

context of this complaint, both to the complainant and possibly to others who are concerned with similar issues.

The Tribunal observes simply that it is reasonable that the sort of concerns Mr Watson has should be kept in mind by broadcasters so that they can, from time to time, bring forward other perspectives on world issues beyond the specific hard news items whose qualities of visual immediacy and world importance have qualified them for inclusion in a news bulletin. For such a bulletin does little more than record a tiny proportion of the world's activities in any one day.

Our decision is that the complaint is not upheld because it lacked the features necessary to constitute a complaint under the Act.

Co-opted Members

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

Signed for the Tribunal.

B. H. SLANE, Chairman. 2
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Decision No. 6/90

COM 9/88

COM 11/88

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint lodged by **John Riddell Kelly** of Auckland (COM 9/88), and in the matter of a complaint lodged by **John Riddell Kelly** on behalf of **Richard James Alexander Cuthbert** of Auckland with the Broadcasting Complaints Committee (COM 11/88):

Warrant Holder: **Radio Pacific.**

Tribunal:

Chairman: Judge B. H. Slane.

Member: Robert Boyd-Bell.

Co-opted Members: R. M. Carter (COM 11/88), J. Tucker (COM 9/88 and 11/88) and M. J. Sheehan (COM 9/88).

Decision

Dated this 26th day of January 1990.

The Complaints

On 4 April 1988 Mr Kelly, secretary of the Citizens' Association for Racial Equality Inc. (CARE) wrote to the Managing Director of Radio Pacific with a formal complaint "concerning several aspects of recent broadcasts by your station."

Specifically, he said that on Tuesday, 29 March 1988 at about 5.25 p.m., T. Bickerstaff, a Radio Pacific talkback host, during his "Auckland Tonight" session, "in reference to what he saw as a restriction of the right to free speech" had said:

"Bugger it, if you're going to get bloody curtailed you might as well clean out shit houses. It's all a lot of crap."

Mr Kelly wrote that Mr Bickerstaff had also used the word "Christ" several times in a way he found blasphemous.

On that day the *New Zealand Herald* and *Auckland Star* had reported the decision (decision No. 6/88) of the Tribunal on Radio Pacific's application for renewal and amendment of its warrant. Comments were made by the Tribunal about the allegations from CARE about Radio Pacific and, in particular, about breaches of section 9A of the Race Relations Act and the warrant holder's response.

Mr Kelly said that on Wednesday, 30 March, the next day, the Bickerstaff programme returned to the same "theme" and Mr Bickerstaff stressed his conviction that he was really under fire

because of his stance on sporting contacts with South Africa and about HART and CARE which opposed such contacts:

"The Tribunal thought that out, and it's in their findings, which I've read . . ." and

'As to HART and CARE: They've got all the media in their pockets. By Jesus they haven't got me . . . Bloody wankers the lot of them.' "

Mr Bickerstaff used other swear words. (A fuller version is set out below in this decision.)

Mr Kelly believed this sort of language was a deliberate breach of acceptable standards of good taste and decency. He challenged the truth and accuracy of Mr Bickerstaff's interpretation of the Tribunal's decision and said that if it was wrong, that represented a breach of the Broadcasting Act 1976 too.

In the same letter, Mr Kelly gave the station notice that he was authorised by Mr Cuthbert to make a complaint on his behalf to the Broadcasting Complaints Committee of unfair treatment and unwarranted infringement of privacy by Mr Bickerstaff who named Mr Cuthbert on air as the person chiefly responsible for the alleged campaign against Mr Bickerstaff:

"He said to a caller:

'His name is Dick Cuthbert. Remember that name—Dick Cuthbert.' To which the caller responded: 'I'll remember it.' "

He said that following the broadcast Mr Cuthbert had been subjected to several abusive and threatening anonymous phone calls from bigots prompted by the Bickerstaff broadcast. He said that Mr Bickerstaff seemed unaware of the power of the media he used so recklessly and that he should be reminded of his professional responsibilities.

The transcript of the relevant portions of the programme of 29 and 30 March is as follows:

29 March:

HOST:

. . . you know, I'd have to go, if I was that much of a problem.

CALLER:

That's what I like about you, you can say that and you. . .

HOST:

Yeah, and I like the way that the managing director, Derek Lowe, stuck up for me all the way through too. Ah bugger it, I mean, if you're gonna get curtailed, you may as well go and bloody well, you know . . . clean out shit houses or something like that mate, because you get to the stage where you think is this worth it, going through all this crap, and really you start to wonder about it.

CALLER:

Keep at it, Tim, you're doing a bloody good job. O.K.

HOST:

Thank you very much.

30 March:

CALLER:

. . . Well they must do. I mean, the people aren't being brought to heel, are they?

HOST:

Ah, that's interesting. I didn't know about that. Civil liberties, is it?

CALLER:

Yes. Think about it anyway.

HOST:

I'll fight me own battle mate.

CALLER: