



LAND & DEEDS OFFICE

30 JUL 1990

GISBORNE

The New Zealand Gazette

WELLINGTON: THURSDAY, 26 JULY 1990

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Using the Gazette

The *New Zealand Gazette*, the official newspaper of the Government of New Zealand, is published weekly on Thursdays. Publishing time is 4 p.m.

Notices for publication and related correspondence should be addressed to:

Gazette Office,
Department of Internal Affairs,
P.O. Box 805,
Wellington.
Telephone (04) 738 699
Facsimile (04) 499 1865

or lodged at the Gazette Office, Seventh Floor, Dalmuir House, 114 The Terrace, Wellington.

Closing time for lodgment of notices at the Gazette Office: 12 noon on Tuesdays prior to publication (except for holiday periods when special advice of earlier closing times will be given).

Notices are accepted for publication in the next available issue, unless otherwise specified.

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Availability

The *New Zealand Gazette* is available on subscription from the Government Printing Office Publications Division or over the counter from Government Bookshops at:

Housing Corporation Building, 25 Rutland Street, Auckland.

33 Kings Street, Frankton, Hamilton.

25–27 Mercer Street, Wellington.

Mulgrave Street, Wellington.

E.S.T.V. House, 4185 Queens Drive, Lower Hutt.

159 Hereford Street, Christchurch.

Government Buildings, 1 George Street, Palmerston North.

Cargill House, 123 Princes Street, Dunedin.

Other issues of the Gazette:

Commercial Edition—Published weekly on Wednesdays.

Customs Edition—Published weekly on Tuesdays.

Special Editions and Supplements—Published as and when required.

Parliamentary Summary

Bills Assented To

Government Bill

23 July 1990

Education Amendment Bill

Assent No.

60

Bills Introduced

Government Bills

(Minister/Member in Charge Shown in Parenthesis)

17 July 1990

Commodity Levies Bill. (Hon. Jim Sutton.)

Referred to Select Committee

Primary Production

19 July 1990

Occupational Safety and Health Bill. (Hon. Dr Michael Cullen.)

Labour

Private Member's Bill

18 July 1990

Vietnam War Veterans' Health (Commission of Inquiry) Bill. (Mr Braybrooke.)

Foreign Affairs and Defence

Summary of Bills Introduced

Commodity Levies Bill

This Bill enables the making of "levy orders" by Orders in Council empowering organisations representing the producers of primary commodities to impose a levy in respect of the commodity. Such orders must be made on the recommendation of a Minister of the Crown who must be satisfied that there has been adequate consultation with the persons affected and that the proposal has the support of the majority within the industry. Any levy must be used for the benefit of the industry, and it must be shown that the things for which the levy is to be used could not be accomplished by the imposition of voluntary contributions. When levies are imposed, the organisation receiving the levy must account properly to the industry for the use of that levy. In relation to this the Bill specifies how levy money may and may not be spent, provides for special arrangements for conscientious objectors, the opening and operation of bank accounts, confirmation of levy orders by Act of Parliament and the expiration of orders after 5 years unless renewed by Order in Council. Industry organisations must prepare annual statements relating to the collection and use of levy money and include these in an annual report to be given to the Minister and tabled in the House of Representatives.

Occupational Safety and Health Bill

This Bill has 3 broad effects. First, it provides for the election and establishment of workplace safety representatives and committees. Secondly, it provides for the establishment of an Occupational Safety and Health Commission. Thirdly, it repeals a number of existing statutes relating to specific aspects of occupational safety and health, and replaces them with—

- (a) A series of general provisions about occupational safety and health; and
- (b) Provisions enabling the making of more specialised (and, where necessary, more stringent) regulations.

Vietnam War Veteran's Health (Commission of Inquiry) Bill

This Bill establishes a Commission of Inquiry to investigate the extent of damage that may have been caused to the health of New Zealand servicemen by the use of herbicides and other chemicals during the Vietnam War.

ps8111

Government Notices

Agriculture and Fisheries

Animals Protection Act 1960

Approval of Code of Ethical Conduct—Notice No. 5026 (100/A1/07)

Pursuant to section 19A of the Animals Protection Act 1960 and on the advice of the National Animal Ethics Advisory Committee I hereby approve the code of ethical conduct submitted to me from Manawatu Polytechnic.

Dated at Wellington this 16th day of July 1990.

J. R. SUTTON, Minister of Agriculture.

go8034

Broadcasting

Radio Communications Act 1989

Statement of Government Policy and Direction to the Secretary of Commerce

To the Secretary of Commerce

I, Jonathan Lucas Hunt, Minister of Communications, acting pursuant to section 112 of the Radio Communications Act 1989 ("the Act"), and pursuant to the policies of Government communicated to you in the Statement of Commerce dated 20 December 1989 and published in the *Gazette* of 11 January 1990 at page 4, hereby direct you as follows:

That notwithstanding paragraph (a) of the directions contained in the Statement of Government Policy and Directions to Secretary of Commerce dated 20 December 1989 you may grant such radio apparatus licences for VHF frequencies, on a short-term non-renewable basis not exceeding 14 days, as are required for the purposes of providing television coverage of local events where such television coverage is not provided by TV1, TV2 or TV3.

Dated at Wellington this 19th day of July 1990.

JONATHAN HUNT, Minister of Communications.

go8032

Commerce

Radio Frequency Tendering

Ministry of Commerce: Call for Tenders for Radio Frequency Rights

Radio frequency rights suitable for the licensing of video or other telecommunication services and AM and FM sound broadcasting are the subject of a public call for tender issued by the Ministry of Commerce, Wellington, dated 26 July 1990.

Each lot offered for tender and detailed in the second schedule of the call document, is a single management right suitable for the licensing of video or other telecommunications services which are compatible with the technical conditions of the management right.

Each lot offered for tender and detailed in the third schedule of the call document, is a single licence suitable for AM (amplitude modulation) sound broadcasting.

Each lot offered for tender and detailed in the fourth schedule of the call document is a single licence suitable for FM (frequency modulation) sound broadcasting.

A full description of the spectrum rights offered and the conditions of tender are contained in the call document.

The tender closes at noon on Monday, 3 September 1990.

Any persons wishing to obtain a copy of the call document and bid form should forward their request, together with a remittance of \$27.00 to:

The Tender Round Manager, Radio Frequency Tender,
Ministry of Commerce, Box 1473, Wellington, New Zealand.

It should be noted that any request not accompanied by the remittance and which requires the generation of an invoice, may incur additional handling and processing charges.

Dated at Wellington this 24th day of July 1990.

M. J. BELGRAVE, Secretary of Commerce.

go8054

Conservation

Harbours Act 1950

Notice of Approval of Bylaws—Bylaw No. 1 1989—General

I, Philip Tosswill Edmond Woollaston, Minister of Conservation, pursuant to section 8A and section 165 (9) of the Harbours Act 1950, hereby give approval to the following

Rodney District Council Bylaws: Bylaw No. 1 passed on 1 November 1989, and confirmed on 14 December 1989 by ordinary meeting of the council, and acknowledged by the Minister of Transport on 6 June 1990.

Dated at Wellington this 19th day of July 1990.

PHILIP WOOLLASTON, Minister of Conservation.
go8121

External Relations and Trade

New Zealand Export Import Corporation Amendment Act 1987

Appointment to the Board of the New Zealand Export Import Corporation

Pursuant to sections 3 and 9 of the New Zealand Export Import Corporation Amendment Act 1987, His Excellency the Governor-General has been pleased to appoint

Eric Millar, Esquire of Wellington as chairman;

Derek Ernest Homewood, Esquire of Wellington as member; and to reappoint

Ronald Leslie Bailey, Esquire of Auckland as member; of the Board of the New Zealand Export Import Corporation. The terms of appointment are for 12 months commencing on 19 July 1990.

Dated at Wellington this 19th day of July 1990.

R. MAXWELL, for Minister of Foreign Affairs and Trade.
go8117

Health

Mental Health Act 1969

Declaration Establishing Part of the North Shore Hospital, Takapuna, Auckland to be a Psychiatric Hospital

Pursuant to section 6 (2) of the Mental Health Act 1969, I, Helen Clark, Minister of Health, hereby declare the Psychiatric Admission Ward, North Shore Hospital, Shakespeare Road, Takapuna, Auckland (being part of an institution within the meaning of the Area Health Boards Act 1983) to be a psychiatric hospital for the purposes of the Mental Health Act 1969.

Dated at Auckland this 21st day of July 1990.

HELEN CLARK, Minister of Health.
go8102

Inland Revenue

Interest PAYE Cancelled Certificate of Exemption Numbers for the Quarter Ended 30 June 1990:

10-180-198	10-339-855	10-889-219	12-921-934
13-326-770	13-627-061	18-485-017	19-067-807
25-048-989	25-071-018	36-333-774	42-686-530
43-215-094	43-808-222	47-925-436	48-675-824
49-703-848	50-129-543	51-704-479	51-880-439
51-921-500	52-084-130	52-095-883	52-391-583
52-392-640	52-392-659	52-452-929	52-555-477
52-621-178	52-623-138	52-757-185	52-758-890
52-844-096	53-023-487	53-112-129	54-996-179
55-000-042	55-000-077	55-000-999	55-008-574
55-012-954	55-015-023	55-015-570	55-023-212
55-026-386	55-027-250	55-028-567	55-032-297
55-042-950	55-050-902	55-051-836	55-057-524
55-063-141	55-065-195	55-068-925	55-069-999
55-072-078	55-072-205	55-073-945	55-074-453
55-074-496	55-074-550	55-089-531	55-098-603
55-100-438	55-104-441	55-112-452	55-116-059
55-125-678	55-130-841	55-146-888	55-161-135
55-165-238	55-177-333	55-178-941	55-196-419
55-197-458	55-210-551	55-214-565	55-216-436
55-230-129	55-240-086	55-246-955	55-249-768
55-250-219	55-254-036	55-260-095	55-266-751
55-267-960	55-275-645	55-280-002	55-283-389
55-287-074	55-288-089	55-288-437	55-289-301
55-299-889	55-300-615	55-309-124	55-319-782
55-323-798	55-335-508	55-337-683	55-338-248
55-340-137	55-340-269	55-351-538	55-372-500
55-375-712	55-376-603	55-381-550	55-383-510
55-386-900	55-391-564	55-400-555	55-400-792
55-408-319	55-412-723	55-420-068	55-423-997
55-431-817	55-437-254	55-441-081	55-441-146
55-442-185	55-455-104	55-455-228	55-457-611
55-460-124	55-464-111	55-465-363	55-475-377
55-476-489	55-479-305	55-482-926	55-483-264
55-493-278	55-496-226	55-496-331	55-497-036
55-497-516	55-498-873	55-499-799	55-504-490
55-507-589	55-509-182	55-511-888	55-517-940
55-518-157	55-518-254	55-528-306	55-534-160
55-534-225	55-538-891	55-540-772	

Interest PAYE Reissued Certificate of Exemption Numbers for the Quarter Ended 30 June 1990:

51-735-013	53-327-958	55-200-963	55-238-308
55-363-277	55-406-103		

go7884

Internal Affairs

Films Act 1983

Chief Censor's Decisions: 1-30 June 1990

Pursuant to section 21 of the Films Act 1983, the entries in the Register for the above period are hereby published.

Key to Decisions

G—Approved for general exhibition.

GY—Approved for general exhibition: recommended as more suitable for persons 13 years of age and over.

GA—Approved for general exhibition: recommended as more suitable for adults.

G*—Approved for general exhibition: (as specified).

R(age)—Approved for exhibition: only to persons years of age and over (as specified).

RP(age)—Approved for exhibition: only to persons years of age and over and to any person under that age when accompanied by that person's parent or guardian.

R*—Approved for exhibition only (as specified).

Ex—Exempted from examination and approved for exhibition (with any conditions as specified).

Schedule

Applicant	Maker	Title Silent(S) or Trailer(T)	No. of Copies	Gauge Format	Running Time Minutes	Reason for Cuts	Decision	Country of Origin	Notes Remarks
1 June 1990									
Amalgamated Hoyts Cinemas	Curtis Hanson	Bad Influence (T. No. 1)	12	35 mm	2.0		GA	U.S.A.	
Communication & Entertainment Ltd.	Kathryn Bigelow	Blue Steel (T. No. 1)	1	35 mm	2.0		GA	U.S.A.	
Amalgamated Fox Distributors	Clive Rees	When the Whales Came (T. No. 1)	2	35 mm	2.5		G	U.K.	
5 June 1990									
United International Pictures	Walter Hill	Another 48 Hours (T. No. 1)	1	35 mm	2.0		GA	U.S.A.	
United International Pictures	John Badham	Bird on a Wire (T. No. 1)	1	35 mm	2.5		GA	U.S.A.	
United International Pictures	Tony Scott	Days of Thunder (T. No. 1)	1	35 mm	2.5		GY	U.S.A.	
Amalgamated Fox Distributors	Unknown	Die Hard 2 Die Harder (T. No. 2)	5	35 mm	1.5		GA	U.S.A.	
United International Pictures	William Friedkin	The Guardian (T. No. 1)	1	35 mm	2.5		RP13	U.S.A.	
New Zealand Federation of Film Societies	Patrice Leconte	MONSIEUR HIRE	1	35 mm	80.0		GA	France	French dialogue, English subtitles.
New Zealand Federation of Film Societies	Atom Egoyan	SPEAKING PARTS	1	35 mm	93.0		GA	Canada, Italy, U.K.	Censor's note: some content may offend.
United International Pictures	John Hughes	Uncle Buck (T. No. 1)	3	35 mm	1.5		GY	U.S.A.	
6 June 1990									
United International Pictures	Robert Zemeckis	Back to the Future Part III (T. No. 1)	1	35 mm	2.5		G	U.S.A.	
New Zealand Federation of Film Societies	Clair Denis	CHOCOLAT	1	35 mm	107.0		GA	France, Cameroon, Germany	French dialogue, English subtitles.
Warner Bros	Walt Disney	The Little Mermaid (T. No. 2)	1	35 mm	1.5		G	U.S.A.	Animated.
Amalgamated Hoyts Cinemas	Jonathan Lynn	NUNS ON THE RUN	6	35 mm	93.5		GA	U.K.	Censor's note: contains coarse language.
8 June 1990									
Columbia Films (NZ) Ltd.	David Lean	LAWRENCE OF ARABIA	1	70 mm	225.0		GY	U.K.	
11 June 1990									
United International Pictures	John Badham	BIRD ON A WIRE	11	35 mm	112.5		GA	U.S.A.	Censor's note: contains violence.
Pacer Kerridge Film Distributors Ltd.	Gus Van Sant JR	Drugstore Cowboy (T. No. 1)	5	35 mm	1.5		RP13	U.S.A.	
Warner Bros	Roger Corman	FRANKENSTEIN UNBOUND	1	35 mm	87.0		RP16	U.S.A., Italy	
Pacer Kerridge Film Distributors Ltd.	Jerzy Skolimowski	Torrents of Spring (T. No. 1)	5	35 mm	1.5		GA	Czechoslovakia, Italy, France, U.K.	
12 June 1990									
United International Pictures	Robert Zemeckis	BACK TO THE FUTURE PART III	18	35 mm	120.0		GY	U.S.A.	
Amalgamated Fox Distributors	Zalman King	WILD ORCHID	1	35 mm	113.0		R18	U.S.A.	Censor's note: sexual content may offend.
13 June 1990									
Warner Bros	Patrick Read Johnson	SPACED INVADERS	1	35 mm	101.5		G	U.S.A.	
Columbia Films (NZ) Ltd.	Paul Verhoeven	TOTAL RECALL	1	35 mm	111.0		RP16	U.S.A.	Censor's note: content may disturb.
14 June 1990									
Pacer Kerridge Film Distributors Ltd.	Toho Eizo Co Ltd.	GODZILLA VS MEGALON	1	35 mm	81.0		GY	Japan	New applicant. English dialogue.
Amalgamated Fox Distributors	Zalman King	Wild Orchid (T. No. 1)	1	35 mm	.5		G	U.S.A.	
15 June 1990									
Orion Pictures	Irvin Kershner	Robocop 2 (T. No. 2)	60	35 mm	2.0		GA	U.S.A.	
18 June 1990									
Franklin Consolidated Ltd.	Unknown	BANGKOK BABE	400	VHS	30.0		R18	U.S.A.	Censor's note: explicit sexual content may offend.
Amalgamated Fox Distributors	Renny Harlin	Die Hard 2 Die Harder (T. No. 3)	2	35 mm	2.5		RP13	U.S.A.	
Pacer Kerridge Film Distributors Ltd.	Gus Van Sant JR	DRUGSTORE COWBOY	1	35 mm	103.0		RP16	U.S.A.	Censor's note: some scenes may disturb.
Franklin Consolidated Ltd.	Unknown	KOREAN KITTENS	400	VHS	31.5		R18	U.S.A.	Censor's note: explicit sexual content may offend.
Franklin Consolidated Ltd.	Unknown	MANILA THRILLER	400	VHS	29.0		R18	U.S.A.	Censor's note: explicit sexual content may offend.
New Zealand Federation of Film Societies	Nagisa Oshima	MAX MY LOVE	1	35 mm	99.0		RP16	France	Censor's note: content may offend.
New Zealand Federation of Film Societies	Percy Adlon	ROSALIE GOES SHOPPING	1	35 mm	95.0		GA	U.S.A., West Germany	
Franklin Consolidated Ltd.	Unknown	TASTE OF TOKYO	400	VHS	27.0		R18	U.S.A.	Censor's note: explicit sexual content may offend.

Applicant	Maker	Title Silent(S) or Trailer(T)	No. of Copies	Gauge Format	Running Time Minutes	Reason for Cuts	Decision	Country of Origin	Notes Remarks
19 June 1990									
United International Pictures	William Friedkin	THE GUARDIAN	3	35 mm	93.5		RP16	U.S.A.	Censor's note: content may offend.
New Zealand Federation of Film Societies	Denys Argand	JESUS OF MONTREAL	1	35 mm	121.0		GA	Canada, France	Censor's note: some scenes may offend. French dialogue, English subtitles.
20 June 1990									
Pacer Kerridge Film Distributors Ltd.	Gus Van Sant JR	Drugstore Cowboy (T. No. 2)	5	35 mm	1.5	s. 13.2 (c) violence	GA	U.S.A.	Reduced version of trailer No. 1.
New Zealand Federation of Film Societies	Tracey Moffat	NIGHT CRIES A RURAL TRAGEDY	1	35 mm	18.0		GA	Australia	
New Zealand Federation of Film Societies	Jackie McKimmie	NO PROBLEMS	1	35 mm	11.5		G	Australia	
New Zealand Federation of Film Societies	Ray Argall	RETURN HOME	1	35 mm	88.0		GA	Australia	Censor's note: language may offend.
New Zealand Federation of Film Societies	Bertrand Blier	"TROP BELLE POUR TOI"	1	35 mm	92.5		GA	France	Censor's note: some content may offend. French dialogue, English subtitles.
21 June 1990									
The Bridgeway Theatre	Michel Deville	LA LECTRICE	1	35 mm	100.0		RP13	France	New applicant. French dialogue, English subtitles.
New Zealand Federation of Film Societies	Unknown	THE LAST NEWSREEL	1	35 mm	11.0		G	Australia	
The Bridgeway Theatre	Etienne Chabillez	LIFE IS A LONG QUIET RIVER	1	35 mm	92.5		GA	France	New applicant. French dialogue, English subtitles.
The Bridgeway Theatre	Oliver Schmitz	MAPANTSULA	1	35 mm	105.5		GA	South Africa, Australia, U.K.	Censor's note: language may offend. New applicant.
New Zealand Federation of Film Societies	Victor Seastrom	THE WIND	1	35 mm	72.5		GA	U.S.A.	Silent.
22 June 1990									
New Zealand Federation of Film Societies	Coline Serreau	ROMUALD ET JULIETTE	1	35 mm	113.0		GA	France	Censor's note: contains some coarse language. French dialogue, English subtitles.
New Zealand Federation of Film Societies	Robert Bierman	VAMPIRE'S KISS	1	35 mm	97.0		R16	U.S.A.	Censor's note: content may offend.
25 June 1990									
Amalgamated Fox Distributors	Renny Harlin	Die Hard 2 Die Harder (T. No. 4)	2	35 mm	2.5	s. 13.2 (c) violence	GA	U.S.A.	Reduced version of trailer No. 3.
New Zealand Federation of Film Societies	Damien Ledwich	FERAL TELEVISION	1	16 mm	17.5		GY	Australia	Animated.
John Maynard Productions	Jane Campion	SWEETIE	2	35 mm	101.0		R13	Australia	Censor's note: content may offend. New applicant.
John Maynard Productions	Jane Campion	Sweetie (T. No. 1)	2	35 mm	2.0		GA	Australia	
New Zealand Federation of Film Societies	Claude Chabrol	"UNE AFFAIRE DE FEMMES"	1	35 mm	109.0		GA	France	Censor's note: some content may disturb. French dialogue, English subtitles.
John Maynard Productions	Gregor Nicholas	USER FRIENDLY	1	35 mm	90.0		RP13	N.Z.	New applicant.
26 June 1990									
New Zealand Federation of Film Societies	Andre Tarkovsky	THE LOOKING GLASS	1	35 mm	107.5		GA	USSR	Russian dialogue, English subtitles.
27 June 1990									
New Zealand Federation of Film Societies	Pat O'Neill	WATER AND POWER	1	35 mm	55.5		GA	U.S.A.	
28 June 1990									
Pacer Kerridge Film Distributors Ltd.	Harry Hook	Lord of the Flies (T. No. 1)	10	35 mm	1.0	s. 13.2 (c) violence	GY	U.S.A.	
Amalgamated Hoyts Cinemas	Jonathan Lynn	Nuns on the Run (T. No. 1)	10	35 mm	3.0		GA	U.K.	
New Zealand Federation of Film Societies	Alejandro Agresti	SECRET WEDDING	1	35 mm	86.0		GA	Argentina	Censor's note: some language may offend. Spanish dialogue, English subtitles.
New Zealand Federation of Film Societies	Idrissa Onedraoeu	YAABA	1	35 mm	90.5		GA	Burkina Faso, France, Switzerland	
29 June 1990									
New Zealand Federation of Film Societies	Aki Kaurismaki	ARIEL	1	35 mm	73.5		GA	Finland	Finnish dialogue, English subtitles.
New Zealand Film Commission	Martyn Sanderson	Flying Fox in a Freedom Tree (T. No. 1)	1	35 mm	3.0		GY	NZ	
New Zealand Federation of Film Societies	Ishii Sogo	THE MASTER OF SHIATSU	1	35 mm	12.5		RP13	Japan	

Applicant	Maker	Title Silent(S) or Trailer(T)	No. of Copies	Gauge Format	Running Time Minutes	Reason for Cuts	Decision	Country of Origin	Notes Remarks
New Zealand Film Commission	Jonathan Cullinane	PIANO LESSONS	1	35 mm	14.0		GY	N.Z.	

go8024

Iwi Transition Agency

Maori Trustee Act 1953

Unclaimed Moneys

Notice Under Section 30 of the Maori Trustee Act 1953

Pursuant to section 30 of the Maori Trustee Act 1953, the Maori Trustee hereby gives notice that lists of unclaimed moneys held by him for 1989 have been filed with the Registrars of the Maori Land Court at:

Whangarei, Hamilton, Rotorua, Gisborne, Wanganui, Hastings, Christchurch, Wellington; also at the District Offices of the Iwi Transitional Agency at: Auckland and Wiri; and at the Head Office of the Iwi Transition Agency at Wellington.

Lists are also located at the sub-offices of the Iwi Transitional Agency where they may be inspected during office hours without payment of a fee.

Dated at Wellington this 19th day of June 1990.

N. BAKER, Maori Trustee.

(M.A. 39/2 National List No. 36)

This notice replaces the notice published in the *New Zealand Gazette* on 12 July 1990, No. 119, page 2456, which contained errors.

25/1

go8110

Justice

Broadcasting Act 1976

Decision No. 1/90

COM 4/89

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by **Keith Graham Cullimore** of Auckland:

Warrant Holder: Radio New Zealand Limited:

Chairman: Judge B. H. Slane.

Member: R. Boyd-Bell.

Co-opted Members: R. M. Carter and Bruce Wallace.

Dated this 15th day of January 1990.

Decision

Introduction

On 6 January 1989, in a "Summer Seminar" programme, station 1ZB Auckland broadcast a discussion between Gordon Dryden (the host) and Marilyn Waring (the guest) about her book *Accounting for Nothing*. The discussion centred on assertions in the book that there were failings in the commonly adopted methods of assessing national productivity in New Zealand and other countries, principally that the system of national accounts took little or no account of unpaid work. Ms Waring claimed this led to distortions in production patterns and reinforced what she said were imbalances in the structure of the world economy and in society.

Complaint to Radio New Zealand Limited

On 16 January 1989 Mr Cullimore wrote formally complaining to Radio New Zealand about the programme (following an earlier exchange of letters with the station itself).

Mr Cullimore complained that he had attempted by telephone to enter into the radio discussion but had been prevented from doing so by the station on the ground that what he wished to introduce was too sensitive. He said that the programme was a promotion of the book in the guise of a talk-back programme.

He complained that the broadcast was essentially anti-male and that the programme failed to keep to standards of good taste and decency by attempting to make a division between males and females. Mr Cullimore complained that there was a lack of balance in the handling of a controversial issue of public importance in that it advocated an anti-male attitude.

He also claimed the programme advocated anarchy and unlawful behaviour by proposing that census forms be filled out incorrectly.

Mr Cullimore referred to a booklet (later submitted to the Tribunal) entitled *The Power of Women and the Subversion of the Community* by Mariarosa Della Costa and Selma James, first published in the U.K. in 1972 by a part of the women's movement, which he said showed that there had for some years been a movement by a certain class of women organising to subvert the community and its government.

Mr Cullimore repeated his assertion that he had been refused the right to speak. Mr Cullimore said that he was justified in not giving his telephone number, when asked for it by the station, to protect his privacy. This was to guard against the possibility of abusive telephone calls.

Included with his letter was the text of the contribution to the discussion he had wished to make on the telephone and other associated material.

Radio New Zealand's Response to the Complainant

On 10 April 1989, the Chief Executive of Radio New Zealand wrote to Mr Cullimore advising that the Board of Radio New Zealand Limited had considered his complaint about the programme at its meeting on 5 April.

The Chief Executive stated that section 95C (1) (iv) (which deals with the obligation to present significant points of view when dealing with controversial issues of public importance) and section 95C (1) (v) (imposing an obligation to have regard to the maintenance of law and order) were the 2 provisions of the Broadcasting Act 1976 under which his complaint was determined. The Chief Executive stated that the Act did not provide for formal complaints to be made on the other matters raised by the complainant.

The Chief Executive said that the Board had taken into account that the "Summer Seminars", of which this was one, included talk-back contributions but none of them was produced as an open talk-back programme.

"Specifically, the Board considered that the production decision not to include your offered contribution could not be taken as having adversely affected the programme balance, and that the census references, which occurred in connection with motherhood as an 'unpaid productive job' and which were balanced by references to legal considerations by Gordon Dryden, did not seriously call into question the maintenance of law and order."

Having regard to those considerations the Board did not uphold the complaint. As a final point, the Chief Executive noted that there was no question of payment having been

offered to, or received by, Radio New Zealand in connection with the programme.

Mr Cullimore's Complaint to the Tribunal

Mr Cullimore then brought his complaint to the Broadcasting Tribunal. He said that Radio New Zealand had failed to deal with the major issue, that of "a breach of law and order whereby Ms Waring openly advocated other women to wrongly answer questions in the next census thereby rendering it useless." He said the word "anarchy" was used by Ms Waring and he was concerned at law and order breaking down and the potential for revolutions.

He also considered that section 95C (v) of the Broadcasting Act was contravened in this broadcast and stated that, as a paying contributor of broadcasting fees and as a citizen, he was denied the right to put forward his significant points of view.

Radio New Zealand's Submission to the Tribunal

Radio New Zealand made a lengthy submission to the Tribunal concerning Mr Cullimore's formal complaint to us.

Radio New Zealand stated that "Mr Cullimore's submission to the Tribunal appears to place rather more emphasis on the law and order issue than did his original complaint to Radio New Zealand, which stressed balance, good taste and decency, impartiality, and the privacy of the individual, together with allegations of 'censoring'."

Radio New Zealand's submission on the law and order issue was that there was no question of the programme advocating anarchy an audition of the programme had failed to confirm that the word "anarchy" was used by Ms Waring of that she advocated anarchy as such.

Radio New Zealand quoted the questions and answers between Mr Dryden and Ms Waring about her wish to see people record unpaid work in census forms.

"... how are we going to [get] multinationals to take note ... [of the danger to the planet of destructive production and statistical emphasis on that in misleading statistical and national accounting systems]?"

Ms Waring: "Every person who fills in a census has got a chance ... [persons should be recorded not as non-working but as working unpaid]. [(Reference to a U.S. family camping on census night to be able to state they had no windows, electricity, etc.)]. . . Accurate communication and use of language [are important]."

Mr Dryden: "But that will invalidate the whole census; is that what you really want to achieve?"

Ms Waring: "[The aim is to] record women's, children's and men's unpaid and productive work in a census, at the same time undermining the entire [national accounting and statistical process]. You need to do one with the other."

Mr Dryden: "If you succeed in overthrowing—which is what you're trying to do—the basic way in which we keep our national accounts around the world (and you say that's phoney and fallacious)—that would do nothing, I suggest, to cut down the money wasted on armaments and other things?"

Ms Waring: "All you can do is give people information power. The Armed Services Committee in the United States, for example, sits there and speaks about ordering new missiles ... on the basis of U.S. military figures against the Soviet's ... [What is needed is information enabling people to ask] what are we prepared to spend as U.S. citizens to ensure the death of each Soviet citizen? When you do that sum, you find out every one of us on earth is worth about \$700 million dollars. That's going to change the whole focus of a voting public ... I'm working hard for [a new indicator which is not money but hours spent] ... and along with that, to have work [valued by] qualitative environmental indicators, not ones which say 'these trees are worth so much [money] or will cost us so much to preserve them'."

RNZ noted that the words in square brackets represented an accurate precis of circumlocutory portions of the triologue.

Radio New Zealand did not agree with the complaint's contention that this part of the programme constituted a serious threat to law and order in New Zealand.

Radio New Zealand's submission also dealt with the question of balance. In its submission, Ms Waring's thesis concerned not a division between the sexes but alleged failings in the commonly adopted method of the assessing of national productivity and work.

Mr Dryden (clarifying a point for a caller): "Marilyn says that the system of working out national accounts, which we now almost have as a god around the world which we're all expected to worship and base our political structure about, actually arose during World War II as a method of working out how we could pay for the war, and has been based on a lot of that ever since. So that, for each nuclear weapon you build or each bridge you blow up, that's regarded as progress, as a positive thing on the national accounts. But for each tree that you save to protect the ozone layer (sic) or reduce the greenhouse effect or make the world a better place to live in, that doesn't come into the accounts system at all. And, we need a better system otherwise (a) we might blow the world up; (b) we're already mucking it up environmentally and the whole system's out of kilter."

Ms Waring: "The system records a minority of the human species who are actively paid in a labour market, and it records mostly 'destructive production' rather than creational conservation. All over the world, this is the basis of investment planning, all public policy projections, the assessment of need, the assessment of well-being and the arbiter of aid."

Radio New Zealand submitted that Mr Cullimore's other complaints could not be considered within the formal complaints provision of the Act.

Mr Cullimore's Comment on Radio New Zealand Submission

Mr Cullimore wrote another lengthy letter received on 29 May 1989 in which he engaged in a point by point rebuttal of Radio New Zealand's submissions to us and reiterated and elaborated upon many of his original contentions and made discursive references to a number of his beliefs.

Decision

The Tribunal agrees with RNZ's submission that Mr Cullimore's complaint had come down to 2 basic elements by the time it reached us: namely, that a breach of law and order had taken place or was advocated and that his being improperly prevented from talking on the programme resulted in a lack of balance or a failure to comply with the statutory standards.

The complainant did not complain of unfair or unjust treatment but of the balance which would have been achieved if his contribution had been broadcast. He gave us a copy of what he wanted to say. Largely it attacked the motives of feminists and included material that was defamatory of Ms Waring and certainly, if broadcast, would have breached statutory standards and rules. The call was rightly rejected on editorial grounds.

The request for his telephone number was not unreasonable. What has to be accepted is that there is no inherent right to be heard on a talk-back programme. That participation is an editorial decision to be taken by the station concerned which will have regard to its legal responsibilities in making such a decision.

Just as newspaper editors may require a correct name and address before publishing a letter, even where a pseudonym is to be used, the producer of a talk-back programme is entitled to ask for the correct name, address and telephone number of a caller and even to test that by phoning the number back. Some would say it should be a routine precaution against irresponsible callers.

The Tribunal considers that the good taste and decency allegation has no substance.

On the issue as to whether there was a failure to have regard to community standards in relation to the maintenance of law and order, the Tribunal notes that whether or not the word "anarchy" was used by Ms Waring is not critical. Mr Dryden made it clear what the census requirements were: regard was had to the maintenance of law and order.

On the question of censorship, the Tribunal accepts Radio New Zealand's submissions in their entirety. The material Mr Cullimore wished to introduce into the programme was, in the Tribunal's view, inappropriate, irrelevant and insulting. Radio New Zealand has editorial independence to make its own decisions about what is relevant and acceptable. No citizens have the right to demand to be heard over the air to say what they like, notwithstanding that they may have strong feelings about the subject matter of the broadcast. This is so even if the programme is an open talk-back programme which this one was not.

On the question of balance generally, the Tribunal finds that the statutory requirement for a range of viewpoints to be broadcast on controversial topics within a reasonable time frame (not necessarily in the same programme) was not breached. This was a programme about a book which put forward a particular point of view. That view can be explored sympathetically without breach of the standard. In fact, the host tested it.

The complaint is not upheld in any respect.

Co-opted Members

Messrs Carter and Wallace 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.

go8004

Decision No. 2/90

COM 18/88

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by **Mary Catherine Karvelas** of Ngaio for the Wellington Palestine Group.

Warrant Holder: Broadcasting Corporation of New Zealand (Television One):

Chairman: B. H. Slane.

Member: Robert Boyd-Bell.

Co-opted Members: R. M. Carter and B. W. Stephenson.

Decision

Dated the 15th day of January 1990.

The complainant, as secretary of the Wellington Palestine Group, lodged the complaint with Television New Zealand, at that time part of the BCNZ. It concerned an item in the Television One news at 6.30 p.m. on 4 March 1988 which opened with the announcer saying that many Israelis were becoming increasingly concerned for their personal safety as violent demonstrations continued in the occupied territory. The item ran for 1 minute 35 seconds. Towards the end the reporter said:

"There are dozens of cases of Jewish civilians, badly hurt or worse, because they drove into troubled areas and weren't able to drive out. Before resorting to guns, people are encouraged to learn driving techniques normally reserved for stunt men."

In her letter to Television New Zealand, the complainant said:

"The item can only be understood to mean that many

Israelis had been killed. No other meaning can be put on the expression of what could be worse than being injured, than being killed. At the time of the item there had been no Israelis killed in the uprising, either civilian or military fatalities. Therefore it is totally false to make a claim of 'dozens' being killed."

In a letter dated 26 May, the Assistant Controller of News and Current Affairs for Television New Zealand agreed that the words must have referred to more than 24 cases, in recent months, who had been hurt or killed though numbers of those injured and those killed was not stated. He said the journalist must have had the facts before him to report them and there must have been some personal risks envisaged by those who took time off their usual work to pay for tuition to further their personal safety. He said he could not take the matter any further.

On 22 July 1988 a formal complaint was lodged with the Broadcasting Corporation itself. On 10 October 1988 the Secretary of the Corporation reported that on 27 September the board considered the complaint. It had found the item was imperfect but it was not considered to be at fault to a sufficient degree to be in breach of the Broadcasting Act's provisions so the complaint was not upheld.

In its finding the Corporation said there was no mention of deaths and that a reporter speaking to camera in a front-line situation would be unlikely to speak with absolute precision as if reading from a script. The reporter used an imprecise generalisation when he gave the "worse" description. It was acknowledged that this could mean something more than "badly hurt". It might imply serious injury or disablement such as losing a limb or eyes. It was not accepted that the item meant that more than 24 had died. The complainant's claim that, at 4 March, no Israelis had been killed was accepted.

In lodging the complaint with the Tribunal on 18 November, the complainant enlarged the complaint to state that the facts were distorted in the words used to give a false picture of the situation.

The Tribunal however deals with the matter on the basis it was put originally—that is, of an inaccurate report. The complainant reiterated that the report could only be understood to mean that many Israelis had been killed.

In a submission to the Tribunal, Television New Zealand (as successor to the Corporation) referred to its clear acknowledgment that the item was imperfect. TVNZ submitted that the imprecision of wording by a reporter in the thick of a disturbed, tense and confused situation was at the crux of the matter. There was no escaping the fact that the term "badly hurt or worse" was capable of giving an impression that anything "worse" than "badly hurt" could imply a death or deaths. But given the situation it was submitted that, had the reporter known of any deaths, it was more than probable that he would have been unequivocal and said so. In the context of the item, Television New Zealand said, the reference related to Israelis caught in their cars in troubled areas, in which case the word "worse" was equally capable of having an implication of "beatings, maimings and so forth". Television New Zealand submitted that there could be no dogmatic assertion that "worse" implied death or deaths as the complainant argued.

Television New Zealand submitted that, while having grounds to seriously question what was meant by the words at issue, the complainant had failed to prove that section 24 (1) (d) of the Broadcasting Act has been breached or that the complaint should have been upheld by the Corporation.

Decision

The Tribunal notes that the complainant gave no source for its assertion that no Israelis had been killed as at the date of the broadcast. The corporation seems to have accepted this as being correct and, in the absence of any evidence to the contrary, the Tribunal will also assume that it is correct.

There is no evidence to contradict the statement that dozens

have been badly hurt. The words "or worse" form the whole basis of the complaint.

"Killed" is not the only possible meaning of the phrase "or worse [than badly hurt]". A person might be said to be worse than badly hurt if it is unlikely that that person will survive his/her injuries. The same expression might also be used, admittedly with some lack of precision, to describe someone permanently disabled by his/her injuries.

The complainant appears to have modified its position a little about the meaning of the words "or worse" in the course of developing the complaint. The complainant's letter of 8 April 1988 to the Assistant Controller of News and Current Affairs, said "... it is totally false to make a claim of 'dozens' being killed" [the Tribunal's emphasis]. In its formal complaint to the Tribunal, it interpreted the phrase as meaning that "many" Israelis had been killed and elsewhere on the form acknowledged that it might mean that "some" had been killed. The fact that the complainant was able to find shades of meaning tends to support the imprecision of language which the Corporation acknowledged was a defect in the report. However, the Tribunal considers that there is no case for going further than the Corporation went.

The complainant took an unrealistically rigid view against the Corporation. In the complaint form, the complainant says "whether or not anyone has been killed is a matter of fact...". While this may be true as far as it goes, a reporter in a war zone is not always able to ascertain precise casualty figures. Nor is a broadcaster in a position to check every casualty statistic for accuracy before an item goes to air.

The Tribunal does not accept the complainant's submission that the report created the impression that the confrontation between Israelis and Palestinians is "somehow symmetrical", if that is intended to mean that casualties are more or less equal on both sides. The item neither says nor implies that this is so.

There is no evidence whatever of any lack of impartiality on the Corporation's part.

We do not say that there is any less responsibility on a news organisation for reporters' statements that are not correct. But we do say it is inevitable that errors and imperfections will occur, particularly in reports done at the scene of physical conflict. The best that a broadcaster can do is to correct later where that is desirable. In this case, there was no need for such a correction.

In the normal course we consider the nature of this complaint did not warrant determination by the Tribunal, but we have given a decision in this case. It was possible there might have been subsequent complaints of a similar nature which might have indicated some general deterioration of standards. That has not occurred.

Lobby groups do have a role in helping to check sloppy reporting and bias, whether deliberate or unconscious. They should draw television news editors' attention to inaccuracies. We have assisted in improving communication between those sympathetic with the Palestine cause in conveying their views on news coverage to Television New Zealand news executives. But we do not think in this case this complainant should have taken the matter any further than the original letter and response.

The complaint is not upheld.

Co-opted Members

Messrs Carter and Stephenson were co-opted as persons whose qualifications and experiences were likely to be of assistance to the Tribunal in determining the complaint. 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.

go8005

Decision No. 3/90

COM 17/88

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by **Triple M Ltd.**, a duly incorporated company having its registered office at Auckland:

Warrant Holder: Hauraki Enterprises Ltd.

Chairman: Judge B. H. Slane.

Member: Robert Boyd-Bell.

Co-opted Members: R. M. Carter and Bruce Wallace.

Decision

Dated this 15th day of January 1990.

Complaint

This complaint was made by one private Auckland station, Triple M Ltd. (89FM), against another, Hauraki Enterprises Ltd. (Radio Hauraki).

On 21 September 1988, 89FM wrote to the Tribunal as follows:

"We formerly (sic) complain that a broadcast this morning on warrant holder 1XA, Hauraki Enterprises Ltd., severely breached the Radio Standards and Rules.

"We formerly (sic) complain under Radio Standards and Rules, numbers:" [2.3, 4.2 (a), 4.2 (b), 4.2 (e), 4.2 (g) set out with the specific complaint under each rule in the section of the letter headed "Our Complaint".]

Broadcast

The item complained of was broadcast on Radio Hauraki on 21 September 1988 during the 8 a.m. bulletin.

The complainant wrote first to the Tribunal.

"The 89FM news team have, this week, broadcast a series of news items concerning the practices of an Auckland towing company which had been refusing to release cars to members of the public unless those members of the public gave them their home address in addition to any other identification they may have.

"Prior to going to air with the story concerned, our newsroom had checked with the police to ascertain the legal position and had given the towing company concerned ample opportunity to comment. A legal opinion was also obtained before broadcast to ensure legality and impartiality.

"The news items on 89FM carried both sides of the story with comments from the police spokesman and comments from the principal of the towing company concerned. Members of the public also contributed.

"Following the broadcast of these news items by 89FM, the following segment was broadcast as part of the Radio Hauraki news this morning at approximately 8.04 a.m.

'Another Auckland radio station appears to be putting the boot into an Auckland tow truck company.

Could it be because that station's cars have been towed away about ... 89 times from where they shouldn't have been parked in someone else's car park?

Well, the station has harangued the towing company on air for requiring the name and address of people collecting cars.

The station says, by law, you don't have to give your name and address to a tow truck company and they claim to quote police. But the poor old tow truck company can't get a word in edgewise which is a pity because the radio station is wrong. The tow truck company is obliged under civil law to ascertain that the person collecting a vehicle is entitled to it. How else can

they do that but get a name and address. After all, would you want some stranger collecting your car?

So, the towing company is right and it's "bottom marks" for that radio station in Symonds Street for getting "towey" and getting it wrong."

[This is reproduced as recorded on the tape provided to the Tribunal by the complainant station.]

"Our Complaint"

Rule 2.3: Editorials stating the opinion of the warrant holders on political and religious matters, on industrial disputes and on matters of public controversy are not permitted.

Complaint under 2.3: Radio Hauraki news have clearly expressed an opinion on an industrial dispute and a matter of public controversy which is not permitted under rule 2.3.

Rule 4.2 (a): Listeners should always be able to distinguish clearly and easily between factual reporting on the one hand, and comment, opinion and analysis on the other.

Complaint under 4.2 (a): The Radio Hauraki item was run as part of Radio Hauraki's news bulletin and contravenes rule 4.2 (a) as it does not clearly distinguish between factual reporting, comments, opinion and analysis.

Rule 4.2 (b): News must be presented accurately, objectively and impartially.

Complaint under 4.2 (b): We are of the opinion that this item contravenes 4.2 (b) as it was not presented accurately, objectively and impartially.

Rule 4.2 (e): Great care must be taken in editing of programme material to ensure that the extracts used are a true reflection and not a distortion of the original event or the overall views expressed.

Complaint under 4.2 (e): We are of the opinion that Radio Hauraki's broadcast clearly contravenes this rule as the broadcast is edited in such a way as to give the impression that 89FM were running a prejudiced story and the Radio Hauraki broadcast goes as far as to use the description 'harangued'. The 89FM news stories were run as responsible news items and not as editorials or comments from announcers.

Rule 4.2 (g): It shall be the responsibility of each station to be fair in the allocation of time to interested parties in controversial public issues. In exercising this responsibility a station will take into account the news value of the viewpoints offered and previous allotment of air time.

Complaint under 4.2 (g): At no time did the Radio Hauraki newsroom contact the news team of 89FM or any part of 89FM's station management to ascertain that 89FM knew of the news item prior to Radio Hauraki going to air.

Had Hauraki done this we would have been able to give them a lot of input and facts which would have given some balance to their broadcast.

"Other Matters"

"The management of 89FM are concerned that Radio Hauraki, under the guise of a news item, has taken a 'cheap shot' at 89FM's responsible news team. Radio Hauraki has produced a segment within their news which is full of emotive language and clearly designed to denigrate 89FM's news, programme and staff.

"The Radio Hauraki items makes reference to 'bottom marks' which is clearly a reference to 89FM's breakfast hosts 'Top Marks'. This gives the impression that the tow truck story on 89FM emanated from the Top Marks. The 89FM news story was not a commentary of any announcer on 89FM but was a serious news item carefully researched and presented in a responsible manner during news bulletins.

"The investigations by our news team have led (sic) us to believe that the public have a need to be aware of the practices of this particular towing company and the public's legal rights. The Hauraki commentary does, in my view, do a disservice to the public and is a discredit to independent radio news.

"We have noted that the Broadcasting Tribunal in its decision No. 37/88 has made considerable reference to the responsibilities of warrant holders in so far as 'editorial' and 'commenting' and we feel that this item by Radio Hauraki should be viewed by the Tribunal with deep concern.

"Please find enclosed herewith a tape of the said broadcast."

Following receipt of this letter, the Tribunal reminded the complainant radio station that under the statutory complaints procedure, a complainant must first make a complaint to the station concerned, Radio Hauraki. The complainant then did so.

Radio Hauraki's Reply

On 28 October 1988, Radio Hauraki replied to 89FM as follows:

"Your letter of 27 September and the attached complaint have now been considered by the management of Radio Hauraki.

"Radio Hauraki denies any breach of the radio standards and rules in relation to the news item complained of. With particular reference to the rules relied upon by you we advise as follows:

Rule 2.3:

- (a) The item published by Radio Hauraki was not an editorial.
- (b) The published item did not relate to any political or religious matter, nor did it relate to an industrial dispute or a matter of public controversy (although Radio Hauraki is aware that 89FM was apparently attempting to create a matter of public controversy).

Rule 4.2 (a): Radio Hauraki is unable to understand the allegation of breach of this rule. Radio Hauraki considers that any listener of average intelligence would have had no difficulty in distinguishing between the factual matters, comments, opinion and analysis expressed in the item.

Rule 4.2 (b): With respect to this rule, Radio Hauraki considers that the item was only partially news and the part that constituted news was presented accurately, objectively and impartially.

Rule 4.2 (e): Radio Hauraki denies that this rule is relevant for the following reasons:

- (a) There was no edited programme.
- (b) There were no extracts used.
- (c) There was no distortion of an original event or any expressed overall view.

Rule 4.2 (g): Radio Hauraki does not consider that there was a 'controversial public issue' contained in the published item. Radio Hauraki did not consider that there was any news value in any of the views expressed in respect of the item.

"With regard to the complaint under the heading 'Other Matters' we advise as follows:

- (a) No complaint regarding the item was received from any member of the listening public.
- (b) The item was published, did not contravene the spirit or letter of sections 24 and 95 of the Broadcasting Act 1976 (under which the broadcasting standards and rules are made).
- (c) The item as published was partly news but was mainly intended to be an entertaining story completing the news

broadcast. The tone of the item was deemed to be consistent with the long-standing Radio Hauraki tradition of 'sending up' current events deemed to be of minor importance."

Complaint to the Tribunal

After receiving this letter, 89FM brought their complaint to the Tribunal. 89FM attached their letter to Radio Hauraki and Radio Hauraki's reply. They said:

"... We are concerned that the growing trend where commentary under the guise of news is allowing radio stations to make unsubstantiated attacks on organisations or people. In this instance we feel that this attack on the 89FM news broadcast was in breach of the radio standards and rules and we re-register our initial complaint."

"The complaint should have been upheld and the news commentator concerned disciplined and made more aware of what is required from responsible journalism as regards news comment."

Radio Hauraki's Submissions to the Tribunal

The formal complaint was referred to Radio Hauraki who in a letter dated 15 December 1988 advised that their submissions were those set out in their original reply to 89FM set out above. They continued:

"We note that 89FM has not explained why it considers that reply unsatisfactory.

"We submit that 89FM's expression of concern 'at the growing trend where commentary under the guise of news is allowing radio stations to make unsubstantiated attacks on organisations or people' has been made without evidence to support it and is anyway a general comment without reference to the specific complaint against Hauraki.

"Finally, we note that the Broadcasting Rules Committee has recently rescinded rule 2.3, which is the rule upon which the 89FM complaint substantially relies. We believe that the 89FM complaint was prompted by the Tribunal's decision 37/88 which referred to editorial comment. Given that the Broadcasting Rules Committee's response to that decision was to rescind rule 2.3, we submit that 89FM's concern about editorialising is not shared by the BCNZ or the IBA which have endorsed the rules change."

Decision

The Tribunal rules as follows:

Rule 2.3 (Editorials on Matters Specified Not Permitted): This rule was in force at the time that the complaint was made but the editorialising did not deal with any political or religious matters, industrial disputes or matters of public controversy so we do not uphold the complaint of a breach of this rule.

In short, we accept Radio Hauraki's submission.

Rule 4.2 (a) (Listeners Should Be Able to Distinguish Factual Reporting from Comment, Opinion and Analysis): The Tribunal rules that there was no attempt to distinguish factual reporting from comment, opinion and analysis.

The Tribunal upholds the complaint in this respect.

Rule 4.2 (b) (News Must Be Presented Accurately, Objectively and Impartially): The Tribunal is unable to comment on the accuracy of Hauraki's news item. Clearly the reference to '89 times' was a 'send up' of the station's frequency and identification. However it was certainly lacking in objectivity and impartiality and again the complaint is upheld.

Rule 4.2 (e) (Care in Editing): The Tribunal finds that this is not an appropriate rule to deal with this matter—the complaint is not upheld under this heading.

Rule 4.2 (g) (Responsibility to be Fair): Again, this rule, which

is intended to ensure that different sides to a controversy get a fair hearing, is inappropriate.

The Tribunal declines to recommend that the news commentator concerned should be disciplined.

We considered electing not to determine the complaint which was in the nature of part of a competitive joust between stations. And apparently there has been no repetition of such items.

We do not regard these breaches as having been very serious—the item was obviously meant, in part at least, in fun.

We decided to give a decision to emphasise that news bulletins should not be used to mix facts, information, satire, irony and factual inaccuracies into an item of commercial rivalry. If the station's news is to be relied upon by the casual listener, it should remain sacrosanct from clever mis-statements intended to be understood as humour.

The complaint is upheld in the respects stated.

Co-opted Members

Messrs Carter and Wallace 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.

go8006

Decision No. 4/90

Reference No.: COM 8/89

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by **David George Lewis Bobb**:

Warrant Holder: Television New Zealand Ltd.

Chairman: Judge B. H. Slane.

Member: Robert Boyd-Bell.

Co-opted Members: R. M. Carter and B. W. Stephenson.

Decision

Dated this 16th day of January 1990.

First Letter to Television New Zealand Ltd.

The Saturday night movie broadcast at 9.30 p.m. on 4 February 1989 on TV2 was called *Johnny Dangerously*.

On 9 February 1989 Mr Bobb wrote complaining about the language in the first 10 minutes of the film. He noted a segment which he said included the words:

"Why you miserable cocksucker, I gonna get you for this. Roma Moronie never forgets a fuckin face."

Television New Zealand's Initial Response

On 23 February 1989 the acting director of programmes replied to Mr Bobb's letter. He said the film was comedy—a satire—and the language used by the character quoted was a deliberate parody of the kind of language associated with "gangsters". But neither the language nor the violent action in the film were promoted as being "good": "Moronie was very much the bad guy and was not the hero of the film. At one point the remark is made that 'the years hadn't changed Moronie—he continued to murder the English language'. And the basic premise of the film was a warning to a youth who tries to steal a puppy from a pet shop that 'crime does not pay'.

"The film had been given a censorship classification enabling it to be broadcast after 9.30 p.m. in the adult time band. As a broadcaster, Television New Zealand Ltd. is obliged to 'take into consideration currently accepted norms of decency and taste in language and behaviour, bearing in mind the context in

which any language or behaviour occurs," the acting director wrote.

"While recognising that some viewers might object to this film, I believe that in the context of a satirical comedy this language would be acceptable to most viewers. However, the 'currently accepted norms of decency and taste' do change over the years and letters such as yours enable us to establish the limits more accurately . . ."

Formal Complaint to Television New Zealand

On 2 March 1989 the complainant wrote to TVNZ formally complaining about the programme on the ground that the language in the film did not meet currently accepted norms of decency and taste. He said that the film had been advertised as "a comedy about prohibition-era gangsters".

He said the language he quoted was not acceptable for public broadcasting.

Television New Zealand's Response

On 20 April 1989 Television New Zealand advised the complainant that its complaints committee had considered the formal complaint on 5 April. It was considered in the context of section 24 of the Broadcasting Act 1976 and television programme rule 1.1 (b). This requires broadcasters to take into consideration currently accepted norms of decency and taste in language and behaviour, bearing in mind the context in which any language or behaviour occurs.

"It was noted that your complaint exemplified a situation where you believed you heard language which in fact was not uttered in the way you thought it was. Had you watched the programme in its entirety you would no doubt have realised that the language was being parodied. In one part, when a so-called gangster was being referred to, the dialogue said that he continued to 'murder the English language or anyone who got in his way'.

Television New Zealand continued: "The passage you quoted in your letter in fact ran as follows: 'Why you miserable corksucker. I gonna get you for this. Roma Moronie never forgets a fargin face kid.' Other language used included barstage, icehole, bullstyle, bull fertiliser and son of a batch for expressions not regarded as polite in most circles.

"You may be interested to know that when the censors first saw the cinema version of the programme in September 1987 it was rejected on the grounds of language. The version which went to air in February was a 'sanitised' version devised for television screening."

Television New Zealand said that, given the nature of the programme and the context of the corrupted language, the committee doubted whether it could realistically be considered to be in breach of television rule 1.1 (b) and declined to uphold the complaint.

Complaint to the Tribunal

In his complaint to the Tribunal which followed, Mr Bobb said that TVNZ had attempted to justify the use of profanity claiming it to be satire, used in context, a parody of language, and "language acceptable by most viewers". "Further," he said, "they claim the programme had already been 'sanitised'."

The complainant said he had lived for 20 years or so in Toronto, a city which he said has an Italian population of some 400 000. He was fully aware of the effect produced by a foreign population of varying linguistic ability attempting to speak English. "As for obscene language, I spent 6 years below-deck as a sailor in the Royal Navy, and freely admit to using it myself on occasion".

To summarise, he did not regard the language used as being a parody of English because it was being used by a frustrated adult who had been prevented by the actions of a youth from killing an opposing gang. The language was consistent with the situation. To say the script did not read as it was spoken amounted to a devious technicality.

Television New Zealand's Response to the Tribunal

On 29 May 1989 TVNZ said that the letters of the acting controller of programmes of 23 February and the letter of 20 April provided the essence of TVNZ's approach. A tape of the entire programme was enclosed.

With regard to the "sanitised" version, TVNZ stated that "it is not uncommon for 2 versions of movies to be produced—1 for cinema distribution and a modified version for television worldwide, and for in-flight movies. When the film was first assessed by the then BCNZ appraisers in September 1987 it was rejected on the grounds of the language, as the copy supplied was the version which had been screened on the cinema circuits in 1985 when the Government Film Censor issued it with an RP13 certificate with no excisions being required." The version broadcast was the sanitised or modified one that had been subsequently obtained and was issued with a TVNZ certificate to screen in an adult viewing period after 9.30 p.m. with no cuts (to that sanitised version).

TVNZ submitted that what was actually spoken and what the complainant believed he heard were 2 different things.

As to the alleged breach of section 24 of the Act, the context of the dialogue and the late evening hour of viewing was relevant. The film was acceptable for television screening worldwide and was regarded as suitable for 13 year olds and over in New Zealand cinemas under parental guidance.

TVNZ said the programme should not be judged by viewing only the first 14 minutes (when the words quoted occurred) but by viewing the whole film so that the nature of the language could be determined in an overall context.

"TVNZ would not be so naive as to suggest that what Roma Moronie intended to utter was not strong language. But it is submitted that the manner and method of utterance, when screened to an adult audience in a late evening slot, does not go beyond the intention and meaning of television rule 1.1 (b) against which TVNZ assessed the complaint."

Complainant's Comment on Television New Zealand's Submissions

On 7 June 1989 Mr Bobb commented that a sanitised version did not mean that the programme met the requirement of good taste, thereby divesting TVNZ of further responsibility. The language was explicit. 9.30 p.m. was not a late evening hour. One was entitled to expect a distinction between what was shown in cinemas and on national television. It was true that he had switched off when he found the language used by an adult to a child offensive but that the script did not read the way the words were pronounced was surely beside the point. There was an apparent acceptance by TVNZ of standards which breached the Broadcasting Act.

"Obscenity has no doubt a place in language and in society, but I question attempts to 'normalise', or give it a humorous connotation via national television bearing in mind the powerful impact of the media on some minds. Surely there must be alternatives to the substitution of vulgarity for entertainment," he wrote.

Decision

Members of the Tribunal have watched the film in full. It is a film of some merit, well written and directed. It can be described as a stylish comedy which lampoons the gangster movie genre. It is peppered with deliberate anachronisms and it exploits everything for comic effect. Every principal character is larger than life. There is no danger of the film or any of its characters being taken seriously as any sort of role model.

Johnny Dangerously is the mock-heroic, clean cut gangster. Roma Moronie is the arch-villain. In the company of impeccably well-mannered gangsters, Moronie is uniquely coarse and inept, unable to get even his obscenities right. This is the context in which the language complained of occurs.

The Tribunal accepts TVNZ's account of what was actually

said, i.e. "corksucker" and "fargin." Both pronunciations are clearly distinguishable on the sound track. And when in one scene Moronie's club is bombed, he shouts, "This is fargin war!" At this point, a newspaper appears with the banner headline, "Fargin war!" Nevertheless, the references were obviously to the words which the complainant thought he heard.

The language complained of occurred over a short span early in the film and was not typical of dialogue in the rest of the film. Although it recurs, it is much less in evidence throughout the rest of the film. Some warning of this parody of gangster talk would have been appropriate.

The language complained of, even had it been as the complainant thought it was, does not *ipso facto* render the programme obscene or in breach of Programme Rule 1.1 (b). Currently accepted norms are the test. For example, the Tribunal several years ago considered the use of "fuck" was acceptable in a dramatic context in **All the President's Men**.

The impact of the language is "softened" to some degree by Moronie's mashing of vowels and diphthongs. Whether the resultant effect is comic and is acceptable in the context is a question of judgment of the scene and of the whole programme. The overall quality of the film is relevant to that judgment. So is the timing of the broadcast. Whether there was an option to cut is also relevant. That would not have been possible without leaving large gaps in the continuity. The Tribunal considers that TVNZ had to run it as it was or not at all.

Having seen the entire film, the Tribunal does not consider it obscene or in breach of programme rule 1.1 (b). TVNZ gave the film an acceptable broadcast time.

The only additional measure it should have taken was to have added a language warning at the beginning, particularly having regard to the time at which it was broadcast, 9.30 p.m., and the incidence of the language soon after which may not have seemed likely from viewing the first minutes. We would not uphold the complaint for this failure alone.

The complaint is not upheld.

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.
go8007

2

Decision No. 5/90

Reference No.: BRO COM 13/88

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by **Donald Watson** of Titirangi (retired):

Chairman: B. H. Slane.

Member: Robert Boyd-Bell.

Co-opted Members: R. M. Carter and B. W. Stephenson.

Decision

Dated the 16th day of January 1990.

The Complaint

Mr Watson wrote to the public relations officer of Television New Zealand on 10 June 1988 stating that he wished to make "a general, and a particular formal, complaint about the material presented on the 6.30 television news."

His first complaint was that the television news in general

contained tales of disaster, tragedy and upheaval and very rarely anything of a pleasant nature.

His second formal complaint was "... your treatment of events in the Republic of Korea. I do not recollect anything of a positive nature: there is nothing on the news which depicts the tremendous advances which the country and its people are making, including a rapidly advancing standard of living... In particular, you show the country as consisting solely of rioting students throwing rocks, and police using tear gas, as you did on the 6.30 news this evening."

On 5 July, Television New Zealand's public relations manager acknowledged receipt of the formal complaint and advised that it had been forwarded to the BCNZ Complaints Committee.

On 14 July, the secretary of the Corporation wrote pointing out that there was a statutory procedure for formal complaints, enclosed an explanatory pamphlet and requested more specific information.

On 26 July Mr Watson wrote a 2-page letter in reply to the secretary. In it he said "I have not kept a note of the dates, [of news items] but the item immediately before my letter of 10th June was either on that day, or a day or 2 previously."

He repeated his allegation that news items over a long period had breached the requirement of "impartiality and balance in news and current affairs", quoting the pamphlet sent to him.

He referred to coverage of flood disasters broadcast more than a year previously and news items concerned solely with clashes between students and other demonstrators and the police. He said all this and press references to security for the Olympics suggested that South Korea was a very dangerous place which was not true—on the whole it was quiet and peaceful.

Mr Watson outlined a number of matters he said had not been reported but could have been covered, based on his opinions and knowledge of the country. These included industrial and educational development and the Children's Heart Foundation.

For these reasons he said the news reporting had been unbalanced. It should have covered other aspects of life in Korea.

On 2 August the secretary of the Corporation replied that the Broadcasting Act 1976 did not provide for formal complaints relating to programmes which had *not* been broadcast—an interpretation that had been confirmed by the Broadcasting Tribunal.

In the circumstances, the secretary believed Mr Watson's complaint could not be considered as a *formal* complaint under the statutory procedure. But it was within the province of the Director-General of Television New Zealand and had been forwarded to him for substantive reply.

On 5 August Mr Watson replied that he considered the secretary's action was improper and reiterated that his complaint regarding television news of the Republic of Korea "clearly falls within the definition of lack of 'impartiality and balance' as given in the pamphlet..."

Complaint to the Tribunal

On 14 August 1988 Mr Watson wrote to the registrar claiming the jurisdiction of the Tribunal to deal with the matter on the basis that his formal complaint had not been dealt with. He was critical of the way it had been handled by the secretary who he said appeared to wish to bypass the statutory procedure. The particular complaint on his complaint form which followed was:

"That news telecasts regarding the Republic of Korea are designed to show that country in an unfavourable and prejudiced light. The 6.30 news telecasts suggest that the country consists solely of rioting students and police,

which is clearly lacking in impartiality and balance. It is not possible to write down all spoken words.”

He went on to reiterate his allegations of lack of impartiality and balance.

On 22 August 1988 the acting secretary of the Corporation acknowledged the complainant's letter of 5 August to the Corporation, explained what had occurred as far as the Corporation was concerned, advised him of his right to refer the complaint to the Tribunal and explained again that, for the Corporation to treat the complaint formally, specific detail of the broadcasts and complaint would be required.

On 27 August 1988 Mr Watson replied to the acting secretary that he had provided the name of the programme, its approximate date and what he objected to in previous correspondence. He had not kept a note of dates of other earlier newscasts but said that the Corporation's sources should be able to provide them. He rejected the interpretation that his formal complaint referred to programmes *not* broadcast. He went on to say that, as his complaint had not been replied to within 15 working days of receipt, he had referred it direct to the Tribunal.

Broadcasting Corporation's Response to the Tribunal

The Broadcasting Corporation responded to the Tribunal on 30 November 1988 and submitted that the Corporation did not have a case to answer. Full and adequate responses had been sent to the complainant at each stage.

The Corporation also noted that the complainant had taken exception to the referral of his correspondence to the Director-General of Television New Zealand, demanding that statutory procedures be followed.

The Corporation said the grounds of complaint—impartiality and balance—had been clarified. However, the complainant referred to potential subject matter not broadcast and, apart from one bulletin item which Mr Watson originally claimed was broadcast on 10 June 1988 but appeared in all probability to be an item carried on 11 June, the Corporation could not properly measure these allegations relating to impartiality and balance.

The Corporation strongly rejected the allegation that its television news coverage of Korean events was designed to show Korea in an unfavourable and prejudiced light.

The Corporation did point out that, in the period leading up to the Olympics, TVNZ broadcast news and current affairs programmes backgrounding items on South Korea which gave a broader perspective of the Korean scene than the organised student unrest.

As far as jurisdiction is concerned, the Corporation pointed out that the original complaint had been addressed to the public relations officer of Television New Zealand, not to the secretary of the Corporation as required by the Act. When it was realised that he wished to invoke the statutory procedures, the complainant was invited to give more explicit detail which he failed to do.

Decision

The Tribunal did not find it either necessary or appropriate to hold an oral hearing.

The Tribunal finds that the complaint cannot be determined on the basis of the complaint originally made to the secretary of the Corporation. The complaint was not sufficiently precise to identify the aspects of the particular news items about which the allegations of bias were made.

We have observed before that it is not appropriate to level generalised and widespread allegations of breaches of standards without identifying the programmes referred to, in order to allow a proper response to be made under the Act.

We therefore find that the Corporation was justified in not proceeding formally with the complaint without further information.

It is appropriate however that we should address the substance of what was concerning Mr Watson because it is an important issue and we can do so without the need to examine the programmes complained of.

Much of the concern relates to the very nature of television news, which tends to be brief and relate to specific events, many of them with negative connotations. Specifically, coverage of disasters, demonstrations, unrest and conflict are common. The broadcast of a news item, or several items, about a country cannot depict the whole state of that country. Frequently such coverage leaves the viewer with an impression that is different from how that country is seen by its inhabitants. An impression can be gained that the events depicted are more widespread or of greater significance to the residents of that country than is actually the case. Furthermore, other positive aspects of life in and of the nation are not necessarily covered.

This view of the world, or any part of it, is not going to be readily corrected by complaints to the Broadcasting Tribunal or any of its successor bodies in New Zealand. The fact is that we are not in a position to adjudicate on general complaints where the accuracy of the items themselves is not challenged but the criticism is that other more positive news items about that country are not being delivered to the viewer.

It may be otherwise in current affairs or documentary coverage and it may be that a particular documentary can be criticised as being in breach of the standards if it does not recognise some of these features. But that depends on the purpose of the programme. The broadcast of a news item about some event in the Republic of Korea does not necessarily require other aspects of or events in Korea to be reported.

We have previously dealt with situations in South Africa and Northern Ireland where criticisms have been made that the emphasis has been on unrest or that items have focused on particular groups in ways that did not give a true perspective of the whole country concerned.

While noting that, in the case of Korea, the broadcasting body claims that subsequent programmes have given a wider view of the country, the Tribunal is not in this case able to determine either the specific or general issue raised because of the lack of precision about the programmes complained of and our finding that the complainant was not justified in referring the complaint to the Tribunal.

Having failed to establish specific detail of Mr Watson's complaint, the secretary of the Corporation referred Mr Watson's letter to the director-general of television for "a substantive reply".

While Mr Watson objected strongly to this referral, we consider it was the appropriate manner to consider this general concern. It may well have occasioned review at a senior level of the pattern of news and current affairs coverage of Korea, which does appear to be the most reasonable interpretation of Mr Watson's general concern and what he was seeking.

If individuals (or pressure groups) wish to challenge what they consider errant media assumptions or practices, they must expect to engage in dialogue and not reject such opportunities out of hand. The detail of "a substantive reply" can be analysed and monitored and may then, if necessary, provide the basis for a specific formal complaint.

We would also indicate for Mr Watson's benefit that we do consider the Corporation was justified in its interpretation that he was in fact complaining about programmes or items that had not been broadcast (but which he would have liked to have seen broadcast) and not about programmes that were. His allegation appeared to be not that there was bias or a failure of impartiality in the items concerned but merely that the broadcast of only those items led to the lack of impartiality and balance.

The Tribunal hopes that its remarks might be useful in the

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.

go8008

2

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:

Yeah, well you've got plenty of support; you've got mine.

HOST:

. . . Oh, . . . got us some lovely letters . . .

CALLER:

I'll bet you have.

HOST:

. . . very thinking ones, deep thinking ones too, I'll tell you . . .

CALLER:

Yes, I find it rather remarkable that people can get sort of, so picky and you know, pin-pricking and going on like that, because somebody is saying something that is actually true. And, really, we are in a democracy.

HOST:

Look, don't be fooled by it. I'll tell you what it is. It's one bloke called Dick Cuthbert. Remember that name, Dick Cuthbert.

CALLER:

Yeah, I'll remember it.

HOST:

He is . . . the thing, um, what is it?—The treasurer of HART.

CALLER:

Yeah.

HOST:

He monitors this programme all the time.

CALLER:

Yes.

HOST:

Any, any single thing that he can get out of it, he fires across to the Race Relations, right?

CALLER

Yeah.

HOST:

They have to investigate complaints. He's had 8 in there. Him, himself, right? Now, he is mainly, his biggest problem, is me . . . giving you the other side of what's happening in South Africa. That's his problem, and he admitted it, and the Tribunal brought that down in their decision yesterday which I read. It is not so much, it is it is my attitude to South Africa that is getting up this guy's nose, and that HART people and the CARE, 'cause they've got all the other media in their pockets, and they're like bloody puppets, aren't they? They run around and report all these little things that they do, you know, and they front page them and all the rest of it. But by jeez, they haven't got me mate.

CALLER:

Don't let them.

HOST:

Well, they won't.

CALLER:

O.K.

HOST:

Bloody wankers, the lot of them. O.K.

CALLER:

Thanks Tim.

HOST:

Now, for fabulous savings on fresh seafood, mate. . ."

[These extracts from the broadcasts do not contain all the words complained about.]

The Complaint to the Broadcasting Complaints Committee

Another letter also dated the 4th day of April 1988 was sent to the Broadcasting Complaints Committee by Mr Kelly on behalf

of Mr Cuthbert seeking redress for the alleged unfair treatment and infringement of privacy. This letter expanded on these complaints and quoted Mr Bickerstaff's comments published in Auckland newspapers to the effect that he was being targeted from "one man within CARE" and that that man was signing complaints to the Race Relations Office about him.

The complaint is dealt with later in this decision.

Radio Pacific's Response to Mr Kelly

Radio Pacific wrote to Mr Kelly personally on the 13th day of April 1988. The managing director, D. S. R. Lowe, stated that he was aware of the radio standards and rules which required Radio Pacific to observe standards of good taste and decency, bearing in mind currently accepted norms and the context. He said:

"Mr Bickerstaff feels that he has been selected as a target by you and some of your colleagues for a number of years and following the Broadcasting Tribunal's decision, which was made public late last month, he found himself responding to numerous on-air inquiries. Because Radio Pacific is a talkback station, such a situation was inevitable. He responded bluntly and using the style of broadcasting which listeners to his programme are accustomed to. Those who find Mr Bickerstaff's down to earth language offensive probably stopped listening to his programme a long time ago. He has adopted that style for more than a decade.

"Regarding your reference to the possible truth or accuracy of his reference to the CARE/South African motive regarding the Tribunal's findings, I note that you had not read the Tribunal's ruling when you wrote to me. You will by now have read it and appreciate that reference is made to Mr Bickerstaff's attitudes to the South African question in the decision.

"At the commencement of your letter you say that you are writing in your private capacity and not as secretary of CARE. Further on you say that you are giving me formal notice that you are authorised by R. J. A. Cuthbert to make a complaint on his behalf to the Broadcasting Complaints Committee concerning the unfair treatment and unwarranted infringement of privacy accorded him by Mr Bickerstaff when he named Mr Cuthbert on air as the person chiefly responsible for the campaign against him. To the best of my knowledge Mr Bickerstaff stated a fact and Mr Cuthbert's stance in regard to this host is publicly known.

"As you state at the conclusion of your letter that you propose to raise these matters with the relevant authorities in the strongest terms, it is probably best that I respond in greater detail before those authorities.

"Following the Tribunal decision which referred to Mr Bickerstaff and other matters regarding you, your colleagues and also the Race Relations Conciliator's Office, I have had discussions with Mr Bickerstaff and all the Radio Pacific hosts. They are mindful of their obligations and matters covered by the Tribunal decision have been further stressed. I tell you this in response to your last paragraph.

"All your comments are noted. I have given Mr Bickerstaff a copy of your letter and my reply.

"Finally, because I believe there would be considerable merit in you and Mr Bickerstaff discussing the contents of your letter and other issues that you might wish to raise with him regarding allegations of racism, I invite you to take part in a 2-hour 6-8 p.m. talkback session one evening . . .".

The invitation was also extended to Mr Kelly as secretary of CARE or to Mr Cuthbert as his nominee or to any representative of CARE.

Mr Lowe ended his letter:

"I have tried to be as frank as possible and the offer to bring you or one of your colleagues together with Tim on the air is made in the hope that further frank discussion will enable each party to better understand the other."

Mr Kelly's Complaint to the Tribunal

Mr Kelly said that the station management saw justification for unacceptable lapses from currently accepted norms of decency and taste in language because of the tone of the programme.

He said it has assumed by Radio Pacific that the currently accepted norms of decency and taste in language in the Act were those of a rugby dressing room rather than the average living room in which the programme are listened to. He opposed that view despite his previous wartime army service and about a quarter of a century of experience as a rugby coach. The casual listener had a right by law not to have his/her ears assaulted in an open broadcast by language better suited to the casual standards of a public bar pretty late at night, notwithstanding that the station and Mr Bickerstaff wanted to project a rough diamond image. He referred to the Tribunal's decision 6/88 at page 7 where the Tribunal said:

"The Tribunal does not accept that a host with a 'rough diamond' image should be allowed to make racist remarks to maintain that image.

"Any warrant holder must recognise that its warrant to broadcast is a privilege subject to revocation for breach of conditions. A radio station granted a warrant is not thereby granted a licence to initiate or permit controversial discussions with the mere hope that no breaches of the law will occur. If a warrant holder conducts such programmes then it must accept full responsibility for them and take reasonable steps to ensure no breaches occur. . . . The hosts must also be very clear that style or projection of an image can never excuse illegal racist comment. If errors or slips do thereafter occur the attitude of the host, any immediate attempts to remedy the error, the safeguards in place for dealing with risky topics and the past record of both station and host may well be crucial to the renewal of the warrant."

Mr Kelly ended his complaint with this statement:

"I find the station management's tolerance (or encouragement?) of the style of this broadcaster more surprising in that I have not infrequently heard other Radio Pacific 'hosts' issue a warning to callers whose language has lapsed into looseness. And Mr Lowe must be well aware that his other hosts, both female and male, seem to manage very competently and professionally to handle issues of every degree of complexity without resorting to the kind bar-room argot that is Tim Bickerstaff's trademark. And that, it seems to me, without the slightest risk of appearing wimpish. I cannot see that the requirements of the Act can allow special licence to this broadcaster."

The Tribunal decided that it was necessary to defuse the situation as soon as possible and arranged for an oral hearing on 13 May 1988. It was felt that bringing the parties together might at least help by emphasising the importance of the complaint and confront the station and Mr Bickerstaff with the issues. In this, the Tribunal considers it was successful and over about an hour and a half there was a frank and open exchange of views.

For Radio Pacific, Mr Lowe argued that there were a range of contributors to Radio Pacific's talkback programming which balanced the tone and style of Mr Bickerstaff, who he felt had been caught up in the "sport and politics don't mix" issue. An audience had developed which liked his style and his candid approach. Other Radio Pacific listeners had long since tuned elsewhere. His approach had mellowed, matured and broadened considerably in recent times and there had been fewer complaints compared with 1982, 1983. The "Auckland Tonight" format had been a significant step forward in his

credibility. He considered Mr Bickerstaff to be one of the better interviewers in New Zealand and urged the Tribunal not to look at the language in isolation. He produced the complete file of complaints in relation to Mr Bickerstaff for perusal.

Mr Kelly pointed out there was no specific defence to the particular complaint. He was not a person who had listened very much at all to the programme, although he did admit that there had been a recent campaign to get Mr Bickerstaff put off the air as was disclosed at the station's renewal hearing.

Asked whether his comment were not "over the top", Mr Bickerstaff said it had been a style used for 28 years in broadcasting, he had always used that sort of language and it had been part of an image that had been projected as a sort of bar-room personality talking sport to people. He never had any rules as such "that you cannot use certain words" but he had avoided obscenities. It had never been an issue with Radio I or Radio Pacific. He cited another of his programmes in which an Australian entertainer who used stronger language had appeared and there had been only 1 complaint. He said he did not know there were any rules. He pointed out that it needed to be taken in the context of his programme and he said that on another programme he would not use the same language.

For Radio Pacific, it was pointed out that language standards had changed and that some years previously there had been a conviction for the use of the word "bullshit" in public.

When asked about the allegation that the language was directed at a person or group, it was said that Mr Bickerstaff had been subjected to public criticisms and that morning there had been a *New Zealand Herald* billboard story. Nevertheless, it appeared from the evidence given to the Tribunal that it was not a boiling over by Mr Bickerstaff but rather an image, a deliberate ploy, in the use of language. He was reacting strongly because of criticism and because his craft as a broadcaster was at risk.

It was submitted for Radio Pacific that Mr Cuthbert was a public figure and a distinction should be drawn between him and another person who might in similar circumstances have drawn this comment. The audience was a 40+ audience. It was not a programme listened to by children. In 16 years, Mr Bickerstaff said, he had not drawn any complaint for language but Mr Lowe admitted that in respect of some words he had raised the question of language with Mr Bickerstaff.

Mr Kelly pointed out that Mr Bickerstaff's job was the use of language and, if he was such a skilled broadcaster, he could express himself in language that would not breach the standards. Mr Lowe argued that the language itself was not objectionable as was evidence by the lack of complaints about it other than Mr Kelly's.

Examples of recent use of "wanker", "bugger" and other similar words used in this programme in other media was also discussed.

The Tribunal drew attention to the fact that broadcasters made the broadcasting rules and that one of the most important things was to consider the norms of the time and the context within the rules. It was submitted for Radio Pacific that norms do differ from one audience to another.

The Tribunal considered that Mr Bickerstaff was frank and open in his evidence as was Mr Kelly.

Mr Kelly's position was straight forward. He objected to the use of "Jesus" and "Christ" which he and other people considered blasphemous. He would not have considered the use of any other single word would have been "meat enough" for a complaint. It was the fact that the other words were used together and the summary effect of them that caused his complaint.

Decision on Complaint 9/88 on Standards

Mr Kelly's complaint is a reasonable one.

No attempt was made in the programme to give a plain report

or an objective analysis of the Tribunal's decision, so the statements could not be justified as a fair comment based on factual material. It was an emotional response. Mr Bickerstaff had previously told the Tribunal that he projected a certain image for the audience. We can appreciate that occasionally a "bloody" in context is quite acceptable in Mr Bickerstaff's adopted characterisation. Very occasional use of swear words will not necessarily breach the standards. But Mr Bickerstaff piled one word and phrase on top of another and added abuse. The result was not acceptable. Responsibility needs to be exercised.

We do not consider that the managing director's assertion that "those who find Mr Bickerstaff's down to earth language offensive probably stopped listening to his programme a long time ago" to be any sort of defence for this degree of lapse. It was a self-indulgent, self-pitying use of a privileged position to direct abuse offensively at a particular person and group of people.

It is not a matter of whether the Tribunal likes something or not, nor of whether bureaucrats exercise powers. It is rather whether, put simply, language should be permitted on the air which breaches community standards. Some of this insulting, offensive and obscene language—if used in the street to the people for whom it was intended—could have led to an arrest. Mr Bickerstaff's unwillingness to discipline himself, and his rancour at what he felt was an attack in the decision, is not a justification. The Tribunal itself did not in fact criticise him personally in any way in its decision 6/88.

The Tribunal upholds the complaint of a breach of the standards of good taste and decency.

The seriousness of this breach is the deliberate nature of it.

Mr Bickerstaff may express his views but he must do so within the law and within the rules of broadcasting and within community standards of good taste and decency. The ultimate responsibility lies with the warrant holder. The station appears since to have accepted those responsibilities, particularly in relation to the other matters traversed at the renewal hearing in relation to racial and ethnic matters, which accords well with its responsibilities as a warrant holder.

Also to be taken into account is the fact that no subsequent complaint has reached the Tribunal, despite Mr Cuthbert's avowed practice of monitoring the programme.

This decision will be sent to the Broadcasting Standards Authority set up to assume the Tribunal's complaints jurisdiction under new legislation which gives it more extensive powers and control over the setting of standards. That body may decide to take this conduct into account if there should prove to be any subsequent similar breach.

The Tribunal regrets that the complaints decisions could not be completed earlier due to a need to give priority to licensing work. Yet by casual observation, it seems the tone of the programme has picked up and no other complaints have lodged complaints. Mr Bickerstaff's undoubted talents have apparently been better directed.

Complaint 11/88 RJA Cuthbert to the Broadcasting Complaints Committee

The complaint Mr Kelly made on behalf of Mr Cuthbert was in 2 parts. First, unfair treatment: secondly, unwarranted breach of privacy. The complaint can be summarised as follows:

Mr Cuthbert was a member of CARE and as such participated in the Tribunal's hearing of Radio Pacific's application for renewal of warrant. CARE's submission laid some stress on aspects of the past on-air conduct of Mr Bickerstaff. The submission of the Race Relations Conciliator carried a similar emphasis. A number of complaints had been laid with the conciliator, some of which had been upheld by the conciliator. Three of them were lodged by Mr Cuthbert.

Mr Kelly wrote that on Wednesday, 30 March, Mr Bickerstaff said: "His name is Dick Cuthbert. Remember that name—

Dick Cuthbert.' To which the caller responded: 'I'll remember it.' "

(The actual words and other remarks also made are in the text above.)

More precisely, Mr Kelly said Mr Cuthbert said he then received several abusive and threatening telephone calls derived from that broadcast.

On 6 May 1988 Radio Pacific's solicitors wrote to the Broadcasting Complaints Committee stating that the complaint appeared to have been lodged under section 950 (1) (b) of the Broadcasting Act as one of unjust and unfair treatment of programmes and unwarranted infringement of privacy.

Radio Pacific's solicitor stated that, as they understood it, there had been 1 complaint lodged, namely in reference to Mr Bickerstaff's statement on 30 March set out above.

The solicitor answered the complaint as the station was obliged to do under section 95s (1) (d). He said the claim in respect of unwarranted infringement of privacy was totally inappropriate. That section referred to the infringement of privacy "in connection with the obtaining of material included in programmes broadcast"—there was no infringement of privacy in obtaining any material in respect of this broadcast."

Radio Pacific also denied that Mr Cuthbert had been subjected to unjust and unfair treatment and considered that complaint frivolous. (Section 95q (1) (d) provides that the Committee shall not investigate complaints which appear to be frivolous.) The solicitor wrote that Mr Cuthbert was a well-known figure who had been involved publicly in campaigns against Mr Bickerstaff. He was well known for his views on South Africa and had been involved in public debate with Mr Bickerstaff either directly or indirectly over many years. He had vigorously attacked Mr Bickerstaff at the Tribunal's public hearing on the renewal of Radio Pacific's warrant when he admitted monitoring Mr Bickerstaff's programme. His campaign against Mr Bickerstaff was a matter of fact and admission.

Radio Pacific submitted that Mr Bickerstaff was the subject of an organised campaign by Messrs Kelly and Cuthbert and that they were lodging a frivolous complaint because of their deeply held views on the issue of relations with South Africa, Mr Bickerstaff holding a contrary view.

As to Mr Cuthbert's complaint concerning his name being used in the broadcast, Radio Pacific's solicitors responded that Mr Cuthbert gave evidence to the Tribunal that he had monitored Radio Pacific. He had a record of lodging complaints against Mr Bickerstaff with the Race Relations Office and was a public figure with publicly known views, upon which Radio Pacific was entitled to make comment. As a matter of natural justice, Mr Bickerstaff had a right to respond to the strong personal attacks on himself which Mr Cuthbert had made to the radio station, the Race Relations Office and the Tribunal.

Radio Pacific considered that the issue was so linked with the Tribunal's hearing and decision on the station's warrant that the Committee should report the complaint to the Tribunal to determine it either in isolation or when renewal of the warrant was considered in 10 months' time.

Mr Kelly then responded to the Committee.

In a letter dated 10 June 1988, Mr Kelly made the following comments on Radio Pacific's solicitors' response.

1. Section 950 (b) (ii) reads:

"Unwarranted infringement of privacy in, or in connection with the obtaining of material included in, programmes broadcast by any broadcasting body."

Clearly that included unwarranted infringement of privacy in programmes broadcast by any broadcasting body.

2. The complaint was not frivolous.

3. He detailed obscene, racist, abusive and threatening telephone calls made by anonymous callers who were obviously listeners to the programme.

4. It was no defence that Mr Bickerstaff could not be blamed for extravagant responses to his finger-pointing at Mr Cuthbert. Broadcasters did not have a right to inflame public opinion against a member of the public because of a personal grievance.

5. Many of the offensive terms used by the anonymous callers were the words used on air by Mr Bickerstaff and defended by him in respect of the other complaint as necessary to his style and to maintain his rapport with his audience.

6. The on-air attack on Mr Cuthbert was not justified as part of a continuing public debate between the 2 of them over the South Africa question. That claim was untrue. Apart from 1 occasion on air briefly, Mr Cuthbert had not telephoned the programme.

7. The South Africa connection was irrelevant to the matter of this complaint and was offered as an excuse for all occasions on Mr Bickerstaff's behalf.

8. Mr Kelly's personal views on South Africa were not known by Radio Pacific and were irrelevant to the complaint.

9. It was claimed that Mr Bickerstaff had the right to respond to "strong personal attacks" made on him by Mr Cuthbert. Those attacks were presumably complaints to the Race Relations Office and evidence submitted to the Tribunal for the renewal of warrant hearing. There was no proper use of the right of response. Mr Cuthbert had a right to intervene in the proceedings for renewal and to make complaints to the Race Relations Office.

10. The transfer of the jurisdiction to the Tribunal was opposed.

Broadcasting Complaints Committee Decision No. 4/88

In its decision (No. 4/88) dated 1 July 1988, the Broadcasting Complaints Committee stated that he had read the correspondence on the complaints of unjust and unfair treatment and unwarranted infringement of privacy in connection with the broadcast of 30 March 1988. He had listened to a tape of the programme.

The Committee stated that his attention had been drawn to the fact that Mr Kelly on behalf of Mr Cuthbert had lodged a complaint with the Tribunal direct relating to the same programme. [This seems to refer to Mr Kelly's own complaint about standards.]

The Committee said he was aware of the Tribunal's decision 6/88 relating to Radio Pacific's application for renewal. That decision indicated that the station had been subject to complaints from CARE, of which Mr Cuthbert was treasurer. Again according to the Broadcasting Tribunal's decision, CARE had as one of its objectives the removal of Mr Bickerstaff, the Committee wrote.

The Committee said it seemed clear that Mr Cuthbert's concern related to the total programme and was part of an ongoing saga. Although the complaints were couched in different terms and were directed to different aspects of the same broadcast, there remained the clear impression that CARE wished to see Mr Bickerstaff removed from broadcasting.

In those circumstances it seemed to the Committee inappropriate for him to consider Mr Cuthbert's complaint, which was essentially a minor part of a larger issue. The Committee found the two complaints to be inextricably bound together and that they ought not be considered in isolation. Furthermore, bearing in mind the Tribunal's decision, it was considered preferable to decline jurisdiction and refer the complaint to the Tribunal.

Decision on Complaint of Unjust and Unfair Treatment and Breach of Privacy

This complaint was referred to the Tribunal after the Tribunal had had the benefit of a sitting in respect of the other complaint. For that reason, and because the parties had made their submissions to the Committee, the Tribunal did not seek further submissions.

The station had written to Mr Kelly on 13 April 1988 as set out at the beginning of this decision. Mr Kelly had then written to the Tribunal complaining on 28 April 1988.

The Tribunal has listened to tape recordings. The context is set out above because it is relevant to an understanding of the particular sentences when Mr Cuthbert was named twice.

On the issue of breach of privacy, a submission made by the solicitors for Radio Pacific that the complaint could only be based on the gathering of material is patently incorrect on a plain reading of the section.

The Tribunal therefore finds that there was a valid complaint lodged with the Broadcasting Complaints Committee.

The question arises whether there was a breach of privacy in the broadcast. Mr Cuthbert was named. Whether he was unfairly or unjustly treated is dealt with later. The only question is whether the naming of Mr Cuthbert, fairly or unfairly, was a breach of his privacy.

The fact that is allegedly resulted in abusive telephone calls is not in itself conclusive. It has to be accepted that Mr Cuthbert is a public figure. Mr Cuthbert has taken a prominent position in protests over a number of issues relating to sporting contacts with South Africa. He is not a private person in the context of this complaint but rather a public figure. It is quite possible that public figures will receive telephones calls as a result of references to them in broadcast programmes and others in other media.

For this Tribunal to find that mention of a public figure in an unfavourable way is in itself a breach of privacy, whether the comment is fair or unfair, would be to limit the freedom of speech quite remarkably. We can identify no allegation of the programme having urged people to contact Mr Cuthbert or in any way having advocated any course of action which would have in itself constituted a breach of his privacy. It is not necessary for us to decide the question of whether an invitation to contact a person is in itself an infringement of the right of privacy when that person is a public figure. It is, however—for the purposes of broadcast regulation—a matter that raises serious issues and care needs to be taken in arriving at a decision on the basis of particular circumstances.

In this case, we can see no basis for the claim of a breach of privacy on the part of Mr Cuthbert. He was undoubtedly involved in issues related to Mr Bickerstaff off air and we can see no breach of the Act in his identification on air.

The complaint is not upheld in this respect.

In respect of the allegation of unjust and unfair treatment, the Tribunal has had to consider a number of issues.

First, there is the claim that attacks had been made on Mr Bickerstaff and that he was justified in responding to them. Leaving aside the nature of his response, it is interesting to observe the assumption made by the station manager (and Mr Bickerstaff) that Mr Bickerstaff was entitled to use his position as a broadcaster to respond in respect of matters which had not been broadcast. An ordinary citizen may well observe that hosts who publicly criticise public figures are themselves public figures who must tolerate similar criticism, without using their power to deal unfairly with others. That is what the Act requires. Mr Bickerstaff was prepared to use his privileged position. While we accept the truth of Mr Lowe's statement in the other complaint hearing that Mr Bickerstaff was prepared at all times to accept calls on air, he has a great advantage in doing so and certainly uses it.

While Mr Cuthbert's monitoring of the programme was seen

by Mr Bickerstaff as the cause of all the complaints, some were lodged by CARE.

Mr Cuthbert was entitled to lay complaints with the Race Relations Conciliator and the justification (if any was needed) was the conclusions arrived at by that office. He had not engaged in any abuse or criticism of Mr Bickerstaff on the air.

We do not think there is any justification for denying Mr Bickerstaff the right to comment in appropriate terms on a public figure such as Mr Cuthbert, where Mr Cuthbert had been engaged in activities which clearly were designed to damage Mr Bickerstaff for whatever good reasons Mr Cuthbert had in mind. But we do not think that a campaign by CARE (which was acknowledged by Mr Kelly) could in any circumstances be a justification for the use of insulting and offensive words. Mr Bickerstaff was simply being, in plain words, unfair and unjust to Mr Cuthbert in referring to him as a "wanker" and in inaccurately ascribing all the blame for complaints to Mr Cuthbert. In fact, Mr Cuthbert had made 3 of the 8 complaints to the Race Relations Conciliator about Mr Bickerstaff, who was wrong in saying "He's had 8 in there. Him, himself, right?"

Nor do we accept the argument that, because the matter arose over a difference of opinion on South Africa and Mr Bickerstaff held himself out as the only person prepared to take an independent line on South Africa, he was entitled to use the sort of language and description of Mr Cuthbert that was involved in this case. We accept that there is a considerable ground for protecting broadcasters such as Mr Bickerstaff, who had taken a view on South Africa that is not fashionable in some media circles, from being driven off the air by unreasonable or unfair behaviour and comment. That sort of conduct has drawn our comment in another complaint recently decided in relation to Radio Pacific. So let there be no doubt about the Tribunal's position for freedom of speech.

But, as Mr Kelly rightly says, the broadcaster must act within the law. We cannot accept that the description of Mr Cuthbert as being solely to blame for the predicament in which Mr Bickerstaff thought he found himself was justified. In this connection we have taken not just the words referred to in the original complaint but also the context in which they occurred.

As we have said previously, Mr Cuthbert is a controversial public figure and must expect intense and strong criticism of his conduct and attitude. There are also rules laid down for broadcasting by broadcasters which require fairness and justice in dealing with individuals. In relation to the other complaint about bad language, Mr Bickerstaff made it clear that this was part of his style and attitude and that he considered it as something of a right to continue to broadcast using these words as he pleased. We have commented earlier in this decision on that. On this complaint, we simply say that we must uphold the complaint. It was a clear but not a serious breach of the requirements of the Act. In sporting terms, it was below the belt. A good sportsman would, in the circumstances, apologise.

We do not however consider the breach to require any direction to be given by the Tribunal.

The complaint, in respect of the allegation of unjust and unfair treatment, which we emphasise is against Radio Pacific Ltd., is upheld.

Co-opted Members

Messrs Sheehan, Carter and Tucker were co-opted as persons whose qualifications and experience were likely to be of assistance to the Tribunal. They took part in the respective deliberations of the Tribunal but the decisions are those of the permanent members.

Signed for the Tribunal.

B. H. SLANE, Chairman.

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):

Chairman: Judge B. H. Slane.

Member: Robert Boyd-Bell.

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

Decision

Dated this 30th day of January 1990.

The Complaint:

Mr Jensen complained about a news item broadcast at 7.40 a.m. in Radio New Zealand (RNZ) news on 1 July 1988. He described the item as:

"a biased review of the referendum being engendered by Bob Martin surrounding the Treaty of Waitangi and fishing rights.

"The L'Estrange comments were totally out of tilt, more so when one views them alongside the Treaty of Waitangi which has never been legally ratified.

"My point of issue is that the BCNZ failed to comply with the Act in not inviting or allowing Bob Martin the right of comment or reply to the L'Estrange accusations on this programme.

"Bob Martin has a sincere and real genuine concern for all New Zealanders over this issue and as such should have been given the right in the same programme to reply. The total lack of courtesy."

Mr Jensen said the Maori ownership issue was being "heightened by internal BCNZ influences and balanced replies are not being invited."

The BCNZ Response

On 30 September the Broadcasting Corporation wrote to Mr Jensen, advising him that the Board had not upheld his complaint. It had been considered against sections 24 (1) (d) and (e) of the Act, which respectively require broadcasters to have regard to the accurate and impartial gathering and presentation of news reporting to recognised standards of objective journalism; and the principle that when controversial issues of public importance are discussed, 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 BCNZ said Mr Jensen's complaint concerned reports of an interview with Maryanne L'Estrange, co-ordinator of the pakeha pro-treaty group Project Waitangi. Prior to the interview, the thrust of the statements by the Commercial Fishermen's Association president Bob Martin to protect pakeha fishing "rights" had been thoroughly reported, said the Corporation. Similar coverage had been given to Maori views about fishing rights.

The role of the RNZ Network News was to report all relevant factors about an issue and, in handling the task, built-in balance was not necessarily required so long as total coverage had sufficiently addressed the issues.

Mr Martin had taken out newspaper advertisements calling for a referendum on the Treaty of Waitangi and Ms L'Estrange contacted Network News to make a statement on behalf of Project Waitangi. This statement dealt with what Project Waitangi regarded as errors of fact which could be established by checking with any reputable book on New Zealand history or the Treaty of Waitangi. As Ms L'Estrange's statements were a response to comments already aired by Mr Martin, there

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.

The BCNZ Response

On 10 October 1988, the Corporation advised Mr Jensen that his complaint had not been upheld. It had been considered against section 95B(1)(a), (i), (ii) and (iii) of the Broadcasting Act 1976 which is concerned with the Corporation's obligation to maintain, in its programmes and their presentation, standards which will be generally acceptable in the community; with the obligation to have regard to the observance of standards of good taste and decency; and the obligation to have regard to the accurate and impartial gathering and presentation of news according to recognised standards of objective journalism.

The Corporation said that the nature of the programme and the item in question was clearly satirical and that it was in the nature of satire to exaggerate reality by presenting incidents or people in a way which highlighted irony.

"The Week Link" does not personally attack people being satirised, although it does use quotes placed out of context or, as in the case in question, slightly altered. The spokespersons is quoted in newspapers as saying: 'Some of the boys get a bit hit up now and then'.

"The programme blatantly signalled the fact that it was satirical and the item clearly indicated it should not be taken as being factual or serious."

The Corporation said the "recognised standards" aspect was a qualification in the Act with reference to "objective journalism", therefore it could not be part of a complaint when the programme concerned made no pretence whatever to being a news programme.

Regarding "standards" and "good taste", it was considered that only a very narrow interpretation of the script and an acceptance that it was not satire could bring into question the standard of good taste of the programme. The specific comment, if taken out of context of the script, might be deemed to breach standards and good taste in the narrow sense but it was considered to be fully redeemed when seen in the context of a satirical piece and the evidence of fact on which the script was based.

Reference to the Tribunal

Referring the complaint to the Tribunal on 25 October 1988, Mr Jensen said that it was not humour, satire or the like. It was bad taste, "totally out of tilt, and objectionable". The Corporation had given a "pathetic, infantile response". He alleged incompetence and added that humour and good taste were the basic of satire. He also said that the Corporation should be made aware of that.

Radio New Zealand Submissions

In response to the Tribunal, Radio New Zealand referred again to the inapplicability of the "recognised standards" provision to a non-news programme.

"The Week Link", it was submitted, was a satirical programme based on recent news events.

"It makes no claim to be other than satirical, and indeed signals its nature beyond doubt, clearly indicating that its thrust is neither factual or serious reporting. Mr Jensen's letter of 29 June confirms that he has correctly assessed the programmes as satire, which he describes as 'weak'. Whether it be weak or effective is a matter of opinion, but does not affect its basic intent."

The Corporation also made the points that the factual basis of the item had not been distorted; it was the nature of satire to exaggerate reality by presenting incidents or people in a way which highlighted irony; and "The Week Link" did not make attacks on people personally.

The Corporation reiterated its view earlier expressed to Mr Jensen, that the comment complained of should be considered in its full context, both of the item and its factual background.

It maintained there was no justification for upholding the complaint on the grounds stated by Mr Jensen.

Consideration

The Tribunal invited Mr Jensen to attend a formal hearing of this and another complaint lodged by him (Com 15/88), but he declined repeated invitations to do so.

This Tribunal has had previous experience of considering complaints arising from satirical commentary on radio following "bruising" sporting encounters—see decision 37/88.

The circumstances in this case were clearly different. "The Week Link" was in 1988 (and has continued to be) a regular feature of Saturday morning National Radio broadcasts.

It had a clearly established identity as a weekly, topical, satirical commentary on life in New Zealand—not readily confused with other styles of commentary.

The effectiveness of all humour and satire depends to some extent on the identification which such programmes achieve with their audience(s). Topical satire is often a "hit and miss" affair, with different items gaining greater or lesser acceptance from different members of the audience. Mr Jensen obviously did not appreciate the closing line of the item he complained of. He also appeared to consider the programme series as "infantile".

Mr Jensen is fully entitled to his view—an individual's sense of humour is obviously an intensely personal characteristic.

But the Tribunal considers it is a substantial leap from individual disapproval to declaring such comment a breach of the Act. In the terms of section 95B(1) of the Broadcasting Act, the Tribunal considers that the "recognised standards of objective journalism" provision does not apply to a programme such as "The Week Link", clearly identified as not a news programme.

The complaint had clearly to be considered in the terms of section 95B(1)(i) and (ii)—the maintenance of standards generally acceptable in the community and regard to the observance of standards of good taste and decency.

As for standards generally acceptable in the community, the Tribunal is aware of the general popularity with audiences worldwide of topical satirical programmes on both radio and television.

We have no reason to believe New Zealanders are unique in this regard.

To uphold Mr Jensen's complaint as a breach of standards generally acceptable in the community would be to accept his personal opinion, somewhat intemperately expressed, as representing the standards of the community. On the basis of one complaint relating to one specific aspect of the programme, there is little ground for such a conclusion.

With regard to section 95B(1)(ii), having regard to the observance of standards of good taste and decency, the Tribunal has a similar difficulty.

In the previous decision referred to earlier (decision 37/88) the Tribunal considered, after extensive deliberation, that particular remarks derogatory of national and racial groups not directly related to the factual circumstances being commented on, did transgress the boundaries of good taste.

In this instance the Tribunal is not so convinced. The factual basis of the item in question was clearly based on news reports of the time and relatively accurately related.

The "moral of the story" in the final lines and the conclusion specifically complied of by Mr Jensen was provocative, but not an isolated reaction.

There has been wide public comment in recent years regarding many parents' concern about the violence implicit in some aspects of rugby and the extent of injuries sustained.

It is an aspect of public reaction which the Rugby Union itself

has seriously addressed. It is clearly part of the national debate surrounding New Zealanders' continuing strong identification with the game.

To rule that provocative expression of that sentiment, based on a specific incident widely reported, in a satirical radio programme breached standards of good taste and decency would be to artificially constrain that debate and impose a very narrow view of "good taste".

The Tribunal does not consider that Mr Jensen's sense of humour, or lack of it, constitutes grounds for ruling that the programme was in breach of the Act.

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. 9/90

COM 3/88

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by **The Insurance Council of New Zealand Incorporated** of Wellington:

Warrant Holder: Broadcasting Corporation of New Zealand, (Television One).

Chairman: B. H. Slane.

Member: R. Boyd-Bell.

Co-opted Members: J. A. Kelleher and G. Whitehead.

Decision

Dated this 31st day of January 1990.

Circumstances of the Complaint:

The complainant is a trade association representing insurers and re-insurers other than State Insurance. It has a close working relationship with the Earthquake and War Damage Commission. It also operates an insurance emergency scheme to assist in speedy recovery of communities following major natural disasters.

The complaint was about a segment of the *Close Up* programme called "After Shock" broadcast on 30 April 1987. The programme dealt with the experiences of some people who had suffered losses and some others who were concerned with the assistance or lack of assistance given to those who were affected by the Bay of Plenty earthquake 2 months earlier.

The programme reported that the 25 000 people affected were so desperate they had asked for international aid, and there were interviews with individuals who were said to be angry at both alleged delays and the amounts of settlements of insurance claims. In particular, there were specific criticisms made of the procedure followed by the Earthquake and War Damage Commission (the Commission).

The executive director of the Insurance Council, T. A. Roberts, first took the matter up by writing to the producer of the programme on 11 May 1987. His concern was for the allegedly false impression given of the surrounding circumstances and factual inaccuracies, of which 11 were detailed. He indicated an intention to make a formal complaint but wanted to give the producer an opportunity to respond.

The producer replied on 21 May, and Mr Roberts responded to him on 15 June.

On 20 July the producer wrote again disagreeing with the criticisms made of the programme, whereupon Mr Roberts filed a formal complaint with the Broadcasting Corporation by letter dated 17 August 1987. At a meeting on 15 December 1987 the Broadcasting Corporation decided not to uphold the complaint. On 22 December 1987 the secretary of the Corporation wrote a lengthy letter to Mr Roberts setting out the Corporation's reasons.

On 13 January 1988 the Insurance Council formally referred the complaint to the Tribunal.

On 26 February 1988 the Corporation responded, but claimed that in the absence of detailed submissions the Corporation did not have a clear case to answer as its detailed lengthy response had not been challenged in a definitive way by the Insurance Council.

In response the complainant filed a 16-page submission with the Tribunal in March.

The Tribunal sat on 16 May 1988 to hear submissions from the complaint; the producer and the reporter were present, gave some personal views and answered questions as did a senior TVNZ news executive. Counsel for the Corporation participated in the hearing. Mr Roberts said the purpose of the complaint was to fire a "shot across the bows of television. Disasters would occur in the future and it was a matter of public interest that television perform adequately and responsibly. The Insurance Council could be in the same position after a flood as the Commission was after an earthquake.

The Tribunal reserved its decision. The Tribunal regrets that pressure of licensing work and work on new legislation has prevented a speedier resolution of this and some other complaints. However it believes a full decision may provide some better guidance for broadcasters involved in similar programmes in the future.

The Complaint:

In its complaint to the Broadcasting Corporation, the Insurance Council alleged that the programme was inaccurate and lacked balance.

We have some sympathy for the Corporation in attempting to deal with the complaint it received, in that Mr Roberts framed his complaint both to the Corporation (and to this Tribunal) by reference to earlier correspondence, which left it to both the Corporation and the Tribunal to extract from the correspondence the issues to be determined. However, we were considerably assisted by the full written submission we later received from the complainant. The significant complaints can be summarised as alleged breaches under section 24 of standards of accuracy, and of failure to ensure that significant points of view were presented.

We summarise the particularised complaints and our conclusions on specific aspects:

1. The reporter opened the programme as follows:

"Almost 2 months ago to the day the biggest earthquake in the country's history since the Napier shake ripped through the Bay of Plenty. Today the 25 000 people affected are so desperate they've asked for international aid. The emergency relief centre believes the Government is largely ignoring the magnitude of the damage and says the Government should be treating this crisis as it would a foreign disaster. Many locals feel cheated by what the Earthquake and War Damages [sic] Commission is offering and they can't afford loans. They're facing winter cold, confused, homeless and heart-broken."

The complainant said there was no evidence that 25 000 asked for international aid. There was evidence that one person did do so. It is reported that a person associated with the relief centre made a request through the local Red Cross Society to

the Wellington Red Cross headquarters, asking that the Eastern Bay of Plenty be considered for assistance in the nature of international aid. The Corporation's defence for this statement was that the person who made the statement honestly thought she was acting on behalf of 25 000 people and that the Red Cross representative had written to Red Cross, Wellington, asking that the Eastern Bay of Plenty be declared an international disaster zone worthy of international Red Cross attention.

There was no evidence produced by the Corporation that she had direct support from those people or had even canvassed the issues with them before making that request. The inaccuracy is compounded by the assertion that the 25 000 people were "so desperate that . . ." they took the action.

The statement is inaccurate and misleading. It should not have appeared in the programme. It cannot be justified by the statements made by the Corporation that the woman who wrote the letter assumed that she was doing so on behalf of 25 000 people or by the producer that did not think it would be interpreted so literally.

2. The complainant complains of the statement that "many locals fell cheated by what the Earthquake and War Damages [sic] Commission is offering . . ."

The tone suggests that the Commission has some discretion. The complainant's argument is that the Commission is bound by the law and that the legal position was not adequately explained. We agree but we cannot find the statement to be inaccurate or misleading other than the failure here (and throughout the programme) to give the Commission its correct name.

3. A man who was very upset by the earthquake and the aftermath made statements critical of the assessors of the Earthquake and War Damage Commission. The complainant said that his emotional contribution to the programme was his personal testimony, but it was not balanced by other personal testimonies relating to the effectiveness of the conduct of the Government agencies and the Commission.

We do not think that any of the statements made by the man in the programme should have been deleted, but the criticism made that assessors from outside the area did not understand local values should have been dealt with by confirming it as a widespread feeling, or else it should have been balanced by obtaining some other comment from the Commission or other claimants on that issue. No attempt was made to state why such assessors were used.

4. The reporter stated that the Emergency Relief Centre believed that the Government was largely ignoring the magnitude of the damage. The complainant said inquiries "lead me to believe" that was not the position of the relief centre.

The BCNZ said it was accurately reporting Mrs Brill, the chairwoman of the centre, who could be expected to put the views of the relief centre about the needs of the community after the earthquake.

The Tribunal does not uphold this criticism since the reporter was entitled to accept the chairwoman's statements as representing the centre's views.

5. The programme should have made the point that the experiences related of specific insurance claims could be explained by reference to the law and the circumstances. First, that in respect of one person quoted, indemnity insurance was what had been insured for and not replacement insurance. And in the other case, that the property had been over-insured.

There was a complaint that it was reported that one resident would be paid only \$5,000 for a claim, when in fact it was to be \$9,000 in respect of the house. The Corporation pointed out that this was not known at the time of the programme and the cheque for the higher amount only arrived after the programme.

The complainant produced a copy of a letter written to the *Dominion* newspaper by the secretary of the Commission saying that the Commission had not been approached at any stage to provide correct information, and pointing out that the Commission is only permitted to pay the lesser of the indemnity value or the sum insured with the insurance company. One of the complainants had the contents insured for only \$2,000.

The Commission also pointed out that some 2 years earlier it had distributed a brochure to all New Zealand householders which provided information about details of the cover.

The chairwoman of the relief centre said:

"The earthquake is an act of God according to the various acts and regulations that we read. So if it was an act of God why are the people having to pay for that?"

The complainant said that the statement was in law absolutely incomprehensible. The Tribunal finds that that is no reason for preventing it from being broadcast. It appears to the Tribunal to state the concern that they should be covered by insurance for what was an act of God. But that opinion of the law should also have been shown to be quite wrong in law.

Mr Roberts put the position clearly to us thus:

"The Earthquake and War Damage Act 1944 has the effect of providing compulsory insurance against earthquake and certain other specified natural disasters in all cases where fire insurance is purchased. The Earthquake and War Damage Commission collects a premium of 5 cents for every \$100 of fire insurance cover, the premium being collected by insurers with fire insurance premiums. The premiums are paid to the Commission which in turn provides earthquake cover up to the indemnity value of the property insured, or the sum insured, whichever is the lesser. Insurance cover for the excess value over indemnity value is then available from the insurance company concerned if required and purchased by the insured person."

The programme or a subsequent programme, should have corrected the statement of concern and considered broadcasting an accurate and authorised statement of what can and cannot be recovered in such claims.

The reports about the claims were inadequate and incomplete and therefore inaccurate. The uncorrected statements of opinion about an Act of God were confusing.

The complaint in these respects was fully justified.

Reference to indemnity cover as "depreciated value" was unexplained except by reference to payment of some extra "levy" which was intended to mean "additional insurance premium". If the term "current value" (for indemnity cover) had been contrasted with "replacement cost" (for replacement cover) and the relative merits of each briefly explained, the questions which naturally arise in the viewer's mind may have been more clearly answered.

6. All allegation was made that: "Locals have had to put up with bureaucrat after bureaucrat tramping through their damaged houses and how they're in the middle of a paper war that they say is humiliating and inhumane".

It appears to be hyperbole unsupported by any independent corroboration. There is doubt as to whether a check was made with the Commission authority as to the accuracy of this statement but it appears a decision was made not to present the Commission's reaction.

The Tribunal considers that the allegation ought to have been referred to the Commission and an opportunity given for a response. Without doing so, the producer could not possibly have known whether it was true of all or most claimants. If there was doubt about it, then it would be a matter of deciding whether to broadcast that statement with any comment from the Commission. If there was some basis for it then the

Commission should have been challenged with the information and given an opportunity to respond.

This part of the complaint is upheld.

7. It was argued by the complainant that the programme lacked balance and that, by selection, an unfairness occurred since more than 5000 claims were speedily settled with a minimum of complaint and 95 percent were settled in full within a 2-month period. No reference was made in the programme to that aspect of the matter.

We accept that the reporter reported what she found but we are not satisfied that any attempt was made through the Commission to find whether there were any satisfactorily concluded claims. The report was therefore incomplete and failed to ascertain the Commission's reaction.

A number of other allegations were made which we do not intend to particularise, as they are derived from the matters above mentioned or appear to be of minor importance in considering the matters before us. In some instances they are overstated by the complainant, whose own views on the issues were not always impartial—as might be expected.

The Tribunal does not accept that every individual programme must be balanced as to viewpoint within that programme. There is specific provision in the Act (section 24 (e)) for "The principle that when controversial issues of public importance are discussed, 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". But there was no suggestion made by the Corporation or evidence given to us that the views aired in the programme about the Commission and its claims performance (stated by the reporter herself in some cases) were later balanced by any other views presented in a later programme. The producer failed to take up the request from Mr Roberts to do this.

This may have been due to the absence of internal procedures requiring an initial letter of some depth and importance to be referred upwards so that some more senior executive could decide whether a follow-up ought to be broadcast.

We find the statement that 25 000 people were so desperate they had asked for international aid to be quite indefensible.

The programme's producer, after receiving Mr Roberts' complaints, should have had another look at the situation and should have obtained information from the Commission itself.

The Tribunal emphasises that there is nothing wrong with such a programme tackling a particular aspect of the issue in order to illustrate how people feel. It is not a matter of whether those people are justified in their feelings as Mr Roberts seemed to say.

The existence of those feelings is in itself a justifiable circumstance to report and investigate. Nevertheless, in a programme such as this the viewer is entitled to believe such an investigation had taken place and the facts as stated to be verified. Clearly, it had not.

A few views should not by implication be represented as typical of those in the area without apparently confirming the facts with the Commission or conveying in the programme in any way at all whether or not these examples were typical.

The viewer would see those people presented as typical of the 25 000 people affected in the area, the property owners in particular, and would gain an overall impression of badly-handled claims and slow, niggardly treatment by the Commission. In fact it would have been useful and publicly significant to know whether the law or the Commission had any blame for the feelings of those interviewed.

In the absence of an objective investigation and report there was an issue of public importance in which a significant point of view was not presented in this programme or any other.

The programme was seriously flawed. The Tribunal believes some, at least, of these errors could have been avoided if clear internal guidelines for the need for programme-makers to 'refer upwards' to a senior level had been in a place and then implemented.

The Tribunal cannot say on the evidence that the information supplied to it enables it to make an assessment of the true position. It can say that the programme-makers failed to demonstrate that the programme represented a fair assessment of the situation and not just some grumbles from some individuals whose particular circumstances were not adequately explained to the viewer. Greater public service might have been given to the viewer if the reasons for the low payout in each case had been provided, together with the lessons to be drawn from them.

A simple explanation in a few words of the role of the Commission would indeed have helped the programme and the viewer to understand it. This was a major public issue which the programme as broadcast skirted but did not address. If such criticism is to be aired the standards of objective journalism require that the response be sought and broadcast.

Alternatively this aspect should have been explored in greater depth in a separate follow-up programme broadcast with the period of current interest.

The Tribunal finds that the programme failed to present the facts in a fair and accurate way and was in breach of the standard in section 24 (d) relating to the accurate and impartial gathering and presentation of news, according to the recognised standards of objective journalism and section 24 (e) which sets the principle that when controversial issues of public importance are discussed, 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.

In all the circumstances the Tribunal does not consider that any particular statement should be published at this time. In deciding that, the Tribunal has borne in mind the fact that although there was a letter written immediately to the producer, he elected to take no action and time wore on. The period for some rectification of the situation had passed by the time a formal complaint was made to the Corporation and then to the Tribunal in the following year.

It has also taken into account the fact that no complaint was lodged by the Earthquake and War Damage Commission about unfair or unjust treatment or in respect of the inaccuracies and the purpose of Insurance Council in lodging the complaint.

However, we accept the complaint's view that, in view of the dangers of misapprehension likely by citizens who may be the subject of a similar loss in traumatic circumstances, a serious responsibility rested on the Broadcasting Corporation to see that accurate information was made available and criticisms were accurately and fairly reported. In view of the absence of further complaints since 1988, despite several natural disasters, that point may well have been taken within Television New Zealand.

The complaint is upheld specifically in relation to points 1, 3, 5, 6 and 7 and in relation to the general complaint of failing to present the significant views of the Commission. Specifically, it is not upheld in relation to points 2 and 4.

Co-opted Members

Messrs Kelleher and Whitehead were co-opted as persons whose qualifications and experiences were likely to be of assistance to the Tribunal in determining the complaint. 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.

go8013

Coroners Act 1988

Coroner Appointed

Pursuant to section 32 (2) of the Coroners Act 1988, His Excellency the Governor-General of New Zealand has been pleased to appoint

John Malcolm Donaldson, Justice of the Peace of Te Anau to be a coroner for New Zealand.

Dated at Wellington this 23rd day of May 1990.

W. P. JEFFRIES, Minister of Justice.

(Adm. 3/13/4/42)

go8118

Criminal Justice Act 1985

Confiscation of Motor Vehicle

Pursuant to section 84 (2) of the Criminal Justice Act 1985, an order was made in the District Court at Christchurch on Wednesday, the 4th day of July 1990, against Tony Augustus Smith, for the confiscation of the following motor vehicle:

1975 Ford Falcon utility, registration No. HQ 6745.

C. J. HEATH, Deputy Registrar.

go8026

Hawke's Bay Criminal Justice Advisory Council Appointment of Members

Pursuant to section 134 (1) (b) and (c) of the Criminal Justice Act 1985, the Minister of Justice has been pleased to appoint

Pamela May Thorburn, probation officer of Napier; and

John Purcell, prison superintendent of Napier

as members of the Hawke's Bay Criminal Justice Advisory Council for terms of 3 years on and from the date hereof.

Dated at Wellington this 2nd day of April 1990.

D. OUGHTON, Secretary for Justice.

(Adm. 3/84/11)

go8108

Hawke's Bay Criminal Justice Advisory Council Appointment of Chairman

Pursuant to section 134 (1) (a) of the Criminal Justice Act 1985, the Minister of Justice has been pleased to appoint

Netane Jim Biddle, prison chaplain of Napier

as the chairman of the Hawke's Bay Criminal Justice Advisory Council for a term of 3 years on and from the date hereof.

Dated at Wellington this 2nd day of April 1990.

D. OUGHTON, Secretary for Justice.

(Adm. 3/84/11)

go8109

Hawke's Bay Criminal Justice Advisory Council Appointment of Members

Pursuant to section 134 (1) (d) of the Criminal Justice Act 1985, the Minister of Justice has been pleased to appoint

Catharina Johanna McNaughton, married woman of Napier

Parau Arika Tupangaia, blocklayer of Hastings

Maureen Duncan, religious sister of Napier

Thomas Arthur Ruane, health nurse of Haumoana

Libya Walker, Q.S.M., Maori warden of Waipukurau

Christine Teariki, Justice of the Peace of Hastings

Michael John Kalaugher, accountant of Napier

as members of the Hawke's Bay Criminal Justice Advisory Council for terms of 3 years on and from the date hereof.

Dated at Wellington this 2nd day of April 1990.

D. OUGHTON, Secretary for Justice.

(Adm. 3/84/11)

go8112

Appointment of Chairman of the Auckland Criminal Justice Advisory Council

Pursuant to section 134 (1) (a) of the Criminal Justice Act 1985, the Minister of Justice has been pleased to appoint

Davis Mackey, community worker of Auckland

as the chairman of the Auckland Criminal Justice Advisory Council for a term of 3 years on and from the date hereof.

Dated at Wellington this 8th day of May 1990.

D. OUGHTON, Secretary for Justice.

(Adm. 3/84/10)

go8122

Appointment of Members of the Auckland Criminal Justice Advisory Council

Pursuant to section 134 (1) (d) of the Criminal Justice Act 1985, the Minister of Justice has been pleased to appoint

Paul Statford Beachman, teacher of Auckland

June Jackson, chief executive officer of Auckland

Warren John Brookbanks, law lecturer of Auckland

Robyn Ann Harris-Iles, project co-ordinator of Auckland

Lorna Jean Habershon, therapist of Auckland

Thuimareikura Of Vaha'Akolo, Q.S.M., Justice of the Peace of Auckland

Talalelei Tapu, minister of religion of Auckland

Matavai Alefaio, minister of religion of Auckland

to be members of the Auckland Criminal Justice Advisory Council for terms of 3 years on and from the date hereof.

Dated at Wellington this 8th day of May 1990.

D. OUGHTON, Secretary for Justice.

(Adm. 3/84/10)

go8123

Appointment of Members of the Auckland Criminal Justice Advisory Council

Pursuant to section 134 (1) (b) and (c) of the Criminal Justice Act 1985, the Minister of Justice has been pleased to appoint

Rhys Grant Cantwell, district probation officer of Auckland; and

Humphrey Stanford Stroud, prison superintendent of Auckland

to be members of the Auckland Criminal Justice Advisory Council for terms of 3 years on and from the date hereof.

Dated at Wellington this 8th day of May 1990.

D. OUGHTON, Secretary for Justice.

(Adm. 3/84/10)

go8124

Disputes Tribunal Act 1988

Disputes Tribunal Referee Appointed

Pursuant to section 7 of the Disputes Tribunals Act 1988, His Excellency the Governor-General of New Zealand has been pleased to appoint

Toni Anne Izzard, town planner of Tauranga to be a referee to exercise the jurisdiction of the Disputes Tribunals for a period of 3 years on and from the date hereof.

Dated at Wellington this 2nd day of May 1990.

W. P. JEFFRIES, Minister of Justice.

(Adm. 3/90/16)

go8115

Disputes Tribunal Referee Reappointed

Pursuant to section 7 of the Disputes Tribunals Act 1988, His Excellency the Governor-General of New Zealand has been pleased to reappoint

Henry Lynch of Tauranga

to be a referee to exercise the jurisdiction of the Disputes Tribunals for a term of 3 years on and from 1 March 1990.

Dated at Wellington this 2nd day of May 1990.

W. P. JEFFRIES, Minister of Justice.

(Adm. 3/90/16)

go8116

Indecent Publications Act 1963

Decision No. 68/89 (1)

Reference No.: IND 35/89

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publications: *Penthouse* (U.S. Edition), January 1988, Vol. 19, No. 5; *Penthouse* (U.S. Edition), May 1988, Vol. 19, No. 9; *Penthouse* (U.S. Edition), June 1988, Vol. 19, No. 10; *Penthouse*, (U.S. Edition), July 1988, Vol. 19, No. 11; *Penthouse* (U.S. Edition), August 1988, Vol. 19, No. 12; *Penthouse* (U.S. Edition), September 1988, Vol. 20, No. 1; *Penthouse* (U.S. Edition), October 1988, Vol. 20, No. 2; *Penthouse* (U.S. Edition), November 1988, Vol. 20, No. 3; *Penthouse* (U.S. Edition), December 1988, Vol. 20, No. 4; *Penthouse* (U.S. Edition), January 1989, Vol. 20, No. 5; *Penthouse* (U.S. Edition), February 1989, Vol. 20, No. 6. Publisher: Penthouse International Ltd.

Chairman: Judge R. R. Kearney.

Members: R. E. Barrington, A. J. Graham, K. A. R. Hulme and S. C. Middleton.

Hearing at Wellington on the 20th day of February 1990.

Appearances: M. J. Wotherspoon on behalf of Comptroller of Customs. G. F. Ellis, counsel on behalf of the publishers and of possible New Zealand importers and distributors. No appearance by or on behalf of importer.

Supplementary Decision

These publications came before the Tribunal for consideration at a hearing on 4 October 1989 together with a significant number of other publications. All of the publications had been privately imported by an Auckland individual who, as indicated, was neither present nor represented at the hearing. Mr Ellis applied for and was granted the right for his client to be joined as a party to the proceedings before the Tribunal in terms of regulation 6 of the Indecent Publications Regulations 1964. At the hearing Mr Ellis indicated to the Tribunal that the publisher may wish to be represented by Mr Robertson, Q.C., of the English Bar. Mr Ellis asked for and was granted an adjournment of the determination of the classification in respect of these particular publications until such time as a further hearing could be allocated.

On 8 February 1990, Mr Ellis wrote to the secretary of the Tribunal seeking clarification of the Tribunal's decision 68/89

which appears on the face of it to classify all of the publications the subject of this supplementary decision as unconditionally indecent. Mr Ellis quite properly pointed out that this was contrary to the undertaking which had been given by the Tribunal that these matters would be adjourned for further consideration at a special hearing of the Tribunal at which Mr Robertson, Q.C. would in all probability, represent the publishers and the proposed importers and distributors. The Tribunal members had in fact welcomed the opportunity to have the publication in question before it for indepth review and when in fact such a review does occur we indicate our wish that the Crown should be represented by senior counsel and that evidence should be called from appropriate professional witnesses to enable the Tribunal to give indepth consideration to the issues which will arise.

To enable that consideration to be given in accordance with the clear undertaking given to Mr Ellis, the classification of unconditionally indecent in respect of the above publications is cancelled. I leave it to Mr Ellis and Mr Wotherspoon to arrange a suitable date for hearing of this matter with the secretary of the Tribunal.

Dated at Wellington this 20th day of March 1990.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

go7982

Decision No. 89/89(1)

Reference No.: IND 67/89

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publication: *Men's World*, Vol. 1, No. 8 and 9. Publisher: Anonymous.

Chairman: Judge R. R. Kearney.

Members: R. E. Barrington, A. J. Graham, K. A. R. Hulme and S. C. Middleton.

Hearing at Wellington on the 20th day of February 1990.

Appearances: M. J. Wotherspoon on behalf of Comptroller of Customs. G. F. Ellis counsel on behalf of importer and distributor.

Decision

These 2 issues of this publication were originally referred to me by the Comptroller of Customs with the request that an interim restriction order ought to be made classifying both issues of the publications as indecent in the hands of persons under the age of 18 years. I accordingly made that interim restriction order in terms of section 14A of the Indecent Publications Act 1963. The publications now come before the Tribunal for a substantive classification.

Men's World is a magazine which is aimed at the heterosexual male market and it contains photographs of single female models and a number of letters from readers. There is also a section featuring multiple models, but the photographs do not display intimacy between the models pictured. Both Mr Wotherspoon, on behalf of the Comptroller, and Mr Ellis, on behalf of the importer and distributor, seek an age restriction classification.

The Tribunal agrees that there is content in respect of these publications which would be injurious to younger readers and classifies each as indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 20th day of March 1990.

R. R. Kearney, Chairman.

Indecent Publications Tribunal.

go7983

Decision No. 1/90

Reference No.: IND 9/90

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publications: *Alleycat*; *Sexual Marathon*; *Bone Appetite*, No. 1; *Danny Combs Cocksmith*; *Stiff Tricks*, No. 2, Publisher: Anonymous:

Chairman: Judge R. R. Kearney.

Members: R. E. Barrington, A. J. Graham, K. A. Hulme and S. C. Middleton.

Hearing at Wellington on the 20th day of February 1990.

Appearances: M. J. Wotherspoon on behalf of the Comptroller of Customs. No appearance by or on behalf of importer.

Decision

These publications were privately imported by a passenger through Auckland Airport on 12 December 1989 and were seized by the Collector of Customs. The importer having subsequently disputed forfeiture and publications were referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

The publications *Alleycat* and *Sexual Marathon* are magazines which very graphically depict multiple model scenes of heterosexual sexual intimacy. The remaining publications are comprised of multiple model scenes of explicit homosexual sexual activity. All of the publications include scenes of oral intercourse with a brief text describing in very coarse terms the sexual activity being depicted. The Tribunal has no difficulty in reaching a conclusion that each of these publications is clearly injurious to the public good and classifies each as unconditionally indecent.

Dated at Wellington this 20th day of March 1990.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go7985

Decision No. 3/90

Reference No.: IND 10/90

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publications: *Female Mimics International*, No. 53, Vol. 19, No. 3, Publisher: Magcorp, U.S.A.; *The Lovers Guide* (Leoram Inc Catalogue), Publisher: Leoram Inc., U.S.A.:

Chairman: Judge R. R. Kearney.

Members: R. E. Barrington, A. J. Graham, K. A. Hulme and S. C. Middleton.

Hearing at Wellington on the 20th day of February 1990.

Appearances: W. J. Wotherspoon on behalf of Comptroller of Customs. No appearance by or on behalf of importer.

Decision

These publications were privately imported through parcels post, Auckland on 15 December 1989 and were eventually seized by the Collector of Customs at Christchurch. The importer having subsequently disputed forfeiture the publications were referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

Female Mimics International, No. 53, Vol. 19, No. 3

This publication deals with female imitators and features nude or semi-nude transsexuals in its pictorial sequences.

The Tribunal is satisfied that there is material in this publication which would be injurious to young readers and classifies it as indecent in the hands of persons under the age of 16 years.

The Lovers Guide (Leoram Inc. Catalogue)

This publication is a mail order catalogue published in the United States of America for an organisation which sells sexual appliances and accessory goods for their mail order customers. The Tribunal is satisfied that there are aspects of this publication which would be injurious to younger readers and classifies it as indecent in the hands of persons under the age of 16 years.

Dated at Wellington this 20th day of March 1990.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go7986

Decision No. 4/90

Reference No.: IND 11/90

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publications: *In Touch For Men*, No. 153, 154 and 155. Publisher: In Touch Inc U.S.A.:

Chairman: Judge R. R. Kearney.

Members: R. E. Barrington, A. J. Graham, K. A. R. Hulme and S. C. Middleton.

Hearing at Wellington on the 20th day of February 1990.

Appearances: G. A. Ireland, counsel for the Lawrence Publishing Company (NZ) Ltd. M. J. Wotherspoon on behalf of Comptroller of Customs.

Decision

These publications were submitted to the Customs Department by the importer who invited the department to submit them to the Tribunal for renewal of the serial restriction order presently existing in respect of that publication. The Tribunal is satisfied that the format of this publication remains largely unchanged and it is of uniform quality and content and it agrees with the request made by Mr Ireland and supported by the Comptroller of Customs that the serial restriction order be renewed. The Tribunal accordingly, pursuant to section 15A of the Indecent Publications Act 1963, makes a serial restriction order in respect of the publication *In Touch For Men* classifying it as indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 20th day of March 1990.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go7987

Decision No. 5/90

Reference No.: IND 68/89

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publications: *269 Fetish Photos*, Vol. 1, No. 1; *303 Bondage Photos*, No. 4; *Assess In Bondage*, Vol. 1, No. 3; *Best of Tit and Body Torture*, Vol. 1, No. 1; *Big Tits In Bondage*, Vol. 1, No. 1; *Lesbian Dream Girls*, No. 10; *Unheimliche Wollust* 3; *Sweet Anus*, No. 14; *Swinger Partner-Contactmarkt*, No. 3. Publisher: Anonymous:

Chairman: Judge R. R. Kearney.

Members: R. E. Barrington, A. J. Graham, K. A. R. Hulme and S. C. Middleton.

Hearing at Wellington on the 20th day of February 1990.

Appearances: No appearance by or on behalf of importer. M. J. Wotherspoon on behalf of Comptroller of Customs.

Decision

These publications were privately imported through parcel post Auckland on 3 October 1989 and they were seized by the Collector of Customs at Auckland. The importer having subsequently disputed forfeiture the publications were referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966. The Comptroller in the submission presented on his behalf by Mr Wotherspoon indicated to the Tribunal that the disputed forfeiture was on the grounds that the publications were for research purposes associated with study at the University of Auckland. No evidence was produced to support that claim either to the Comptroller of Customs or to the Tribunal.

Lesbian Dream Girls, No. 10 and *Unheimliche Wollust 3*

Lesbian Dream Girls, No. 10 graphically depicts multiple model scenes of females engaged in sexual activity. *Unheimliche Wollust 3* is a heterosexual magazine which depicts multiple model scenes of explicit sexual intimacy. The Tribunal is satisfied that both of these publications contain material which is injurious to the public good and classifies each as unconditionally indecent.

Sweet Anus, No. 14 and *Swinger Partner-Contactmarkt*, No. 3

These 2 publications are personal contact magazines with the text in German. Each publication contains graphic multiple-model scenes of explicit sexual intimacy. The Tribunal is satisfied that each publication is injurious to the public good and classifies each as unconditionally indecent.

269 Fetish Photos, Vol. 1, No. 1; *303 Bondage Photos*, No. 4; *Assess In Bondage*, Vol. 1, No. 3; *Best Of Tit and Body Torture*, Vol. 1, No. 1; *Big Tits in Bondage*, Vol. 1, No. 1

The theme of all of these magazines is female subjugation and the publications depict bondage, torture and sexual violence against women. The Tribunal is satisfied that each of these publications is injurious to the public good and classifies each as unconditionally indecent.

Dated at Wellington this 20th day of March 1990.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go7988

Decision No. 7/90

Reference No.: IND 13/90

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publication: *The New Encyclopedia of Sex*. Publisher: Marshall Cavendish Books Ltd., U.K.:

Chairman: Judge R. R. Kearney.

Members: R. E. Barrington, A. J. Graham, S. C. Middleton and K. A. R. Hulme.

Hearing at Wellington on the 20th day of February 1990.

Appearances: No appearance by or on behalf of importer. M. J. Wotherspoon on behalf of Comptroller of Customs.

Decision

This publication was supplied to the Collector of Customs at Auckland by the importer with a request that it be forwarded to the Indecent Publications Tribunal for classification.

The Tribunal agrees with the submission made by Mr

Wotherspoon on behalf of the Comptroller that the publication is a high-quality sex instruction manual. The work is a collaboration by several doctors, psychologists and social workers and contains sections on relationships, psychological and physiological aspects of sex, contraception, pregnancy and the prevention of sexual diseases. The Tribunal further agrees with the submission made by Mr Wotherspoon as to the classification of the publication and because it contains a section of advice on contraception, the Tribunal classifies this publication as indecent in the hands of persons under the age of 16 years.

Dated at Wellington this 20th day of March 1990.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go7990

Decision No. 8/90

Reference No.: IND 12/90

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publication: *Mach* No. 19. Publisher: Desmond Inc., U.S.A.:

Chairman: Judge R. R. Kearney.

Members: R. E. Barrington, A. J. Graham, S. C. Middleton and K. A. R. Hulme.

Hearing at Wellington on the 20th day of February 1990.

Appearances: No appearance by or on behalf of importer. M. J. Wotherspoon on behalf of Comptroller of Customs.

Decision

This publication was commercially imported through parcel post, Auckland on 15 January 1990 and it was seized by the Collector of Customs at Auckland. The importer subsequently disputed forfeiture and the publication was referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

This publication is in magazine form and is said to be "a drummer super publication". In decision 51/89 the Tribunal considered *Drummer 127* to be unconditionally indecent partially because of its concentration on bondage, violence and brutality. The content of *Mach* No. 19 is very much along the same lines as the publication *Drummer 127* and in addition it contains a considerable amount of written material describing homosexual activity, much of it of a particularly violent kind. There are also stories of sadomasochism and brutality and the whole format is of a kind which in the view of the Tribunal is clearly injurious to the public good. The Tribunal classifies this publication as unconditionally indecent.

Dated at Wellington this 20th day of March 1990.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go7991

Decision No. 9/90

Reference No.: IND 2/90

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publication: *Sexual Joy*. Publisher: Pan Books:

Chairman: Judge R. R. Kearney.

Members: R. E. Barrington, A. J. Graham, S. C. Middleton and K. A. R. Hulme.

Hearing at Wellington on the 20th day of February 1990.

Appearances: No appearance by or on behalf of importer. M. J. Wotherspoon on behalf of Comptroller of Customs.

Decision

This publication was supplied to the Collector of Customs at Auckland by the importer with a request that it be forwarded to the Tribunal for classification.

The Tribunal agrees with the submission made on behalf of the Comptroller of Customs that the publication is a high-quality sex manual written by a well-qualified medical practitioner, who is also a psychiatrist, and his wife. The Tribunal also agrees with the recommendation put forward by the Comptroller that in view of a section dealing with contraception and some of the other material contained in the publication, an age restriction would be appropriate and classifies this publication as indecent in the hands of persons under the age of 16 years.

Dated at Wellington this 20th day of March 1990.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

go7992

Decision No. 10/90

Reference No.: IND 3/90

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publications: *Sarah Foster Tate in Bondage*, No. 8 and No. 9; *Simone Devon's Favorite Bondage Models*, No. 1. Publisher: London Enterprises Ltd.; *Top Comedy and Bottom Burlesque*. Publisher: Bruce N. Duncan:

Chairman: Judge R. R. Kearney.

Members: R. E. Barrington, A. J. Graham, K. A. R. Hulme and S. C. Middleton.

Hearing at Wellington on the 20th day of February 1990.

Appearances: No appearance by or on behalf of importer. M. J. Wotherspoon on behalf of Comptroller of Customs.

Decision

The Tribunal understood that the importer was to appear before it to make submissions, but it had before it and took into consideration in reaching its decision on these publications a written submission on behalf of the importer and supporting submissions by other persons including the lady who appears as the model in Sarah Forst Tate. In reaching its decision in respect of all of these publications the Tribunal read and gave full consideration to the matters raised by the submission of the importer and the supporting persons.

These publications were privately imported through Auckland parcel post on or about 6 November 1989. The publications having been seized by the Collector of Customs, the importer subsequently disputed forfeiture and they have been referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

Sarah Foster Tate in Bondage, No. 8 and No. 9

Simone Devon's Favorite Bondage Models, No. 1

These publications are similar to a number which have been before the Tribunal during the term of office of the present members and are primarily concerned with female bondage. Similar magazines have previously been classified by the Tribunal as unconditionally indecent. There are 2 aspects of bondage which cause concern to the Tribunal and which have resulted in magazines depicting bondage receiving an unconditionally indecent classification in the past. The first of these is the aspect of domination and that aspect by itself is in

the view of at least some members of the Tribunal a portrayal of material which is injurious to the public good. The second aspect is that people might be persuaded to indulge in bondage whilst affected by alcohol and drugs and cause injury to the person who is the subject of that bondage. Similarly, people who are naive may engage in such practises with possible harmful results to the person who is the subject of the bondage. The Tribunal is satisfied that the material in these publications is injurious to the public good and classifies each as unconditionally indecent.

Top Comedy and Bottom Burlesque

This rather shoddily produced magazine contains an assortment of cartoons depicting sadomasochism, spanking and unusual sexual behaviour. The cover in fact records the description of the contents as being "an assortment of cartoons about sadomasochism—with a few items of miscellaneous sexual perversity". In a number of previous decisions the Tribunal has expressed its concerns about publications which feature a combination of sex and violence and in particular when that violence is against young females. The Tribunal is satisfied that this publication is injurious to the public good and classifies it as unconditionally indecent.

Dated at Wellington this 20th day of March 1990.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

go7993

Decision No. 13/90

Reference No.: IND 5/90

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publication: *Playgirl's Bronzed Aussies*. Publisher: Tadevan Holdings Pty. Ltd.:

Chairman: Judge R. R. Kearney.

Members: R. E. Barrington, A. J. Graham, K. A. R. Hulme and S. C. Middleton.

Hearing at Wellington on the 20th day of February 1990.

Appearances: No appearance by or on behalf of importer. M. J. Wotherspoon on behalf of Comptroller of Customs.

Decision

This publication was supplied to the Collector of Customs at Auckland by the importer with a request that it be forwarded to the Tribunal for classification.

The publication is a one-off special from the publishers of the monthly *Playgirl* series. In decision 68/89 the Tribunal issued a serial restriction order classifying certain publications of *Playgirl* indecent in the hands of persons under the age of 16 years. This particular publication is aimed at the female market and features a series of photographs of single male models in various stages of undress. The Tribunal agrees with the submission made by Mr Wotherspoon on behalf of the Comptroller that the poses of the models are restrained and that all that is required in respect of this publication is an age restriction as there is material in the publication which would be injurious to younger readers.

The Tribunal classifies this publication as indecent in the hands of persons under the age of 16 years.

Dated at Wellington this 20th day of March 1990.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

go7994

Decision No. 14/90
Reference No.: IND 1/90

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publications: *Blueboy*, Vol. 2, No. 1. Publisher: Hauteur Publishing Ltd.; *Jock*, Vol. IV, Issues 2 and 3. Publisher: Klingler International Ltd.; *Mandate*, November 1987, Vol. 13, No. 11. Publisher: Mandate Publications:

Chairman: Judge R. R. Kearney.

Members: R. E. Barrington, A. J. Graham, K. A. R. Hulme and S. C. Middleton.

Hearing at Wellington on the 20th day of February 1990.

Appearances: M. J. Wotherspoon on behalf of Comptroller of Customs. No appearance by or on behalf of importer.

Decision

These publications were privately imported through the Auckland International Airport on 30 December 1989. The Collector of Customs having seized the publications the importer applied for waiver of forfeiture and the publications were referred to the Tribunal for classification.

The publications are directed towards the male homosexual market and are mainly comprised of photographs of nude or partially clothed male models in a variety of poses.

Mandate, November 1987, Vol. 13, No. 11

There is currently a serial restriction order in respect of the publication *Mandate* classifying the publication as indecent in the hands of persons under the age of 18 years, this being the reissue of a similar order originally granted by decision No. 13/88 on 16 May 1988. The Tribunal agrees with the recommendation put forward on behalf of the Comptroller of Customs and classifies this publication as indecent in the hands of persons under the age of 18 years.

Blueboy, Vol. 2, No. 1

Jock, Vol. IV, Issues 2 and 3

These publications have been the subject of a number of decisions by the Tribunal in 1988 and 1989 with classifications varying between unconditionally indecent and restricted for sale to persons over the age of 18 years. Although there are some aspects of 2 of the publications which cause concern to the Tribunal in the end result the Tribunal was satisfied that an age restriction would suffice. These publications are accordingly classified as indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 20th day of March 1990.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go7995

Land Valuation Proceedings Act 1948 Land Valuation Proceedings Amendment Act 1977

Reappointment of Member of the Southland Land Valuation Tribunal

Pursuant to section 19 of the Land Valuation Proceedings Act 1948, as substituted by section 2 of the Land Valuation Proceedings Amendment Act 1977, His Excellency the Governor-General of New Zealand has been pleased to reappoint

John Eldon Coates, farmer of Te Anau

as a member of the Southland Land Valuation Tribunal for further term of 6 years on and from 3 April 1990.

Dated at Wellington this 21st day of May 1990.

W. P. JEFFRIES, Minister of Justice.

(Adm. 3/18/2/22)
go8113

Appointment of Member of the Gisborne Land Valuation Tribunal

Pursuant to section 19 of the Land Valuation Proceedings Act 1948, as substituted by section 2 of the Land Valuation Proceedings Amendment Act 1977, His Excellency the Governor-General of New Zealand has been pleased to appoint

Evan Cuthbert Bowis, registered valuer of Gisborne to be a member of the Gisborne Land Valuation Tribunal for a term of 6 years on and from the date hereof.

Dated at Wellington this 15th day of December 1989.

W. P. JEFFRIES, Minister of Justice.

(Adm. 3/18/2/9)
go8119

Appointment of Member of the South Canterbury Land Valuation Tribunal

Pursuant to section 19 of the Land Valuation Proceedings Act 1948, as substituted by section 2 of the Land Valuation Proceedings Amendment Act 1977, His Excellency the Governor-General of New Zealand has been pleased to appoint

Robert Lester Engelbrecht, registered valuer of Ashburton to be a member of the South Canterbury Land Valuation Tribunal for a term of 6 years on and from the date hereof.

Dated at Wellington this 14th day of May 1990.

P. F. DUNNE, for Minister of Justice.

(Adm. 3/18/2/20)
go8120

Securities Act 1978 Securities Amendment Act 1986

Reappointment of Member of the Securities Commission

Pursuant to section 11 of the Securities Act 1978, as amended by sections 2 and 4 of the Securities Amendment Act 1986, His Excellency the Governor-General of New Zealand has been pleased to reappoint

Selwyn John Cushing, chartered accountant of Hastings as a member of the Securities Commission for a period of 2 years on and from 1 May 1990.

Dated at Wellington this 2nd day of May 1990.

W. P. JEFFRIES, Minister of Justice.

(Adm. 3/68)
go8114

Transport

Water Recreation Regulations 1979 State Sector Act 1988

The Water Recreation (Lake Aniwhenua) Notice No. 2, 1990

I, Tomas Edwin Law, Senior Advisory Officer (Harbours Management), pursuant to the Water Recreation Regulations 1979 and in exercise of powers delegated to me pursuant to section 28 of the State Sector Act 1988, hereby give the following notice:

Notice

1. (a) This notice may be cited as the Water Recreation (Lake Aniwhenua) Notice No. 2, 1990.

(b) This notice shall come into force at midnight on 25–26 November 1991 and remain in force until midnight 29–30 November 1991.

2. For the purpose of the World Fly Fishing Championships and subject to the conditions set forth in the Schedule hereto,—

so much of the Water Recreation (Bay of Plenty Rivers) Notice 1979 as relates to Lake Aniwhenua on the Rangitaiki River, and—

the Water Recreation (Lake Aniwhenua) Notice 1990,

is hereby revoked for the period beginning midnight 25–26 November 1991 and ending midnight 29–30 November 1991.

Schedule

1. The organisers of the World Fly Fishing Championships shall advertise in all papers circulating in the Rotorua and Bay of Plenty area that the speed restriction on Lake Aniwhenua has been reimposed for the duration of the event.

2. The organisers of the World Fly Fishing Championships shall during the championships erect suitable noticeboards at all public access points advising of the reimposition of the speed restriction for the duration of the event.

3. The organisers of the World Fly Fishing Championships shall meet all the costs of and associated with advertising and placement of noticeboards.

Dated at Wellington this 23rd day of July 1990.

T. E. LAW, Senior Advisory Officer (Harbours Management).
go8101

Authorities and Other Agencies of State

PostBank**Post Office Savings Bank Regulations 1985****Bonus Bonds Weekly Prize Draw No. 3, 21 July 1990**

Pursuant to the Post Office Savings Bank Regulations 1985, notice is hereby given that the result of the weekly Prize Draw No. 3 for 21 July is as follows:

One prize of \$50,000: 214 518338

Twenty-five prizes of \$5,000: 014 225836, 421 444708, 627 976239, 715 843633, 924 319349, 1126 076338, 1221 398410, 1272 768854, 1314 461033, 1512 517575, 1523 714672, 1715 238185, 2027 046278, 2228 565121, 3022 641131, 3823 291417, 4329 080676, 4723 278842, 5583 973799, 7196 500262, 7383 809066, 7693 063992, 8687 774145, 8784 925562 and 9583 490982.

DAVID CAYGILL, Minister of Finance.
au8043

Land Notices

Conservation**Reserves Act 1977****Classification of Reserve**

Pursuant to the Reserves Act 1977, and to a delegation from the Minister of Conservation, the Otago Regional Conservator, Department of Conservation, hereby classifies the reserve described in the Schedule hereto, as an historic reserve, subject to the provisions of the said Act.

Schedule**Otago Land District—Central Otago District**

75.644 hectares, more or less, being Section 206, situated in Block X, Leaning Rock Survey District. S.O. Plan 21056. All *New Zealand Gazette*, 1989, page 1439.

Dated at Dunedin this 13th day of July 1990.

J. E. CONNELL, Regional Conservator.

(Files: H.O. Res. 12/4/28; C.O. C.M.O. 12/15)
In7882

2/1

Declaration That Land is a Reserve

Pursuant to the Reserves Act 1977, and to a delegation from the Minister of Conservation, the Regional Conservator,

Canterbury hereby notifies that by resolution passed by The Christchurch City Council on the 23rd day of April 1990, the land contained in the Schedule hereto shall be declared to be a recreation reserve within the meaning of the said Act.

Schedule**Canterbury Land District—Christchurch City**

580 square metres, more or less, being Lot 13, D.P. 46298. All certificate of title 25B/434. Subject to grant of right to drain sewage in transfer 452093/4.

800 square metres, more or less, being Lot 15, D.P. 46298. All certificate of title 25B/436. Subject to easement certificates 452093/2, 479700/3 and grant of right to drain sewage in transfer 452093/4.

617 square metres, more or less, being Lot 37, D.P. 46874. All certificate of title 25K/1125. Subject to easement certificate 479700/3 and grant of right to drain sewage in transfer 479700/4.

Dated at Christchurch this 17th day of July 1990.

M. CUDDIHY, Regional Conservator, Canterbury.

(D.O.C. H.O.; C.O. 1/20/7/1)
In8041

2

Classification of Reserve

Pursuant to the Reserves Act 1977, and to a delegation from the Minister of Conservation, the Tongariro/Taupo Regional Conservator of the Department of Conservation hereby classifies the reserve described in the Schedule hereto, as a recreation reserve, subject to the provisions of the said Act.

Schedule**South Auckland Land District—Taupo District**

127.5767 hectares, more or less, being Sections 374, 375, 376, 377, 320, 325 and part Sections 308 and 314, Block II, Tauhara Survey District. All *New Zealand Gazette*, 1973, page 1323—S. 615545 part certificate of title 12A/860. S.O. Plans 45743, 45249 and 45256.

Dated at Turangi this 23rd day of July 1990.

P. GREEN, Regional Conservator.

(Cons. Ref: C.O. REL 006)

ln8048

3

Revocation of a Reservation Over a Reserve Specifying the Manner of Disposal and How Proceeds of Sale Shall be Utilised

Pursuant to the Reserves Act 1977, and to a delegation from the Minister of Conservation, the Regional Conservator of the Wellington Conservancy of the Department of Conservation hereby revokes the reservation as a reserve for street purposes over the land, described in the Schedule hereto, and further, declares that the said land may be disposed of by the Horowhenua District Council at current market value, the proceeds from any such sale to be paid into the council's reserves accounts, such moneys to be used and applied in or towards the improvement of other reserves under the control of the council, or in or towards the purchase of other land for reserves.

Schedule**Wellington Land District—Horowhenua District**

32 square metres, more or less, being Lot 9 on Deposited Plan 34416, situated in Block I, Waiopahu Survey District. Part balance certificate of title 10B/1006.

Dated at Wellington this 20th day of July 1990.

N. D. R. MCKERCHAR, Regional Conservator, Wellington Conservancy of the Department of Conservation.

(H.O. R.O. GB3/400)

ln8126

1CL

Iwi Transition Agency**Maori Affairs Restructuring Act 1989****Maori Land Development Notice**

Pursuant to section 21 of the Maori Affairs Restructuring Act 1989, the General Manager, Iwi Transition Agency hereby gives notice as follows:

Notice

1. This notice may be cited as Maori Land Development Notice Rotorua 1990, No. 5.
2. The notice referred to in the First Schedule hereto is hereby revoked.
3. The land described in the Second Schedule hereto is hereby released from Part II of the Maori Affairs Restructuring Act 1989.

First Schedule

Date of Notice	Reference	Registration No.
28 January 1965	<i>New Zealand Gazette</i> , 28 January 1965, No. 3, page 95	N/A

Second Schedule**South Auckland Land District**

All that piece of land described as follows:

Area ha	Being
1196.8295	Tutukau East Z (part) Blocks IX and X, Ngongotaha Survey District and Blocks II and III, Tatua Survey District

Dated at Rotorua this 18th day of July 1990.

For and on behalf of the General Manager, Iwi Transition Agency.

M. J. McMILLAN, Programme Manager.

(Te Tai H.O. D.O. 2711)

ln8050

6

Maori Land Development Notice

Pursuant to section 21 of the Maori Affairs Restructuring Act 1989, the General Manager, Iwi Transition Agency hereby gives notice as follows:

Notice

1. This notice may be cited as Maori Land Development Notice Christchurch 1990, No. 2.
2. The notice referred to in the First Schedule hereto is hereby revoked.
3. The land described in the Second Schedule hereto is hereby released from Part II of the Maori Affairs Restructuring Act 1989.

First Schedule

Date of Notice	Reference	Registration No.
14th September 1970	Reference <i>New Zealand Gazette</i> , 17 September 1970, page 1680	286628

Second Schedule**Southland Land District**

All those pieces of land described as follows:

Area	Being
A. R. P. 717 3 20	Oraka A, situated in Block XI, Longwood Survey District, all certificate of title B2/874

Dated at Christchurch this 17th day of July 1990.

For and on behalf of the General Manager, Iwi Transition Agency.

J. G. PICKUP, Programme Manager.

(M.A. H.O. 15/7/9; D.O. 4/9/66)

ln8055

6

Maori Land Development Notice

Pursuant to section 21 of the Maori Affairs Restructuring Act 1989, the General Manager, Iwi Transition Agency hereby gives notice as follows:

Notice

1. This notice may be cited as Maori Land Development Notice Christchurch 1990, No. 3.

2. The notice referred to in the First Schedule hereto is hereby revoked.

3. The land described in the Second Schedule hereto is hereby released from Part II of the Maori Affairs Restructuring Act 1989.

First Schedule

Date of Notice	Reference	Registration No.
6 September 1974	<i>New Zealand Gazette</i> , 12 September 1974	286806

Second Schedule

Southland Land District

All those pieces of land described as follows:

Area	Being
809 square metres	Lot 15, D.P. 2393, part Section 11B, Oraka Native Reserve, being part Section 184, Block XI, Longwood Survey District. All certificate of title 130/272.
60 acres, 13 perches	Section 1 of Section 11A, Oraka Native Reserve, part Section 18A, Block XI, Longwood Survey District. All certificate of title 159/245.
41 acres, 2 roads	Section 5, Oraka Maori Reserve, Block XI, Longwood Survey District. All certificate of title 180/92.
70 acres, 3 roads, 1 perch and 7 tenths of a perch	Part Section 11B, Oraka Native Reserve, being part Section 184, Block XI, Longwood Survey District. All certificate of title 162/220.

Dated at Christchurch this 17th day of July 1990.

For and on behalf of the General Manager, Iwi Transition Agency.

J. G. PICKUP, Programme Manager.

(M.A. H.O. 15/6/112; D.O. 4/9/55/1)
ln8057

Justice

Maori Affairs Act 1953

Setting Apart Maori Freehold Land as a Maori Reservation

Pursuant to section 439 of the Maori Affairs Act 1953, the Maori freehold land described in the Schedule hereto is hereby set apart as a reservation for the purpose of a papakainga for the common use and benefit of the descendants of Hemi and Keita Puriri.

Schedule

Hawke's Bay Land District

All that piece of land situated in Block II, Te Mata Survey District and described as follows:

Area m ²	Being
1197	Part Korongata 1B Block, and being part of the land contained in a partition order of the Maori Land Court dated 14 December 1908 and being part of the land in certificate of title A2/1368, Hawke's Bay Registry.

Dated at Wellington this 12th day of July 1990.

W. GARDINER, General Manager, Iwi Transition Agency.

(MLC 2/3/1/7; D.O. Appln. 9166)
ln8027

2CL

Survey and Land Information

Public Works Act 1981

Land Acquired for Road (S.H. 12) at Katui, Kaipara District

Pursuant to section 20 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the (Manager Land and Property), Department of Survey and Land Information, Auckland, declares that, an agreement to that effect having been entered into, the land described in the Schedule is acquired for road which pursuant to section 60 (2) of the Transit New Zealand Act 1989, shall form part of State Highway 12 and shall vest in the Crown on the date of publication in the *Gazette*.

Schedule

North Auckland Land District

575 square metres, being part Lot 1, D.P. 105273; shown marked "R" on S.O. Plan 65166, lodged in the office of the Chief Surveyor at Auckland.

Dated at Auckland this 16th day of July 1990.

G. A. DAWSON, Manager Lands and Property.

(DOSLI Ak. D.O. 72/12/1/0/285)
ln7883

1CL

Land Acquired for Limited Access Road, Land Held for a University Set Apart for Limited Access Road, and Road Stopped and Added in the City of Palmerston North

Pursuant to the Public Works Act 1981, the Transit New Zealand Act 1989, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Wellington, declares:

(a) Pursuant to section 20 (1) of the Public Works Act 1981 and section 88 (2) of the Transit New Zealand Act 1989, that, an agreement to that effect having been entered into, the land described in the First Schedule hereto is hereby acquired for limited access road, which has become road, limited access road and State highway, and shall vest in the Crown on the date of publication hereof in the *Gazette*.

(b) Pursuant to section 52 (1) of the Public Works Act 1981, and to section 88 (2) of the Transit New Zealand Act 1989, the land described in the Second Schedule hereto to be set apart for limited access road which has become road, limited access road and State highway.

(c) Pursuant to sections 116 (1), 117 and 120 (3) of the Public Works Act 1981, the portions of road described in the Third Schedule hereto to be stopped and added to land held for university by *Gazette* notice No. 438557.1 (*New Zealand Gazette*, 9 July 1981, page 1903).

First Schedule

Wellington Land District—Palmerston North City

Land Acquired for Limited Access Road

1903 square metres, being part Lot 2, D.P. 55163, situated in Blocks XIV and XV, Kairanga Survey District; as shown marked "A" on S.O. Plan 36307, lodged in the office of the Chief Surveyor at Wellington.

Second Schedule**Wellington Land District—Palmerston North City****Land Set Apart for Limited Access Road**

Area ha	Being
439	Part Section 171, Town of Fitzherbert; marked "B" on plan.
64	Part Section 171, Town of Fitzherbert; marked "C" on plan.
43	Part Section 376, Town of Fitzherbert; marked "D" on plan.
70	Part Section 377, Town of Fitzherbert; marked "E" on plan.

Situated in Block XIV, Kairanga Survey District.

As shown marked as above mentioned on S.O. Plan 36307, lodged in the office of the Chief Surveyor at Wellington.

Third Schedule**Wellington Land District—Palmerston North City****Road Stopped and Amalgamated**

Area m ²	Adjoining or passing through
1587	Part Section 171, Town of Fitzherbert and part Lot 2, D.P. 55163, situated in Block XV, Kairanga Survey District; marked "F" on plan.
59	Sections 376 and 377, Town of Fitzherbert, situated in Block XIV, Kairanga Survey District; marked "G" on plan.

As shown marked as above mentioned on S.O. Plan 36307, lodged in the office of the Chief Surveyor at Wellington.

Dated at Wellington this 11th day of July 1990.

E. C. MELDRUM, District Manager.

(DOSLI Wg. 9/57/0 : 695122)
ln7885

1CL

Land Acquired for Road, Molesworth Street, New Plymouth

Pursuant to section 20 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the Acting District Manager, Department of Survey and Land Information, New Plymouth, declares that, an agreement to that effect having been entered into, the land described in the Schedule hereto is hereby acquired for road and vested in The New Plymouth District Council on the date of publication in the *Gazette*.

Schedule**Taranaki Land District—New Plymouth District**

Area m ²	Being
32	Part Section 1362, Town of New Plymouth; marked "E" on Plan.

As shown marked as above mentioned on S.O. Plan 12983, lodged in the office of the Chief Surveyor at New Plymouth.

Dated at New Plymouth this 17th day of July 1990.

R. F. SCHWASS, Acting District Manager.

(Lands Np. D.L. 10/5)
ln7900

1CL

Declaring Land Held for a Reserve for Public Buildings of the General Government to be Set Apart for Buildings of the General Government.

Pursuant to section 52 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the Assistant District

Manager (Lands and Property), Department of Survey and Land Information, Dunedin declares the land described in the Schedule hereto to be set apart for buildings of the General Government.

Schedule**Otago Land District—Waitaki District**

Area m ²	Being
860	Section 2, Block XXVII, Town of Palmerston, part <i>New Zealand Gazette</i> , 7 March 1935, No. 14, page 629.
293	Part Section 3, Block XXVII, Town of Palmerston, all <i>New Zealand Gazette</i> , 30 October 1930, No. 74, page 3250.

Dated at Dunedin this 16th day of July 1990.

M. R. MACKENZIE, Assistant District Manager (Lands and Property), Department of Survey and Land Information, Dunedin.

(Dn. D.O. 25/29)
ln7901

1CL

Declaring Land Acquired for Education Purposes (Tertiary Education) in the City of Dunedin

Pursuant to section 20 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the Assistant District Manager (Lands and Property), Department of Survey and Land Information, Dunedin, declares that, an agreement to that effect having been entered into, the land described in the Schedule hereto is hereby acquired for education purposes (tertiary education) and shall vest in the Crown on the 26th day of July 1990.

Schedule**Otago Land District—Dunedin City**

All that piece of land containing 371 square metres, being part Section 46, Block XXVII, Town of Dunedin. All certificate of title 299/34.

Dated at Dunedin this 16th day of July 1990.

M. R. MACKENZIE, Assistant District Manager (Lands and Property), Department of Survey and Land Information, Dunedin.

(Dn. D.O. 16/67/0/282)
ln7902

1CL

Land Declared to be Road in the City of Dunedin

Pursuant to section 114 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the Assistant District Manager (Lands and Property), Department of Survey and Land Information, Dunedin declares the land described in the Schedule hereto to be road and vested in The Dunedin City Council.

Schedule**Otago Land District—Dunedin City**

Area A. R. P.	Being
0 3 25.5	Part of Otago Harbour Board Endowment: shown coloured sepia on plan.
0 0 5.5	Part Lots 6 and 7, Deeds Plan 57, being part Section 1, Block I and part Section 9, Block II, Lower Harbour West Survey District; shown coloured orange on plan.
0 0 0.35	Part Lots 9 and 10, D.P. 3458, being part Section 1, Block I, Lower Harbour West Survey District; shown coloured orange on plan.

Area	Being
A. R. P.	
0 0 2.3	Part Lots 12 and 13, Deeds Plan 57, being part Section 1, Block I, Lower Harbour West Survey District; shown coloured orange on plan.
0 0 1.8	Part Lot 8, Deeds Plan 57, being part Section 1, Block I, Lower Harbour West Survey District; shown coloured orange on plan.

As shown coloured as above mentioned on S.O. Plan 12155, lodged at the office of the Chief Surveyor at Dunedin.

Dated at Dunedin this 13th day of July 1990.

M. R. MACKENZIE, Assistant District Manager (Lands and Property), Department of Survey and Land Information, Dunedin.

(Dn. D.O. 18/300/1) ICL
In7933

Declaring Land Acquired for Better Utilisation in the City of Dunedin

Pursuant to section 20 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the Assistant District Manager (Lands and Property), Department of Survey and Land Information, Dunedin, declares that, an agreement to that effect having been entered into, the land described in the Schedule hereto is hereby acquired for better utilisation and shall vest in the Crown on the 26th day of July 1990.

Schedule

Otago Land District—Dunedin City

All that piece of land containing 45 square metres, being part Lot 1, Deeds Plan 256, being part Section 93, Block V, Lower Kaikorai Survey District; shown marked "A" on S.O. Plan 22832, lodged in the office of the Chief Surveyor at Dunedin.

Dated at Dunedin this 13th day of July 1990.

M. R. MACKENZIE, Assistant District Manager (Lands and Property), Department of Survey and Land Information, Dunedin.

(Dn. D.O. 28/44/0/160) ICL
In7934

Declaring Road to be Stopped in the Clutha District

Pursuant to section 116 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the Assistant District Manager (Lands and Property), Department of Survey and Land Information, Dunedin declares the part of road described in the Schedule hereto to be stopped.

Schedule

Otago Land District—Clutha District

Area m ²	Adjoining
2883	Part Lot 14, D.P. 2034, Block IV, Glenkenich Survey District, shown marked "A" on plan.

As shown marked as above mentioned on S.O. Plan 23178, lodged in the office of the Chief Surveyor at Dunedin.

Dated at Dunedin this 11th day of July 1990.

M. R. MACKENZIE, Assistant District Manager (Lands and Property), Department of Survey and Land Information, Dunedin.

(Dn. D.O. 94/24/37/6) ICL
In7935

Declaring Land Held for Wildlife Management Purposes Set Apart for a Wildlife Management Reserve in the City of Dunedin

Pursuant to section 52 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the Assistant District Manager (Lands and Property), Department of Survey and Land Information, Dunedin hereby declares the land described in the Schedule hereto to be set apart for a wildlife management reserve.

Schedule

Otago Land District—Dunedin City

All that piece of land containing 41.960 hectares, being part Sections 3, 4 and 5, Block XIX, and part Sections 80 and 81, Irregular Block, East Taieri Survey District. All *Gazette* notice No. 685041 (*New Zealand Gazette*, 30 July 1987, No. 123, page 3531).

Dated at Dunedin this 13th day of July 1990.

M. R. MACKENZIE, Assistant District Manager (Lands and Property), Department of Survey and Land Information, Dunedin.

(Dn. D.O. 96/743000/0/29) ICL
In7936

Land Acquired for the Purposes of the Fire Service Act 1975 in Southland District

Pursuant to section 20 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager of the Department of Survey and Land Information, Invercargill, declares that, an agreement to that effect having been entered into, the land described in the Schedule hereto is hereby acquired for the purposes of the Fire Service Act 1975 and shall vest in The New Zealand Fire Service Commission on the date of publication hereof in the *Gazette*.

Schedule

Southland Land District

1239 square metres, being Lot 4, Block VI, D.P. 109, situated in Block IV, Wairio Survey District. All certificate of title 103/155.

Dated at Invercargill this 18th day of July 1990.

R. W. G. DALGLISH, District Manager.

(DOSLI In. 2100/P04) ICL
In8021

Amending a Notice, Land Taken for Road, Land Taken as Severance and Road Stopped in Block XI, New River Hundred

Pursuant to section 55 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager of the Department of Survey and Land Information, Invercargill, hereby amends the notice dated the 17th day of January 1990, published in *New Zealand Gazette*, 25 January 1990, No. 9, page 264, as follows:

1. By deleting the area firstly described in the First Schedule and substituting it with:

Area m ²	Being
2164	Part Lot 1, D.P. 12143, as shown marked 'A' on Plan.

2. By deleting the areas firstly and secondly described in the Second Schedule and substituting the following:

Area m ²	Being
62	Part Lot 1, D.P. 12143, as shown marked 'C' on plan.

Area
m² Being
96 Part Lot 1, D.P. 12143, as shown marked 'D' on
plan.

Dated at Invercargill this 16th day of July 1990.

R. W. G. DALGLISH, District Manager.

(DOSLI In. 2100/P04) ICL
In8022

Land Declared to be Road and Land Acquired for Road in Forest Hill Hundred, Southland District

Pursuant to the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Invercargill, declares:

(a) Pursuant to section 114, the land described in the First Schedule hereto to be road and shall vest in The Southland District Council on the date of publication hereof in the *Gazette*.

(b) Pursuant to section 20, that an agreement to that effect having been entered into, the land described in the Second Schedule hereto is hereby acquired for road and shall vest in The Southland District Council on the date of publication hereof in the *Gazette*.

First Schedule

Southland Land District

Land Declared to be Road

45 square metres, being part Section 217, Block IV, Forest Hill Hundred. Part certificate of title 196/147. As shown marked "A" on S.O. Plan 11389.

Second Schedule

Southland Land District

Land Acquired for Road

Area
m² Being
797 Part Lot 3, D.P. 11061, as shown marked "B" on
S.O. Plan 11389. Part certificate of title 6D/501.
588 Part Section 64, Block IV, Forest Hill Hundred, as
shown marked "C" on S.O. Plan 11389. Part
certificate of title 6D/500.

As shown on the above mentioned plan, lodged in the office of the Chief Surveyor at Invercargill.

Dated at Invercargill this 18th day of July 1990.

R. W. G. DALGLISH, District Manager.

(DOSLI In. 2100/P04) ICL
In8023

Land at Springfield, in Block XII, Kowhai Survey District, Set Apart for an Automatic Telephone Exchange

Pursuant to section 52 (1) of the Public Works Act 1981, and a delegation from the Minister of Lands, the District Solicitor, Department of Survey and Land Information, Christchurch, hereby declares the land described in the Schedule hereto, to be set apart for an automatic telephone exchange.

Schedule

Canterbury Land District

Area
m² Being
328 Part Lot 2, D.P. 13336, part Rural Section 9178;
coloured orange on plan.

As shown marked as above mentioned on S.O. Plan 9892, lodged in the office of the Chief Surveyor at Wellington.

Dated at Christchurch this 20th day of July 1990.

R. J. MILNE, District Solicitor.

(DOSLI Ch. D.O. LEG 2-17) ICL
In8036

Land at 168 Fendalton Road Acquired for Road

Pursuant to section 20 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Solicitor, Department of Survey and Land Information, Christchurch, declares that, an agreement to that effect having been entered into, the land described in the Schedule hereto is hereby acquired for road and shall vest in The Christchurch City Council on the date of publication of this declaration in the *Gazette*.

Schedule

Canterbury Land District—Christchurch City

163 square metres, being part Lot 4, D.P. 6795, part certificate of title 363/234, situated in Block X, Christchurch Survey District.

As shown marked "A" on S.O. Plan 18220, lodged in the office of the Chief Surveyor at Christchurch.

Dated at Christchurch this 20th day of July 1990.

R. J. MILNE, District Solicitor.

(DOSLI Ch. D.O. 35/1/40) ICL
In8037

Amending a Notice Setting Apart Land in Culverden for Police Purposes

Pursuant to section 55 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Solicitor, Department of Survey and Land Information, Christchurch, hereby amends the notice dated the 21st day of June 1990, published in the *New Zealand Gazette* of 28 June 1990, No. 106, at page 2240, declaring land to be set apart for police purposes, by deleting the description for the land "Reserve 4348 and part Reserve 4040, Culverden Township" and substituting the description "Reserve 4348 and Reserve 4040, Block VI, Culverden Survey District".

Dated at Christchurch this 17th day of July 1990.

R. J. MILNE, District Solicitor.

(DOSLI Ch. D.O. PL06-154) ICL
In8039

Land at Rangitata Island Acquired for Education Purposes

Pursuant to section 20 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Solicitor, Department of Survey and Land Information, Christchurch, declares that, an agreement to that effect having been entered into, the land described in the Schedule hereto is hereby acquired for education purposes and shall vest in the Crown on the date of publication of this declaration in the *Gazette*.

Schedule**Canterbury Land District—Timaru District**

8094 square metres, being part Rural Section 22631, Block II, Kapunatiki Survey District.

Dated at Christchurch this 20th day of July 1990.

R. J. MILNE, District Solicitor.

(DOSLI Ch. D.O. 40/9/121)

ln8040

1CL

Declaring Land Acquired for Road in the District of Wanganui

Pursuant to section 20 (1) of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Solicitor, Department of Survey and Land Information, Wanganui, declares that, an agreement to that effect having been entered into, the land described in the Schedule hereto is hereby acquired for road which, pursuant to section 60 of the Transit New Zealand Act 1989, shall form part of State Highway 4 and shall vest in the Crown on the date of publication hereof in the *Gazette*.

Schedule**Wellington Land District—Wanganui District**

All those pieces of land situated in Block XIV, Ngamatea Survey District, described as follows:

Area m ²	Being
987	Part Maraetaua 3B1; marked "A" on plan.
69	Part Maraetaua 3B1; marked "B" on plan.

As shown as above mentioned on S.O. Plan 36339, lodged in the office of the Chief Surveyor at Wellington.

Dated at Wanganui this 18th day of July 1990.

B. P. BONISCH, District Solicitor.

(DOSLI Wg. 8/4/0/24:695303)

ln8045

1CL

Land Acquired for Government Office Accommodation in the District of Marlborough

Pursuant to section 20 of the Public Works Act 1981, and to a delegation from the Minister of Lands, the District Manager, Department of Survey and Land Information, Blenheim, declares that, an agreement to that effect having been entered into, the land described in the Schedule hereto is hereby acquired for Government office accommodation.

Schedule**Marlborough Land District**

Area m ²	Being
470	Lot 2, D.P. 6499, all certificate of title No. 4C/1408. Subject to a restrictive covenant contained in document 38017, and together with a right of way created by application 500, and together with drainage rights created by transfer 2389.

Area

m²

Being

251 Part Lot 2, D.P. 2642, all certificate of title No. 4C/1409. Subject to drainage rights over the part herein appurtenant to part of Lot 2, D.P. 6499, created by transfer 2389, and together with rights of way created by transfer 2190 and application 500.

59 Part Lot 1, D.P. 6499, marked 'A' on S.O. Plan 6858, lodged in the office of the Chief Surveyor at Blenheim. Subject to restrictive covenant contained in document 38017, and together with right of way created by application 500.

Dated at Blenheim this 13th day of July 1990.

G. B. HENDERSON, District Manager.

(DOSLI Blm. D.O. 6700/01 C1050)

ln8052

1CL

Transport**Harbours Act 1950****Authorising the Far North District Council to Reclaim Foreshore and Seabed from the Mangonui Harbour at Mangonui**

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 9th day of July 1990

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

Pursuant to section 175 (2) of the Harbours Act 1950, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby authorises the Far North District Council to reclaim an area totalling 1060 square metres of seabed of Mangonui Harbour as shown on Plan S.O. 65020, and as more particularly described in the Schedule below.

Schedule

All that land situated in V Mangonui Survey District, Mangonui Harbour as shown marked 'A' comprising 390 square metres and area 'B' comprising 670 square metres on Plan S.O. 65020 and totalling 1060 square metres.

M. SHROFF, Clerk of the Executive Council.

(M.O.T., M.T.D. 54/16/1/1)

ln8059

Regulation Summary**Notice Under the Acts and Regulations Publication Act 1989**

Pursuant to the Acts and Regulations Publication Act 1989, notice is hereby given of the making of regulations as under:

<i>Authority for Enactment</i>	<i>Title or Subject-matter</i>	<i>Serial Number</i>	<i>Date of Enactment</i>	<i>Price Code</i>	<i>Postage and Packaging</i>
Penal Institutions Act 1954	Penal Institutions (Rimutaka Prison) Notice 1990	1990/176	20/7/90	2-A	\$1.50

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ps8140

