complaint.

"While the public at large might find the portrayal of Indian accents amusing it is not in their amusement or lack of it that the failure of taste lies. If I may suggest a parallel circumstance in Germany between 1933 and 1945, jokes of an anti-Semitic nature were probably perfectly acceptable to the public at large. But they were not acceptable to an important minority group, i.e. the Jewish religionists of Germany. In this matter similarly. The mark of a civilised society is to recognise that what we might find entertaining might be extremely hurtful to a minority of our fellow citizens. In this case I am sure that people of Indian extraction or culture can see nothing funny about the way they speak being gayed by a radio announcer. That in my view is unacceptable and is regarded as bad taste by the community at large."

In a submission to the Tribunal the Broadcasting Corporation noted that the item updated a report well established in the public consciousness, i.e. that the then new New Zealand Government was to reinstate diplomatic representation in India. The report presented a mainly human interest aspect, said the corporation, together with a subsidiary element of local reaction. In tone and thrust it was a lighter though factual "down the bulletin" type of story. Bearing that in mind and taking the scripted introduction and actuality as one report, the corporation found it difficult to see that the obiter dictum of the presenter which is the substance of the complaint did detract from accuracy and impartiality.

With regard to good taste and decency the corporation said that the mere mention of the name of Peter Sellers was sufficient to evoke in the minds of listeners a complete frame of humorous reference, the satirical aspects of which were rarely unkind. It also noted the long standing and widely acclaimed performances of Peter Sellers.

The recordings continue to be requested and their playing was not accompanied by written or oral complaint alleging infringements of good taste and decency. The presenter's aside coming after nearly 2 minutes of heavily Indian accented English might also be said to have added a nice touch, said the corporation. If it is possible to say anyone has a smile in their voice, a close listening to the tape will discern that the presenter has just that. There was no element of racial denigration in the item to warrant the upholding of a taste and decency charge, said the corporation.

The corporation observed that Radio New Zealand's Morning Report presenters were deliberately called presenters as distinct from newscasters. They have scope to make light or whimsical comment as may seem appropriate especially when the news may happen to be heavy or dreary. The corporation added that the days when radio news bulletins could be branded as stiff and starchy were long since gone and it was such innocent *ad libitum* comment, such as that which was the subject of this complaint, that had helped to give today's report programmes life and an appreciative audience.

The humour of the situation had been picked up by a Wellington suburban newspaper which made a similar allusion.

The complainant's drawing upon anti-Semitic jokes for comparison purposes was not considered exact or tenable by the corporation.

There had been no phone or written complaints following the programme apart from Mr Simpson's. In view of the not inconsiderable resident ethnic Indian population in New Zealand it was not unreasonable to expect an adverse reaction had the remarks been interpreted and been seen by them and the community at large in the way the complainant alleges. The corporation said it was understood that there were many of Indian extraction who had found the Peter Sellers imitations of their manner of speaking to be highly amusing.

The difficulty Mr Simpson faces is that he had presumed to complain on behalf of the Indian population of New Zealand not about a mimicry of an Indian New Zealander's accent nor indeed of mimicry of an Indian's use of English. He has complained about a reference to a comedian who among other things is known for his now rather dated mimicry of the intonation of English when spoken as a second language by some Indians. If some particular mimicry may have been offensive it is certainly difficult to see that a mere reference to Peter Sellers could have evoked the memory in such a vivid way as to infringe standards of good taste and decency.

Mr Simpson's dislike of the use of asides in the report programme is a matter of style. It is not a matter for the Tribunal to consider on a formal complaint.

The Tribunal cannot see that the presenter's reference in any way affected the impartiality or objectivity of the report. The Tribunal cannot uphold the complaint in that respect.

The Tribunal is of course concerned that on the one hand the freedom of speech and indeed the freedom of humour should not be circumscribed by perceived slights or stereotypes whether it be by mimicry or caricature. Are lawyers to be offended because of pompous voices used to suggest that the lawyer is speaking, or judges to complain because the stereotype of the judge is of a somewhat absentminded, unwordly old man?

In India, English has been adapted. Mr Fali S. Nariman, a senior advocate of the Supreme Court Bar of India, wrote recently (1985 NZLJ 8 at page 9):

"The legal system in India has much in common with the English language—both were originally imported from abroad. Over the course of over 300 years, each has become distinctively Indian. The language as spoken and written in India has the same alphabet and conforms to the same rules of grammar—but the idioms, the expressive phrases and even the pronunciation of words are different. Many new words have crept in.

We have institutionalised and localised the English language; as some wit said, it has become English. So with the legal system."

The Tribunal considers there is a danger to our freedom of speech if we are not able to speak English with a French accent to tell a joke about a French person, or to imitate any accent of any other nationality for humorous effect. It is only when such behaviour is destructive that there is a breach of good taste. That is not the case here.

The New Zealand and Australian use of English is often lampooned.

Any attempt to impose personal concepts of good taste and decency are a dangerous precedent to others with narrow views on particular conduct to impose their own personal tastes and moral codes on viewers and listeners.

Any attempt to impose sectional moral standards on other members of the community via broadcasting when they do not reflect broadly based community attitudes needs to be resisted in the interests of both broadcasters and those who listen to them.

The complaint is not upheld.

#### Co-opted Members

The Tribunal co-opted Messrs Kerekere and Pradhan 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 deliberations of the Tribunal but the decision is that of the permanent members.

Dated the 3rd day of October 1985.

Signed for the Tribunal:

B. H. SLANE, Chairman.