

would have been little point in entering in a protracted "ping-pong" exchange.

Mr Jensen's comment that the Treaty of Waitangi had never been legally ratified was seen to have no relevance, given that both the National and Labour governments had chosen to acknowledge it through the Waitangi Tribunal. The Corporation pointed out that Ms L'Estrange's organisation received Government support and funding and had a legitimate claim to be heard.

Reference to the Tribunal:

At the same time as referring his complaint to the Tribunal following receipt of the Corporation's decision. Mr Jensen wrote to the Secretary of the Corporation an insulting letter acknowledging receipt of the decision.

On 14 October 1988 he referred his complaint to the Broadcasting Tribunal stating:

"either the BCNZ judge and jury obviously didn't research my complaint or it was left to an office junior to action by the wayward response it gave re issues outside my concern and their decision was infantile to say the least."

Mr Jensen alleged that Ms L'Estrange was given considerable time on prime time news to:

"thrash her pet hate, racially rude, condemning R. Martin on fishing rights for all New Zealand citizens. R. Martin should have had the right of reply either at the time or soon after, as the Act stipulates so clearly. It was obvious the BCNZ judge and jury had no facts for referral and floundered around as a cover."

He then made some generalised accusations of incompetence and bad faith against the Corporation and its staff.

Radio New Zealand Submissions:

In response to the Tribunal, Radio New Zealand reiterated the points made earlier and sent copies of news items broadcast on 21 June, 1 and 5 July, 6 July (2 reports), 19 July, 20 July (2 reports) and 27 July, reporting Mr Martin on the continuing issues.

The 1 July report was a direct response to the Project Waitangi statement referred to in Mr Jensen's complaint and had been broadcast on the same day.

RNZ said Mr Jensen had failed to take into account the reports of Mr Martin's comments, broadcast extensively both before and after the item which was the subject of the complaint. Copies of news scripts were supplied to confirm that situation.

RNZ asserted that, in the circumstances, it was not possible to sustain the complaint of lack of balance.

It also rejected Mr Jensen's inferences of discourtesy and biased "... internal BCNZ (Radio New Zealand) influences."

Consideration:

The Tribunal invited Mr Jensen to attend a formal hearing of this and another complaint lodged by him (Com 16/88), but he declined repeated invitations to do so.

The Tribunal has considered the complaint in the light of the submissions made by RNZ and the supporting material supplied.

The Broadcasting Act 1976 does not require differing points of view on controversial issues to be covered in the same programme. It does require that:

"reasonable efforts are made to present significant points of view either in the same programme or in other programmes within the period of current interest."

The evidence submitted by Radio New Zealand clearly established that Mr Martin's general views on this issue had been widely reported both before and after 1 July. It also demonstrated that Mr Martin's response to the item complained of was sought and recorded on that day.

The Tribunal considers the requirements of the Broadcasting Act had clearly been met on this occasion.

One of the functions of the media in a democracy is to present differing points of view.

Decision:

The complaint is not upheld.

Co-opted Members:

Judge P. J. Trapski and R. M. Carter 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 and the deliberations of the Tribunal but the decision is that of the permanent members.

Signed for the Tribunal.

B. H. SLANE, Chairman.

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Decision No. 8/90

COM 16/88

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by **Harold Earle Jensen** of Wilton, Justice of the Peace:

Warrant Holder: Broadcasting Corporation of New Zealand (Radio New Zealand: National Programme):

Chairman: Judge B. H. Slane.

Member: R. Boyd-Bell.

Co-opted Members: R. M. Carter and P. J. Trapski.

Decision

Dated this 30th day of January 1990.

The Complaint

Mr Jensen's complaint arose from the following portion of a radio programme called "The Week Link", broadcast on Radio New Zealand's National Programme on Saturday morning, 11 June 1988:

"Narrator: Hats off to the off-duty policeman who intervened in a football match last week, while 2 gangs were fighting in public. The gangs, from Te Papapa and Waitemata, were pretending to play rugby while beating the stuffing out of each other in the name of fair play and sportsmanship. When 2 players were unconscious, an off-duty sergeant ran onto the field and arrested 3 of the so-called players.

Spokes. Voice: Oh well, that's sport. . .

Narrator: . . . said a rugby fanatic.

Spokes. Voice: Some of the boys get a bit het up . . . sorry, hit up, now and then.

Narrator: If they were Maoris, and wearing leather jackets with funny pictures on them, there'd have been a public outcry. The moral of the story is: if you want to beat people up, play rugby. Most times, you'll get away with it."

In writing to Radio New Zealand on 11 June 1988, Mr Jensen described the group who present the programme as:

"playing on innuendos and trying to make subtle satire at others' expense made the following blatant infantile comment: 'If you want to beat people up play rugby!'"

He described it as:

"humour at its lowest form and could only be attributable to the temples of BCNZ."

He sought a total public retraction.