

"Whenever there is an accident, one can always find a crackpot who wants to hold a further inquiry. About once a month, I get a request for yet another inquiry into the Mount Erebus accident."

"It's hard to avoid thinking about Erebus through all this. An Air New Zealand plane took safety risks to give tourists a great view. It crashed into a mountain. The *Mikhail Lermontov* sailed through foul waters to give passengers a great view of the Sounds and the ship was lost. Three months away from that sudden decision to steer Port Ten, the Ponsford report is the only official explanation for the tragic circumstances here at Cape Jackson. Is it to be another Chippindale report, that blamed the pilot while the Mahon report later changed that? Right now New Zealand believes one man, Captain Jamison, is principally responsible for the sinking. He lives to tell his tale, but is not speaking, and the Government is not acting to put to rest all those unanswered questions. Why, many of Captain Jamison's colleagues are asking, is he and New Zealand to be left swinging while the Government hopes the questions will go away?"

The reference to the Mahon report is to a Royal Commission which was set up by the Government to inquire into the Air New Zealand accident at Mount Erebus, and which came to some different conclusions. One of these can be summarised as follows:

The Inspector of Air Accidents report:

"3.37 Probable Cause:

The probable cause of this accident was the decision of the Captain to continue the flight at low level towards an area of poor surface and horizon definition when the crew was not certain of their position and the subsequent inability to detect the rising terrain which intercepted the aircraft's flight path."

The Royal Commission chaired by Mr Justice Mahon concluded:

Para. 393:

"In my opinion therefore, the single dominant and effective cause of the disaster was the mistake made by those airline officials who programmed the aircraft to fly directly at Mount Erebus and omitted to tell the crew."

#### *Complaint to the BCNZ*

Mr Chippindale lodged a complaint with the Secretary of the Corporation on 11 July 1986. His complaint was with the rhetorical question:

"Is it to be another Chippindale report, that blamed the pilot while the Mahon report changed that?"

In his letter he made the following points:

The report was not a "Chippindale report" in the sense of being made by one person. It was the result of an investigation involving a panel of experts. A draft report was subject to review and comment by legal personal representatives and other parties. The investigation was conducted by an independent office established solely for the purposes of investigation and staffed by trained and experienced investigators who were assisted by overseas experts. He contrasted that with the work of the Marine Inspector engaged in a short preliminary inquiry into the loss of the ship. The use of Mr Chippindale's name had brought discredit personally on him and on his office which required to be held in high regard to carry out its functions.

He also pointed out that the Royal Commission which produced the so called Mahon report did not "change" the findings of his report, which still stood. He said the Royal Commissioner attributed different emphasis to the causal factors and expressed a different view of the primary cause. The complainant cited, in support, the judgment of three Judges of the Court of Appeal who dealt with a judicial review of the Royal Commission as follows:

"The question of causation is obviously a difficult one, as shown by the fact that the Commissioner and the Chief Inspector of Air Accidents in his report came to different conclusions on it. But it is not this Court's concern now. This is not an appeal. Parties to hearings by Commissioners of Inquiry have no rights of appeal against the reports. The reason is partly that the reports are, in a sense, inevitably inconclusive. Findings made by Commissioners are in the end only expressions of opinion. They would not even be admissible in evidence in legal proceedings as to the cause of a disaster. In themselves they do not alter the legal rights of the persons to whom they refer."

And in the judgment of two of the other Judges the following statement:

"In the circumstances it is difficult to understand why the same point of view Mr Chippindale expressed in his evidence could not be genuinely shared by other educated observers."

Mr Chippindale concluded that his report was being used to indicate an inefficient investigation comparable with the Marine Division's investigation of the sinking of the *Mikhail Lermontov* which discredited both his office and him personally.

#### *BCNZ Response*

The Corporation advised Mr Chippindale on 24 July 1986 that he could proceed with the complaint under section 24 (1) (d) concerning the accurate and impartial gathering and presentation of news according to the recognised standards of objective journalism, or in relation to the television programme rule 5.1 (b) that news must be presented accurately, objectively and impartially. An alternative course was to address a complaint to the Broadcasting Complaints Committee alleging unjust and unfair treatment.

On 6 August 1986 Mr Chippindale responded that his purpose was to have a statement made sufficient to repair the damage caused by the programme about which he had complained. He referred to rules which required the Corporation to be truthful and accurate on points of fact, to deal justly and fairly with any person referred to in any programme, and to show balance, impartiality and fairness in dealing with current affairs and all questions of a controversial nature.

The Corporation dealt with the complaint on 23 September 1986 and subsequently wrote to the complainant stating that the use of his name in connection with the report was a common practice and did not in itself bring his name into disrepute. In quoting the passages mentioned above from the two reports on the Mount Erebus air accident the Corporation concluded that there were a number of contributory factors which led to the crash on Mount Erebus, but there was a difference on the single dominant cause. The Corporation concluded that the words used in the programme were not inaccurate and did not impugn his name or his office.

The Corporation declined to uphold the complaint.

#### *Complaint to the Broadcasting Complaints Committee*

On 31 October 1986 Mr Chippindale lodged a complaint of unjust and unfair treatment of himself and his office with a statutory body, the Broadcasting Complaints Committee. On 6 March 1987 the Committee gave its findings:

"In my view the question could have been worded more happily. Clearly another report could not change the earlier report, but the public would be left possibly with two conflicting reports and would be left to draw its own conclusions. Except to note what I have said about the wording of the question I do not think anything further is required."

The Committee also said:

"So far as the two reports concerning the Erebus disaster are concerned, Mr Chippindale is quite correct when he says that the report of the Royal Commission did not change his