

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 16/90

Dated the 1st day of October 1990

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

THE HON. RICHARD PREBBLE MP
of Auckland

Broadcaster
TELEVISION NEW ZEALAND LTD

I.W. Gallaway	Chairperson
J.B. Fish	
J.L. Hardie	
J.R. Morris	
Sir David Beattie	Co-opted Member

DECISION

Introduction

On the evenings of February 20, 21 and 22 1990, TV1's 6.30 pm Holmes programme broadcast items relating to the membership of the Labour Party in the Te Atatu electorate and the imminent selection there of a Labour candidate for the general election. On February 21 and 22 the 10 pm Network News on TV1 also gave attention to the Labour Party's situation in Te Atatu.

As a result of the broadcasts, the Hon. Richard Prebble MP made two formal complaints to Television New Zealand Ltd. His first complaint, made by letter dated 26 February, was directed primarily against the Holmes programme of 21 February but also challenged elements of the Holmes programmes of 20 and 22 February. Mr Prebble's second complaint, made by letter dated 9 March, related to the 10 pm News of 21 February.

In the letter of 9 March, Mr Prebble indicated that he would accept his two complaints being considered together by TVNZ's Complaints Committee. That course of action was adopted: the Complaints Committee determined both complaints on 28 March 1990, declining to uphold either of them. Mr Prebble was informed of the Committee's decisions and the reasons for them by letter dated 6 April 1990.

On 8 May 1990, being dissatisfied with the Committee's treatment of his complaints, Mr



Prebble referred them to the Broadcasting Standards Authority pursuant to s.8(a) of the Broadcasting Act 1989.

In his letter of referral to the Authority, Mr Prebble challenged the Complaints Committee's interpretation of his first complaint for being "legalistic" in that it was too restrictive. According to the Committee's interpretation, Mr Prebble's complaint was directed against the Holmes programme of 21 February and alleged breaches of s.4(1)(a) and (d) of the Broadcasting Act 1989, which provide:

- 4(1) Every broadcaster is responsible for maintaining in its programmes and their presentation, standards which are consistent with -
- (a) The observance of good taste and decency;
 - ...
 - (d) The principle that when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme or in other programmes within the period of current interest.

It is clear from his letter of 8 May that Mr Prebble disputed the Committee's view that the bases of his complaint were s.4(1)(a) and (d) of the Broadcasting Act 1989. He maintained that it was quite clear from his letter of 26 February that -

the essence of my complaint was that the programme was unfair and inaccurate which is in contravention of the code of broadcasting practice for TVNZ.

It is not clear from Mr Prebble's letter of 8 May that he also disputed the Complaints Committee's view that his complaint related only to the Holmes programme of 21 February. The major focus of his letter is on that programme although there is one reference to the "three broadcasts" straying from the "high standard set by the BCNZ" (emphasis added).

On 10 May 1990 Mr Prebble's letter was sent by the Authority to TVNZ for its comments, together with a request for relevant videotapes and/or transcripts of the programmes involved in his complaints. A videotape containing parts of the three Holmes programmes broadcast between February 20 and 22 and parts of the 10 pm News of 21 and 22 February was supplied shortly thereafter. However, TVNZ did not supply further comments on Mr Prebble's complaints, despite other requests, until early July. When its 17 page letter dated 4 July (and its 27 pages of enclosures) reached the Authority, it was sent immediately to Mr Prebble with a request for his comments.

TVNZ's letter defended the Complaints Committee's interpretation that Mr Prebble's first complaint was based upon s.4(1)(a) and (d) of the Broadcasting Act 1989, reiterated - at length - the reasons for the Committee's decision upon the first complaint and raised new matters for the Authority's attention and information. That letter did not, however, mention Mr Prebble's reference to "three broadcasts": apparently, TVNZ did not take the reference to mean that the three Holmes programmes broadcast between 20 and 22 February were the subjects of Mr Prebble's first complaint.



Mr Prebble responded by letter to the Authority dated 31 July. In that letter, he again took issue with the Complaints Committee's interpretation of his first complaint and stated:

Without consultation with me TVNZ decided my complaint against the three Holmes Shows was only in regard to Section 4(1)(a) and (d) of the Act. (Emphasis added).

Believing it had sufficient information to consider the complaints, the Authority sent TVNZ - for its information - Mr Prebble's letter of 31 July and informed it that the Authority intended to so proceed. However, by letter dated 20 August, TVNZ alleged that Prebble's letter contained -

factual errors, misleading comment, misconceptions, misconstrual of what the company said, plus the introduction of previously unidentified Holmes programmes and grounds.

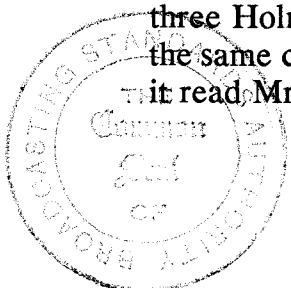
Aware of the lengthy nature of the correspondence already received and the time which had elapsed since the complaints had been referred to it, the Authority was reluctant to allow TVNZ too much more time to elaborate its criticisms of Mr Prebble's last letter. Accordingly, on 4 September, having identified the statements in Mr Prebble's letter which seemed likely to have provoked TVNZ's criticisms, the Authority set them out in a letter to TVNZ and asked it to respond urgently - ie confirming or otherwise explaining the source of its criticisms.

By letter dated 6 September, TVNZ confirmed that it objected to the statements from Mr Prebble's letter of 31 July which had been identified by the Authority. However, it made plain that those were not the only statements to which it objected. Upon receipt of TVNZ's letter, the Authority's Advisory Officer telephoned its writer and asked him to identify the remaining statements to which TVNZ objected. This done, the Authority was at last in a position to consider Mr Prebble's two complaints.

Dispute Over the Content of Mr Prebble's First Complaint

The Authority will deal at the outset with the dispute between Mr Prebble and TVNZ over the substance of Mr Prebble's first complaint. As has been stated, the Complaints Committee interpreted the complaint to relate only to the Holmes programme of 21 February and to be alleging breaches of s.4(1)(a) and (d) of the Broadcasting Act 1989.

Mr Prebble consistently maintained to the Authority that his complaint was not only based upon s.4(1)(a) and (d) of the Broadcasting Act but also on those programme standards in the Code of Broadcasting Practice for Television which require programmes to be fair and accurate. Mr Prebble's other argument - that his complaint concerned all three Holmes programmes screened between 20 and 22 February - was not made with the same consistency. Indeed, it appears that TVNZ was unaware of that argument until it read Mr Prebble's letter to the Authority dated 31 July.



With regard to Mr Prebble's argument that his complaint did not merely allege breaches of s.4(1)(a) and (d) of the Broadcasting Act 1989, TVNZ's letter of 4 July defends the interpretation taken by its Complaints Committee in these terms:

It will be seen in the complainant's letter of 26 February that he identified two specific grounds (page 4) which clearly matched section 4(1)(a) and (d) of the Act. He did refer to the Act's requirements of fairness (top of page 4) but in the context in which it was used it did not specifically relate to programme output which was the subject of the complaint.

Bearing in mind the helpful procedures guideline, or clear "map" drawn up by the Authority in Decision 3/90, it appeared to the company that no further initiative by way of clarification was called for. This interpretation by the company was seen as being reinforced by the complainant himself when he made it abundantly clear in subsequent correspondence (his letter of 28 February 1990) that he was no ordinary viewer lodging a complaint. Indeed he was not only knowledgeable as to the Act's provisions as a result of having "carefully read the Broadcasting Act 1989", but also he had in fact helped to write the legislation. Any further inquiry as to grounds, or clarification in such circumstances, would surely be seen as downright insulting to his intelligence.

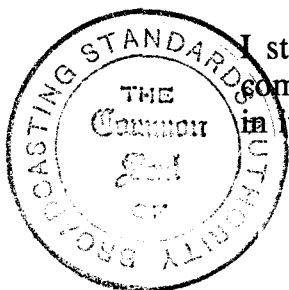
... it appears the complainant who is clearly well conversant with the Act's detailed provisions, as already indicated, expects the company to not only examine the complaint on the basis of the grounds he identifies, but also any he may have overlooked and which might have a bearing if it suits his case! Whether the company's failure to add other grounds should be seen as a default by the complainant, and amount to a legalistic approach or not, would not only seem to be beside the point, but also would be an act not sanctioned by the Authority under its procedures guideline in Decision 3/90. Furthermore, the company would observe that it is entitled to take whatever legalistic approach it may consider appropriate, especially when the gravity of the penal provisions of the Act are taken into account.

... With due respect to the complainant it is submitted that it is not obligatory that broadcasters, of their own volition, seek to remedy any imperfections they may perceive in cases made by complainants invoking statutory processes. This would apply particularly in the case of those who are not only well versed in the statutory provisions they invoke, but also those who are initiators of those provisions.

In his letter to the Authority of 31 July, Mr Prebble responded:

In my original letter of complaint of 26 February at no time did I confine myself to those two grounds. [Section 4(1)(a) and (d).]

I started my complaint with the following words "I wish to lay the following complaint under the Broadcasting Act 1989. Television New Zealand has failed in its legal responsibility under the law to maintain the standards set out in the



Broadcasting Act." I could not have made my grounds wider. TVNZ has deliberately attempted to confine it in order to avoid upholding my complaint.

...

There is nothing in the Broadcasting Act which entitles TVNZ to decide that a complaint such as mine should be interpreted as being a complaint under Sections 1(a) and (d) (sic). I still can't understand how the TVNZ Complaints Committee can reach such an amazing conclusion when anybody can see that my fundamental argument is that the programme was inaccurate.

The Authority has considered very carefully the Complaints Committee's interpretation of Mr Prebble's first complaint and has decided, on balance, that it was not unreasonable granted the nature of Mr Prebble's original letter of complaint of 26 February.

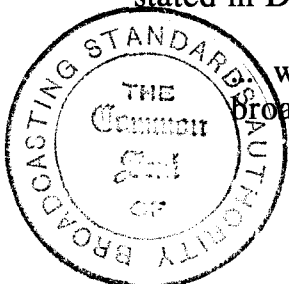
That letter comprises over four pages of background information to, comment upon and criticism of the three Holmes programmes broadcast between February 20 and 22. Its style can only be described as "scattergun": there is no discernible pattern to the letter's contents. It is true that the major part of the letter relates to the Holmes programme and other events of 21 February 1990. However, due to confusion in Mr Prebble's statement of the dates upon which the 20 - 22 February Holmes programmes were broadcast, one would need to be conversant with the content of those three programmes to make sense of Mr Prebble's statements about them and about the timing of other events occurring in that three day period.

As a result of the nature of Mr Prebble's letter of complaint, it is possible to regard his mention of the words of s.4(1)(a) and (d) of the Broadcasting Act, which occurs towards the conclusion of the letter, as summarising, or stating the essence of, his complaint. Further, because of the letter's focus upon the content of the Holmes programme of 21 February, it is possible to regard Mr Prebble's complaint as being directed solely against that programme.

However, the Authority notes that, prior to the mention of the words of s.4(1)(a) and (d) of the Act, Mr Prebble's letter to TVNZ does refer to "false" statements and other "inaccurate" material in the Holmes programmes of 20 and 21 February. It also refers, several times, to the fact that no attempt was made to contact him for his comment upon the material broadcast on those two programmes - a failure which would ordinarily be regarded as "unfair" treatment of Mr Prebble if that material implicated him in irregular dealings. Finally in this regard, the Authority notes that Mr Prebble's letter criticises the apology delivered to him by Mr Holmes on the programme of 22 February.

Therefore, while it has decided that the Complaints Committee's interpretation of Mr Prebble's complaint was not unreasonable in all the circumstances, the Authority advises that it considers the Committee's approach to have gone very close to the line beyond which the Authority would invoke s.13(1)(c) of the Broadcasting Act. As the Authority stated in Decision No: 3/90:

when a formal complaint expressly or implicitly alleges a breach of a broadcasting code of practice but fails to specify the code(s) or rule(s) upon which



the complaint is based, the broadcaster should give the complainant the opportunity to elaborate, in terms of the codes, upon the precise nature of the complaint. Otherwise, the broadcaster's actions of determining the complaint according to its own interpretation of it may lead the Authority, upon a referral of the complaint to it, to exercise its power under s.13(1)(c) of the Broadcasting Act 1989, requiring the broadcaster to reconsider the complaint in accordance with the complainant's own view of its basis (or bases) in the codes.

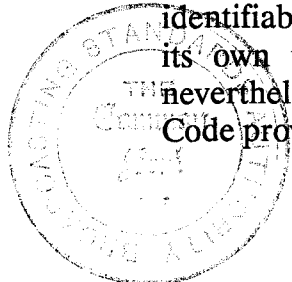
While TVNZ believes that the above passage clearly condones the course of conduct it adopted with respect to Mr Prebble's first complaint, the Authority, as has been stated, is not so convinced. In its view, broadcasters who receive formal complaints which are framed in as confusing a manner as was Mr Prebble's, should, as a matter of commonsense and courtesy - quite apart from the presence of s.13(1)(c) in the Broadcasting Act 1989 - seek clarification from the complainant as to the grounds for the complaint before proceeding to determine it. The Authority does not believe that any complainant, even one well-versed in broadcasting matters, would take offence at a genuine attempt by a broadcaster to confirm, or to identify with more precision, the grounds of that person's formal complaint.

However, with regard to Mr Prebble's argument that he could not have made the grounds of his complaint wider, the Authority notes that the broadcasting complaints processes would be unworkable if complainants could, in making a formal complaint to a broadcaster, purport to invoke in a very general fashion as many of the provisions of the Broadcasting Act and Codes of Broadcasting Practice as may be determined by the broadcaster or, on review, this Authority, to be relevant. Complainants must provide some specificity as to the basis of their formal complaints - although the Authority would not insist that relevant statutory or Broadcasting Code provisions be identified specifically if the gist of a complaint and its basis in the Act or Codes is reasonably apparent.

It is because Mr Prebble's letter of complaint of 26 February contains an unusual blend of specificity and generality as to the bases of his complaint - all mixed in with descriptions of the Holmes programmes' content and other matters - that the Authority accepts TVNZ's interpretation of it. But it does not accept the argument that in light of the gravity of the penal provisions of the Broadcasting Act, TVNZ, or any other broadcaster, is entitled to take whatever "legalistic" approach to a formal complaint that it may consider appropriate. Section 6(1)(a) of the Broadcasting Act requires every broadcaster -

To receive and consider formal complaints about any programme broadcast by it where the complaint constitutes, in respect of that programme, an allegation that the broadcaster has failed to comply with section 4 of this Act; (emphasis added).

In the view of the Authority, where a formal complaint alleges the breach of reasonably identifiable statutory or Code provisions, a broadcaster is obliged by s.6 to consider it on its own terms. Where the substance of a complaint is vague or ambiguous but nevertheless the complainant plainly purports to invoke some relevant statutory and/or Code provisions, the logical course for the broadcaster must be to seek clarification from



the complainant both so that s.6 may be complied with and so that the exercise of the Authority's s.13(1)(c) powers is avoided. As has been stated, the Authority considers that Mr Prebble's first complaint falls, by a slim margin, into the first of the two categories identified above.

TVNZ's Request That the Authority Decline to Determine the Complaints

Another preliminary matter for the Authority's determination was raised by TVNZ in its letters of 4 July and 20 August. There, it was stressed that Mr Prebble had issued proceedings in the High Court claiming substantial damages for defamation in respect of the Holmes programmes of 20 and 21 February and the Network News of 21 February. In TVNZ's view, the Authority should decline to determine a complaint, pursuant to s.11 of the Broadcasting Act 1989, when the complainant has commenced court proceedings over the programmes about which he or she is complaining to the Authority.

Section 11 provides:

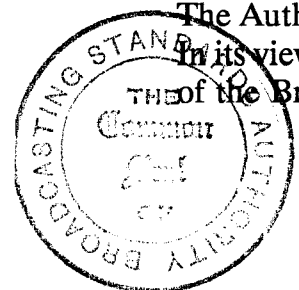
The Authority may decline to determine a complaint referred to it under section 8 of this Act if it considers -

- (a) That the complaint is frivolous, vexatious, or trivial; or
- (b) That, in all the circumstances of the complaint, it should not be considered by the Authority.

TVNZ suggested in its letter of 4 July that the Authority could decline to consider Mr Prebble's complaints by relying upon either paragraph (a) or (b) of s.11. However, its letter of 20 August emphasised s.11(b) as providing appropriate grounds for the Authority to decline to consider the complaints.

TVNZ's main argument in support of its request that the Authority decline to consider Mr Prebble's complaints was that it is unfair for a person to have access to two legal procedures when the cause of the grievances is one broadcast programme. TVNZ also asserted that it was relevant to the exercise of the Authority's powers under s.11 of the Broadcasting Act that Mr Prebble is "no ordinary complainant" but rather a politician who may derive, from an Authority decision in his favour, benefits different from other complainants. Further, TVNZ made general arguments to the effect that the Authority's consideration of Mr Prebble's complaints could affect the court proceedings he had commenced. It asserted that the Authority's consideration of the complaints might appear to be a "stepping stone or pre-trial reconnoitre" for the court case and that Mr Prebble might obtain "case building material" in the process.

The Authority does not agree that it should decline to consider Mr Prebble's complaints. In its view, the complaints are certainly not "frivolous, vexatious, or trivial" within s.11(a) of the Broadcasting Act.



Further, the Authority believes that the Broadcasting Act itself negates TVNZ's view that it is unfair for a person to have access to two legal procedures when the cause of the grievances is one broadcast programme. The Broadcasting Act 1989 does not contain a provision of similar effect to s.67(4) of the Broadcasting Act 1976 - pursuant to which the Broadcasting Tribunal could not entertain a complaint until the complainant waived the right to take legal action in respect of its subject matter. In the Authority's view, the absence of a similar provision in the 1989 Act signifies that a complainant is entitled to pursue a court action with respect to a broadcast programme as well as seeking the Authority's determination of a complaint about it based upon the Broadcasting Act and/or the Broadcasting Codes of Practice.

The Authority also rejects TVNZ's argument that Mr Prebble's political position is relevant to the exercise of its powers under s.11. A complainant's involvement in politics is no reason to disqualify him or her from relying upon the complaints procedures established by the Broadcasting Act.

TVNZ's final argument - that the Authority's determination of the complaints would somehow affect the court proceedings which Mr Prebble has commenced - touches upon matters relevant to the Authority's exercise of its s.11 powers. The Authority acknowledges that if there were a risk of prejudice to a court action by it proceeding to determine a complaint, it should decline to do so. However, such prejudice cannot be assumed from the mere fact of concurrent proceedings before a court and the Authority: as has been stated, the 1989 Act allows such concurrent proceedings.

The Authority has given careful consideration to the question whether its determination of Mr Prebble's complaints could prejudice the court action which he has commenced. It is of the view that the issues raised by the complaints before the Authority do not impinge upon the issues to be decided in court in a defamation action. As a result, it has proceeded to determine Mr Prebble's complaints.

The Information Pertaining to Mr Prebble's Complaints

There is a wealth of information to be summarised before the Authority can record its Decision on Mr Prebble's two complaints. For ease of reference, a guide to the presentation of that information is provided here.

The information about Mr Prebble's first complaint will be presented as follows:

- (a) Summary of the Holmes Programme Items of 20 - 22 February
- (b) The Nature of Mr Prebble's First Complaint: Re the Holmes Programme of 21 February
- (c) Mr Prebble's Criticisms of the Holmes Programmes of 20 and 22 February
- (d) TVNZ's Complaints Committee's Decision Upon the First Complaint



- (e) Referral of the First Complaint to the Broadcasting Standards Authority and Mr Prebble's Later Comments
- (f) TVNZ's Comments After Referral of the Complaint.

Next, the information pertaining to Mr Prebble's second complaint will be presented as follows:

- (a) Summary of the 10 pm News Item of 21 February
- (b) The Nature of Mr Prebble's Second Complaint
- (c) TVNZ's Complaints Committee's Decision Upon the Second Complaint
- (d) Referral of the Second Complaint to the Broadcasting Standards Authority and Mr Prebble's Later Comments
- (e) TVNZ's Comments After Referral of the Complaint.

At the conclusion of both sets of information, the Authority's Decisions upon the two complaints will be recorded.

MR PREBBLE'S FIRST COMPLAINT

- (a) **Summary of the Holmes Programme Items of 20 - 22 February**

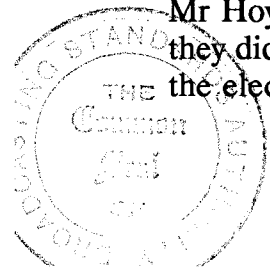
While the Authority accepts TVNZ's interpretation that Mr Prebble's first complaint relates only to the Holmes programme of 21 February, some information about each of the three programmes broadcast between 20 and 22 February is necessary.

20 February

The subject of possible "rigging" of Labour Party membership in the Te Atatu electorate was introduced by an item on the Holmes programme of 20 February. Part of the item comprised segments of interviews with two senior Labour Party officials, Messrs Beyer and Hoyte, who made accusations of membership rigging. Elsewhere in the item, a reporter paraphrased the men's accusations and made other comments which tended to confirm their truth.

The accusations were that the Backbone Club had recently secured the registration of numerous Pacific Islanders as Labour Party members in Te Atatu in order to boost support for the Club's preferred candidate for that electorate.

Mr Hoyte stated that many of the Pacific Islanders appeared to be recent immigrants: they did not have addresses and, prior to their registration in the Party, had not been on the electoral roll. The reporter stated that, on 31 December 1989, 330 Pacific Islanders



from outside Te Atatu had joined the Labour Party in that electorate as well as "several hundred" more from within Te Atatu. He also stated that when Labour Party officials had tried to reach some of those members by telephone:

in nearly every case the people signed up either could not speak English or had no knowledge at all of the Labour Party.

At one point in the report's elaboration of the Backbone Club's alleged responsibility for the state of affairs in Te Atatu, film was shown of an unidentified gathering of people in a hall. The reporter stated in the voice over:

The Backbone Club is a zealous group hellbent on pursuing the philosophy of Roger Douglas and has been at the centre of major ructions within the party and there have been none bigger than the question of Union block voting rights. The Backbone Club claims the Unions are given an undemocratic advantage.

In the film accompanying the first part of that voice over, there was a close shot of Mr Prebble, followed by a shot of a scuffle between men standing at the rear of the hall. No other film of Mr Prebble was screened on the Holmes programme of 20 February.

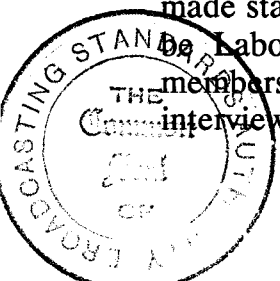
21 February

The Holmes programme of 21 February 1990 rescreened some ninety seconds of the material from the previous evening's programme, including the extracts of the interview with Mr Hoyte and the reporter's statement of the number of Pacific Islanders registered as Labour Party members in Te Atatu on 31 December 1989.

Next the reporter was shown calling at three Auckland houses, the addresses of which had been registered as those of Te Atatu Labour Party members. In each case, irregularities in the members' registration were suggested by the residents' own words on camera and the reporter's elaboration in the voice over.

By far the greatest attention was given to the third house, in Ellerslie, occupied by the ten members of a Tongan family - the Hinganos. In an interview with Mr Salesi Hingano, occupying nearly five minutes and conducted in English, it emerged that all ten members of his family, including his eight children whose ages ranged from five to eighteen years, were registered as Labour Party members in Te Atatu.

At one point during the interview and in response to questions from the reporter which - from the lengthy pauses before his responses - Mr Hingano may not have fully comprehended, Mr Hingano produced, from an envelope he was holding, the Labour Party membership cards of all the members of his family. The reporter read them and made statements implying that the younger members of the family were not entitled to be Labour Party members. Particular attention was given by the reporter to the membership of Mr Hingano's fourteen year old daughter, who was present during the interview, and the membership of another daughter, aged twelve.



When the reporter asked Mr Hingano who had sent the sheet of membership cards to him, Mr Hingano said "I don't know" and, after a pause, added that he had received a letter that week. The reporter then took the envelope from Mr Hingano and said -

You got a letter this week, yes, from the Honorary ... Oh, I see, so this was the envelope sent to Mr Hingano. [Reading from the envelope which was held up to the camera for several seconds] "If undelivered return to the Honorary [sic] Richard Prebble, Parliament Buildings, Wellington." Was there a letter that came with this too, Mr Hingano?

The reporter asked what the letter said but, when Mr Hingano paused before saying that it was about a meeting, took the letter from Mr Hingano, skimmed its contents and read out -

Michael and Judith Bassett cordially invite you to a function at their home on the 24th of February.

The reporter asked Mr Hingano if he was planning to go to the meeting and, when Mr Hingano said yes, stated "You plan to go to the garden party". He then asked Mr Hingano if he had ever lived in Te Atatu and received a negative answer. The item closed with the reporter's statement that the Holmes programme had discovered twenty two irregularities in Labour Party membership in Te Atatu.

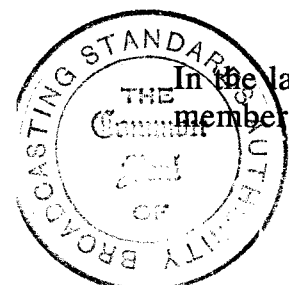
22 February

The trailer to the item on the Holmes programme of 22 February rescreened ten seconds of the interview with Mr Hingano in which the reporter focused on the Labour Party membership of Mr Hingano's fourteen year old daughter.

The programme itself commenced with Mr Holmes commenting upon the Labour Party's meeting in Te Atatu the previous night at which its candidate for the electorate was to be selected. The news of the day had carried the story that the President of the Labour Party had announced at 3 am that a selection had not been made. Mr Holmes adverted to this fact and to the belief that there had been a majority vote for the candidate widely thought to be supported by Dr Bassett before stating that the Backbone Club had apparently been banned that day by the Head Office of the Labour Party.

The next segment of the programme, comprising some three minutes, was devoted to outlining the history of the Club, its opposition to the use which Unions had made in the past of their ability to influence the choice of Labour Party candidates, and the Labour Party's candidate selection procedures. Then followed a live interview by Mr Holmes of a reporter standing on the steps of Parliament, occupying some three and a half minutes.

In the last fifty seconds of that interview the reporter revealed that the Labour Party's membership rules allow anyone over the age of fourteen to be a member, that there is



a category of membership known as family membership and, in addition, that there is a separate category of Pacific Island branches in the Labour Party to which a member can belong regardless of whether she or he lives in the area. The reporter said that, in the light of that information, it was legal for a Pacific Islander living in Ellerslie to be a member of the Te Atatu Pacific Island branch of the Labour Party.

After an advertisement break, Mr Holmes stated that there had been "cries of vote rigging" in Te Atatu and that the allegations "are these". A rescreening of extracts from the previous two evenings' Holmes programmes followed, with a new voice over. Included in the two and a quarter minute rescreening were extracts from the reporter's visits to the three houses, with a voice over statement that the Holmes programme had discovered twenty two irregularities in Labour Party membership, as well as part of the interview with Mr Hoyte in which he said that the registration of Labour Party members in Te Atatu was rigged. The rescreening ended with the voice over statement that the people behind the allegations "are still sticking by them".

Dr Bassett was then interviewed live by Mr Holmes for over six minutes. The focus of the questions was on the Labour Party's failure to select a candidate for Te Atatu and Dr Bassett's views on that but towards the end of the interview Mr Holmes asked Dr Bassett who had sent the Hingano family their Labour Party membership cards. Dr Bassett replied "I don't know - Head Office I presume. That's what normally happens" and made a brief elaboration before Mr Holmes returned to the main line of his questions and then concluded the interview.

Next, Mr Holmes announced:

On the programme last night we interviewed a Tongan man, Mr Hingano, who showed us a list of Labour Party membership cards made out for himself, his wife and his young children. Mr Hingano brought the cards out from an envelope along with an invitation to attend a function at Dr Bassett's home. Our camera showed that the envelope came from Mr Prebble's office.

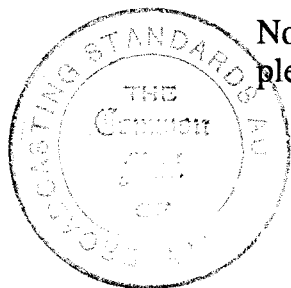
We accept Mr Prebble's assurances that neither the membership cards nor the invitation were sent in the envelope from Mr Prebble's office.

At that point Mr Holmes' eyes darted to his left before returning to the camera. He then stated:

Television New Zealand wishes to express its regret to Mr Prebble for any untrue implications in last night's item and to apologise for any embarrassment which may have been caused to him.

Mr Holmes looked at the camera for a moment before introducing the next part of the show in these words:

Now, next we'll go to Central Otago which will, I'm sure you'll agree, be a pleasant relief.



(b) The Nature of Mr Prebble's First Complaint: Re the Holmes Programme of 21 February

As was determined by TVNZ's Complaints Committee, the first element of Mr Prebble's complaint is that s.4(1)(a) of the Broadcasting Act (the "good taste and decency" provision) was breached by the broadcast of the interview with Mr Hingano. In his letter of complaint of 26 February, Mr Prebble stated:

I believe the programme has offended against the observance of good taste and decency. To interview a man whose English is not good, to put words in his mouth is a disgrace to broadcasting and appalling bad taste.

There is underlying racism in the programme. There is the suggestion that a knowledge of the English language is required to participate in politics. The "facts" given regarding the Labour Party membership rules are simply incorrect.

As was determined by TVNZ's Complaints Committee, the second element of Mr Prebble's complaint is that s.4(1)(d) of the Broadcasting Act was breached by TVNZ's failure to seek his comments about the "envelope incident" before the broadcast of the Holmes programme of 21 February. Section 4(1)(d) provides:

4(1) Every broadcaster is responsible for maintaining in its programmes and their presentation, standards which are consistent with -

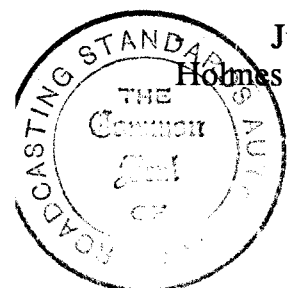
(d) The principle that when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme or in other programmes within the period of current interest.

In Mr Prebble's view, TVNZ's failure to seek his comments was rendered more blameworthy by the fact that he had contacted TVNZ personnel involved with the Holmes programme and apprised them of his rejection of allegations made there. However, his original letter of complaint is confusing as to the times and dates upon which Mr Prebble contacted the TVNZ personnel.

Having checked both with Mr Prebble and with TVNZ, the Authority is satisfied that the following sequence of events occurred:

- On 20 February at 4.30 pm Mr Prebble received a fax alerting him to the fact that Mr Beyer had made statements naming Mr Prebble as being somehow involved in membership rigging in Te Atatu.
- Mr Prebble immediately telephoned the New Zealand Labour Party headquarters and was informed of its view that Mr Beyer's allegations were false and defamatory.

Just after 6 pm on 20 February Mr Prebble saw a "trailer" for that evening's Holmes programme which said that there would be revelations regarding Te Atatu.



- Mr Prebble then contacted his lawyer who, at about 6.15 pm, spoke by telephone to Mr Peter Wear of the Holmes programme. Mr Prebble's lawyer advised Mr Wear that Mr Prebble had seen Mr Beyer's news release, that it was false and defamatory and that Mr Prebble would be watching the Holmes programme. Mr Wear assured Mr Prebble's lawyer that there was no cause to worry: the Holmes programme would be careful.
- No attempt was made by the Holmes programme to contact Mr Prebble before the broadcast, on 21 February, of the interview with Mr Hingano.
- Upon seeing that interview, Mr Prebble telephoned the Holmes programme and advised that he had never sent the letter shown there and that the programme had very seriously defamed him. Mr Prebble's letter to TVNZ of 26 February states that he did this "so that the Holmes show could publish my denial immediately - they chose not to do so."
- Mr Prebble's telephone call was made at the time the Holmes programme of 21 February was concluding or just as it concluded. (TVNZ informed the Authority that the call was received at "about 6.55 pm", when the programme had finished - the time to 7 pm being occupied by commercials and news headlines.)
- No subsequent attempt was made by the Holmes programme to seek Mr Prebble's views upon the material broadcast on 21 February.

In his letter of 26 February to TVNZ, Mr Prebble summarised the s.4(1)(d) element of his complaint as follows:

The Holmes Show has broken the standards set out in the Broadcasting Act. In particular, the principle that when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme or in other programmes shown currently.

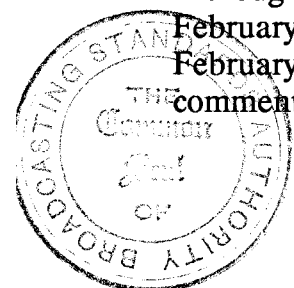
The Holmes Show knew 24 hours before broadcasting that I strongly disputed the accuracy of the allegations being made.

At no time - even now - has the Holmes Show sought from me the real facts.

One single telephone call would have prevented me being the subject of ridicule, contempt and outrageous slander.

(c) Mr Prebble's Criticisms of the Holmes Programmes of 20 and 22 February

Although it has accepted that Mr Prebble did not make plain, in his letter of 26 February, an intention to make a formal complaint about the Holmes programme of 20 February, for the sake of completeness the Authority expresses its view that the comments made by Mr Prebble in that letter would not have supported a successful



complaint against the programme. His only comments were:

My name was not mentioned on that show. However the background film showed me prominently on a number of occasions, enough to link me to the general accusation of irregularity.

(The background material was inaccurate. There was film of the 1989 Auckland Labour Regional Conference. I was shown, then the camera panned to some fighting - which was described as left versus right. In fact it was nothing of the sort. A trade unionist punched an Australian journalist. There was no physical fighting between delegates at the Conference.)

As has been noted earlier, the background film on the Holmes programme of 20 February showed Mr Prebble on one occasion only. (It was the background film to the programme of 22 February, in which the history of the Backbone Club was outlined, that showed Mr Prebble on more than one occasion.) The Authority does not believe that one shot of Mr Prebble in the programme of 20 February was sufficient to link him to the accusations that were made there about irregularities in the Te Atatu Labour Party membership.

With regard to Mr Prebble's other comments - about the film footage of the Auckland Labour Regional Conference being used inaccurately as background to part of the 20 February Holmes item - the Authority notes first that, being in parentheses, those comments do seem to be intended as an "aside" rather than as a formal complaint. However, there is some truth in Mr Prebble's comments. As was noted in the summary given of the 20 February Holmes programme, film of the Regional Conference was screened, without the occasion being identified, to the accompaniment of a voice over which described the "ructions" in the Labour Party caused by the Backbone Club's opposition to Union block voting rights.

The Authority would not be inclined to regard the discrepancy between the film and the voice over as sufficient to maintain a complaint of inaccurate programme content. It is well known that the film accompanying News and current affairs stories is not always "fresh" or exactly on point. The film of the Conference was clearly relevant to the reporter's voice over insofar as it showed people holding up voting cards. Beyond that, the reporter did make his story "fit" the film even more by talking of "ructions" within the Labour Party as shots of the scuffle screened. However, as stated, the Authority inclines to the view that this element of the Holmes programme of 20 February would not warrant the upholding of a complaint based on the inaccuracy of programme content.

With regard to Mr Prebble's criticism, in his original letter of complaint, of the apology delivered to him on the Holmes programme of 22 February, the Authority merely notes here that the apology will be examined in the course of the Decision upon Mr Prebble's complaint that s.4(1)(d) of the Broadcasting Act was breached by the broadcast of the Holmes programme of 21 February.



(d) TVNZ's Complaints Committee's Decision Upon the First Complaint

The Complaints Committee's decision is explained in TVNZ's letter of 6 April to Mr Prebble, in these terms:

In the case of the Holmes item it was considered in terms of section 4(1)(a) and (d) of the 1989 Broadcasting Act which you specifically identified. They require broadcasters to observe standards which are consistent with good taste and decency; and the principle that when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme or in other programmes within the period of current interest.

Given the fact that you were able to expand on the matter in question in a 6-minutes and 38-seconds interview with Lindsay Perigo, [on the 10 pm News of 21 February] the Committee had difficulty in understanding how you claim that section 4(1)(d) of the Act was in question. The matters you discussed at 10pm with Mr Perigo had been reflected in the Holmes programme so it was clear that they came within the period of current interest as the Act provision requires.

The basis for your allegation relating to section 4(1)(a) being breached appeared to the Committee to relate to the fact that the reporter interviewed a Tongan whose command of the English language may have been imperfect. However a careful study of the interview showed that although the interviewee was slow in his responses he knew full well what was being said to him. This, in the Committee's view, could not in the ordinary meaning of the words, offend "against the observance of good taste and decency."

With regard to Mr Prebble's criticism of the apology broadcast on the Holmes programme of 22 February, TVNZ's letter states:

Given that you had an opportunity to explain your point on the 10pm programme, which may not have been seen by everyone who saw the Holmes item, the company the next day, in the Holmes programme, carried an explanation of your position, accepted your assurances on the matter and went so far as to apologise to you for any embarrassment which may have been caused for any untrue implications which may have been seen as possible.

On that basis then:

The Committee was unable to determine that either provision of the Act had been breached. Accordingly your complaint was not upheld.

(e) Referral of the First Complaint to the Broadcasting Standards Authority and Mr Prebble's Later Comments

By letter dated and received on 8 May 1990, Mr Prebble referred his complaints to the



Authority, making some comments upon them and their treatment by TVNZ's Complaints Committee.

While the first element of Mr Prebble's complaint to TVNZ was that the 21 February Holmes programme's interview with Mr Hingano breached the requirements of s.4(1)(a) of the Broadcasting Act concerning "good taste and decency", his letter to the Authority of 8 May claimed that the interview was an example -

of television reports purporting to interview people whose knowledge of English is so poor that the reporter can and does put words in their mouths. In this case it causes the public to "denigrate and discriminate" against the Tongan community and the right of Tongans to participate in the democratic processes. I have, with an interpreter, spoken to Mr and Mrs Hingano. They had no idea what was being said to them.

The Authority notes that, by the reference to the words "denigrate and discriminate", Mr Prebble's 8 May letter to the Authority appears to be invoking standard 26 of the Codes of Broadcasting Practice governing television programmes.

In his letter of 31 July, Mr Prebble's comments about the interview with Mr Hingano were once more couched in terms of s.4(1)(a) of the Broadcasting Act. He stated there:

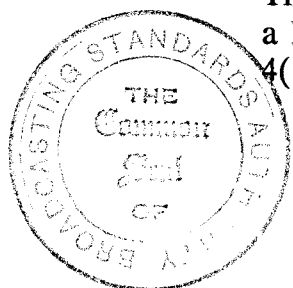
Interviewing a member of a minority ethnic community, who does not speak English well, and putting words in his mouth, is I submit at the very least bad taste. To find otherwise is to approve state television harassing minorities.

With regard to the second element of his complaint - that s.4(1)(d) of the Broadcasting Act 1989 was breached by its broadcast - Mr Prebble's letter of 8 May states:

The [Complaints] Committee appears to believe that TVNZ can meet this obligation by broadcasting false information at 6.30 and then giving a right of reply at 10 o'clock. I believe that the requirement of the Act is not met unless a reasonable effort is made to present the alternative view first in the same programme. No such attempt was made by TVNZ. To interpret the Broadcasting Act the way the Committee has done is to give broadcasters an ability to broadcast false information providing a correction is published within a reasonable time. That is not the law.

In his letter of 31 July, Mr Prebble disputed TVNZ's claim that the pressures of time were such as to prevent it from seeking his comments about the "envelope incident" before the broadcast of the Holmes programme on 21 February. He also challenged TVNZ's "extraordinary interpretation" of s.4(1)(d), arguing that the provision -

is not a licence for TVNZ to recklessly broadcast information that is inaccurate. That provision is there to ensure the different views are broadcast. Whether I sent a letter is a question of fact not a point of view so TVNZ cannot use Section 4(1)(d) as a defence.



(f) TVNZ's Comments After Referral of the Complaint

By its lengthy letter dated 4 July, TVNZ made comments to the Authority in response to Mr Prebble's letter of 8 May.

With regard to the complaint that s.4(1)(a) of the Broadcasting Act 1989 (the "good taste and decency" provision) was infringed by the Holmes programme's interview with Mr Hingano, TVNZ's letter of 4 July contains a transcript of the interviews conducted at the three Auckland houses and then states:

It is clear that the above transcript shows not only that the subjects understood what was being asked of them, but that the reporter was at pains to make sure the questions were understood.

With regard to Mr Prebble's complaint that s.4(1)(d) of the Act was breached by the Holmes programme of 21 February, the letter of 4 July reiterates TVNZ's view that Mr Prebble was given a reasonable opportunity, on the 10 pm News of 21 February, to present his view of the "envelope incident". It also emphasises the tight timeframe in which the Holmes programme was operating on 21 February:

The material shot at the Hingano household came in very late in the evening on the 21st - it was not shot in Ellerslie until 4.30 pm ... The tight deadline meant that no attempt was made to contact the complainant before the Hingano material was broadcast. But to say the Minister had no chance to reply is demonstrably false. He was on the late edition of the Network News for 6 minutes and 38 seconds - far longer than the entire Hingano sequence on Holmes. He was seen to vigorously deny any link with the Te Atatu registration cards.

Lastly in this regard, the letter refers to the apologies to Mr Prebble broadcast on both Holmes and the 10 pm News of 22 February and states:

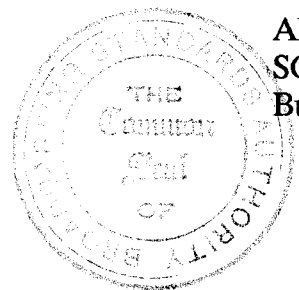
It is difficult to know what more the company could have done.

MR PREBBLE'S SECOND COMPLAINT**(a) Summary of the 10 pm News Item of 21 February**

On the 10 pm News of 21 February the presenters introduced the first item with a statement that a critical meeting was being held in Te Atatu to select a new Labour Party candidate but that -

the meeting's been overshadowed by the storm that's blown up over membership recruitment in the Auckland area.

Allegations of impropriety have been raised. We'll be putting those allegations to SOE Minister and Auckland Central MP Richard Prebble who's joined us live. But first Rob Neale with this report from tonight's meeting in West Auckland.



The report from the hall at which the Te Atatu selection meeting was being held emphasised that allegations of impropriety had been made about membership in the electorate. Three of the candidates for selection made brief statements on camera about the effect of those allegations upon members in Te Atatu and the reporter concluded that their effect upon the outcome of the selection process remained to be seen.

Next, a rescreening of over two minutes of extracts from that evening's Holmes programme was broadcast, including extracts from the three house visits. At one stage, the voice over stated that:

Eight of the Hingano children are registered. Their ages range from five to eighteen. And there's more.

At that point the segment of the interview with Mr Hingano was rescreened in which the reporter held up the envelope to the camera and read from it Mr Prebble's Parliamentary address.

One of the News presenters then stated:

And the Te Atatu vote rigging allegations have fired across the floor of Parliament tonight with Opposition Leader Jim Bolger accusing the Minister of SOEs of corruption. Mr Bolger says the Minister abused his Parliamentary mailing privileges to sign up members all round Auckland.

A three and a quarter minute report on the reaction in Parliament that night was then screened. First, to the accompaniment of film of proceedings in the House, the reporter stated:

Tonight's Address and Reply Debate was overshadowed by the Holmes show allegations about irregularities in the Labour Party's Te Atatu electorate. Opposition Leader Jim Bolger accused State-owned Enterprises Minister Richard Prebble of corruption.

Mr Bolger was then shown saying:

If you are a 4 year old in Auckland and of Island descent the Minister of SOEs will use the parliamentary privileges of this Chamber to invite you to join [Interjection: And send a receipt] - and send you a receipt. What he is doing is corrupting the system.

Next, while film screened of Mr Mallard speaking in Parliament, the reporter's voice over explained that Mr Mallard, "the chief Government Whip", had interrupted Mr Bolger to announce that he had spoken to Mr Prebble that night and Mr Prebble had denied the allegations made against him. But, the reporter stated:

That didn't stop Mr Bolger from carrying on.

And Mr Bolger was filmed saying:



Because on television a million New Zealanders saw the franked stamp of this Parliament on the envelope that the Minister of SOEs sent to 4 year old Islanders who can't speak English, telling them that they were members of the Labour Party for the Te Atatu selection this evening.

I cannot call that corrupt, Mr Speaker, because you've said I must not but I must say that it's an amazing use of the franking system - an amazing abuse of the franking system of this Parliament - acknowledged, acknowledged by the Senior Labour Whip.

To the accompaniment of film of Mr Palmer sitting in Parliament, the reporter then stated that the Prime Minister -

sat quietly while Mr Bolger mounted his attack.

Next, the reporter said that Mr Prebble had entered the Chamber and made a personal denial but that -

because of the rules under which we are allowed to televise Parliament, we can't show him making that statement.

The reporter continued:

Mr Palmer, replying to Mr Bolger, paid only scant attention to the Te Atatu affair

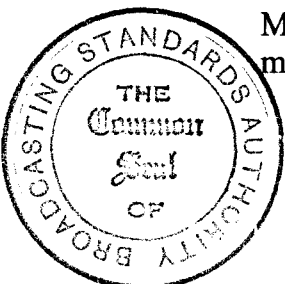
And Mr Palmer was shown making the following statement to the House:

... that when people cast allegations from one side of the House to the other about matters of this sort, it is necessary to check the facts and it is necessary to see what the Rules of the House are and in fact I believe that a considerable injustice is being done by the manner in which the material was used in the House tonight in respect of the Member for Auckland Central.

Finally in the Parliamentary report, the reporter stated that Mr Palmer then "leapt" to the "more comfortable ground" of his vision for the 1990s and Mr Palmer was shown speaking for several seconds about the sort of New Zealanders he wanted to see by the year 2000.

At that point, one of the News presenters, Mr Lindsay Perigo, introduced Mr Prebble as "the man at the centre of tonight's Parliamentary row" and interviewed him live for some six and a half minutes. During the first half of the interview, the focus of Mr Perigo's questions was upon the envelope from which Mr Hingano had been seen, on the Holmes programme, to produce his family's Labour Party membership cards as well as the invitation to the function at Dr Bassett's house. Mr Perigo's opening statement was:

Minister, at the very least in all of this you must acknowledge being guilty of misuse of your Parliamentary stationery.



In a response that lasted approximately one minute and 10 seconds, Mr Prebble firmly rejected Mr Perigo's statement. He stated that what had been seen on Holmes that evening was an example of how the camera can lie: that he had not sent any of the letters seen on the Holmes programme. Rather, he said, as Minister of Pacific Island Affairs, he had sent Mr Hingano - in the envelope that had been seen on the Holmes programme - a letter written in Tongan which had nothing to do with the Te Atatu selection or with joining the Labour Party.

As Mr Prebble proceeded to repeat that he had not misused his Parliamentary stationery, Mr Perigo asked the question:

How is it then that the membership cards arrived in your envelopes?

Mr Prebble stated that the cards did not arrive in his envelope: that that was a false allegation made by television and which was being made again. Mr Perigo interrupted Mr Prebble to ask:

Are you saying that we put those tickets in that envelope after the event?

Mr Prebble replied that he was saying that someone else put them there, whether TVNZ or the person who received them. He said that the letter he had sent in the envelope was written in Tongan and had nothing to do with joining the Labour Party and that if the reporter had bothered to contact Mr Prebble before "assassinating" him "in front of a million people" he could have told the reporter that. He added that if the reporter had realized he was speaking to someone whose grasp of English was not good and had got someone to translate his questions to Mr Hingano, he would have found that he was doing Mr Prebble a "massive injustice".

Mr Perigo then asked whether Mr Prebble would acknowledge that:

If those tickets were in that envelope originally ... it would be a misuse of that stationery.

Mr Prebble acknowledged that but explained again that that had not been the case, to which Mr Perigo stated:

So somehow, mysteriously, those tickets ended up...

Mr Prebble interrupted to explain that there was nothing particularly mysterious about it: that he had used envelopes to put other things in and, no doubt, that is what had happened with Mr Hingano. He added that he keeps a record of every letter sent from his office, including a record of its contents, and that he could prove that the letters "flashed around" on the Holmes programme that night did not come in the envelope shown. The letter he sent, he said, was an "absolutely correct" letter written in Tongan because he knew that its recipient did not understand English.

At that point, Mr Perigo turned his line of questioning to the Te Atatu membership issue and Mr Prebble agreed to respond, so long as it was understood that he was being



"dragged into" that issue although he was not involved.

In the remainder of the interview Mr Prebble made several points which contradicted that evening's Holmes programme's coverage of the issue of Labour Party registrations in Te Atatu. He said that although it was within Labour Party rules for a 15 year old to be a member of the Party, he did not agree with the rules in that respect. Mr Prebble also said that he understood there had been a "bureaucratic muck up" in the registration of some people in Te Atatu, that the Labour Party had discovered it and had struck those people off and that the media had got hold of the story after the fact. Further, he made the point that the interviewer on the Holmes programme had put "words in people's mouths"; that if Tongan Television turned up on Mr Perigo's doorstep and asked him questions in Tongan he would "look pretty stupid too" and that, because of the language difficulty, he did not believe that the Holmes programme had proven that the people interviewed did not know they were Labour Party members.

Towards the conclusion of the interview, Mr Prebble explained the Labour Party rule - which he said he did not agree with and over which he had taken the Party to court - that people living outside an electorate can be registered there. Finally, in contradiction of the Holmes programme's report, he stated that nobody who had been enrolled in Te Atatu in the last 12 months could participate in the Te Atatu selection - that it was all "a storm in a teacup".

(b) The Nature of Mr Prebble's Second Complaint

The essence of Mr Prebble's second complaint is that the part of the News item dealing with the reaction in Parliament to the Holmes programme's allegations about Mr Prebble was not fair and accurate.

Mr Prebble summarised his view of the News' Parliamentary report in his letter to TVNZ of 9 March, in these terms:

... to the ordinary viewer watching the Parliamentary report they would have concluded:

1. I had been accused of corruption.
2. That this had pre-occupied the whole of the Address and Reply debate.
3. That the Prime Minister had somehow acquiesced in this charge and that I had given a very weak denial, ie all of the Holmes show allegations about me were correct and that reasonable people have concluded I was corrupt.

Contrary to those conclusions, Mr Prebble gave details in his letter of the following matters:

Mr Bolger did not accuse him of "corruption" but of "corrupting the system", a lesser charge;



- Mr Bolger's comments about Mr Prebble occupied only one sixteenth of his address and took only a few minutes of the more than two hour Address and Reply debate;
- Mr Prebble did not simply "deny" the Holmes programme's allegations in Parliament: he "went further and explained how the envelope came to be in Mr Hingano's possession a much stronger statement than a simple denial";
- "Every Parliamentarian and Parliamentary reporter knows that Geoffrey Palmer always sits quietly no matter what is said, that is his style." The reporter's comments about Mr Palmer - that he "sat quietly" while Mr Bolger accused Mr Prebble of corrupting the system and that, in his own speech, he "paid only scant attention to the Te Atatu affair", together with the film clip shown of Mr Palmer's speech - "gave the impression that the Government somehow accepted the validity of the allegation";
- While TVNZ could not broadcast film of Mr Prebble making his statement, it could have broadcast his statement together with a still picture of him. In Mr Prebble's view, given the very serious allegation against him which the 10 pm News "decided to broadcast", it should have broadcast his statement in response "instead of Television's inadequate summary".

Mr Prebble's letter summarises his complaint against the 10 pm News of 21 February in these terms:

Television New Zealand's use of edited highlights of Parliament, its failure to be fair in its reporting of my statements and its totally misleading comments from its reporters, is worse than reckless. It appears to be malicious and an attempt to use Parliament in order to substantiate allegations that Television New Zealand invented in the first place.

... The News at 10.00pm was incorrect, unfair and didn't meet the requirements of the Broadcasting Act to be balanced.

(c) TVNZ's Complaints Committee's Decision Upon the Second Complaint

With regard to Mr Prebble's second complaint, TVNZ's letter of 6 April first makes the point:

... the Committee noted that you did not identify any specific statutory provision although judging by the tenor of your complaint it seemed clear that rule 12 of the Television Programme Standards Codes, under the News and Current Affairs heading, would be at issue. It requires that news must be presented accurately, objectively and impartially. Your complaint was accordingly assessed in terms of that rule.

Mr Prebble's complaint is then summarised in these terms:



Your complaint was basically that the report was not a fair and accurate account of what went on in Parliament that night, in that it did not contain the contents of your personal statement to the House; that it did not fairly reflect the content of the speeches in the Address and Reply debate; and that, in your view, it suggested that the Prime Minister acquiesced in the charge that the Leader of the Opposition made.

With regard to the first of those matters - that the News item did not contain the contents of Mr Prebble's personal statement to the House - the Complaints Committee's decision is explained in this manner:

The reason for the contents of your personal statement not being included in the item was stated in the report. As you will know the arrangement by which certain proceedings of Parliament are able to be taped for television use does not allow for unscheduled events such as your statement.

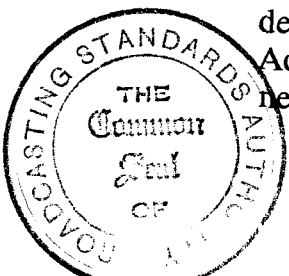
You will recall that immediately after you made your statement Richard Harman [a TVNZ political reporter] approached you and pointed out that he was unable to use pictures of you making your statement because of House rules. He suggested that your most effective way of getting your view across would be to appear live on One Network News at 10pm. This would be preferable to a brief summary carried in the form of a key (words superimposed over pictures) or a radio "sound grab". After due consideration you confirmed that you would appear on the programme. The reporter, believing that any comments made live by you would update and supersede your statement in Parliament, decided to exclude the statement from his item. In view of Mr Harman's conversation with you it was concluded that this course of action had your tacit approval.

... your appearance on One Network News was quite lengthy and you were seen to vigorously deny references drawn from the Holmes programme. In fact it was observed that you were able to give a fuller explanation in the interview with Mr Perigo than what you managed to do in the House.

With regard to Mr Prebble's complaint that the news item did not fairly reflect the content of the speeches in the Address and Reply debate, TVNZ's letter responds:

The [Complaints] Committee noted that the report was a straightforward description of the exchange between Mr Bolger and Mr Palmer over the issues raised in the Holmes programme. Balance was seen as being provided for what Mr Bolger said in the quotes from Mr Palmer, and in reported comments of Mr Mallard, who was reported as telling the House that you were denying the inferences Mr Bolger had taken from the Holmes report.

... The Committee was unable to accept that the report suggested that the debate over the Holmes issue occupied the whole of that evening's Address and Reply debate. In the first place, the report was never intended to be a report of the Address and Reply debate. It was intended to be a fresh angle on one of the main news stories of the day - that of alleged irregularities in the registration of Labour



Party members for the Te Atatu electorate.

The letter continues by explaining that no branch of the media has ever attempted to report in full the contents of any Parliamentary debate: that it is a convention of the media to report only that which is new or topical. In support of the regularity of selective media coverage of Parliamentary proceedings, a quote from Lord Denning in an English Court of Appeal decision of 1973 is then supplied. It endorses reporters covering only those matters which appear to be of particular public interest provided that a "fair presentation" of what took place in Parliament is given. That term is then defined by Lord Denning to mean "a fair presentation of what took place as it impressed the hearers" rather than "fairness in the abstract", ie between a person who was being "attacked" in Parliament and those who were attacking that person.

With regard to the third aspect of Mr Prebble's complaint - that the news item suggested that the Prime Minister acquiesced in the charges made by Mr Bolger against Mr Prebble - TVNZ's letter states the Complaints Committee's view that this was unsubstantiated for the following reason:

Mr Palmer was seen telling the House that "a considerable injustice is being done", which were hardly the words of a Prime Minister acquiescing to a charge of corruption. The reference in the item to Mr Palmer sitting quietly was a reflection of the proceedings of the House - an observation that the Prime Minister was more composed than usual on this occasion. This clearly fell within the category of "fair presentation" mentioned in the Lord Denning quotation.

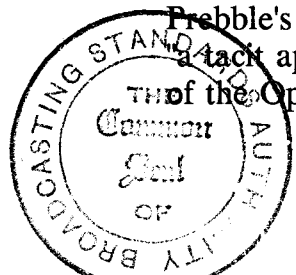
Finally, TVNZ's letter takes up a point not expressly made by Mr Prebble in his formal complaint:

Your suggestion that the content of the report caused Mr Perigo to conclude that you were guilty of corruption was not accepted. Mr Perigo, in the manner of any competent interviewer, was seen to be adopting the "devil's advocate" approach in his discussion with you, using previously broadcast information as the basis of his question line. You were uninterrupted in your replies to these questions and you were seen to vigorously defend your position.

For those reasons then, TVNZ's Complaints Committee "was unable to conclude that rule 12 had been breached." Accordingly, Mr Prebble's complaint against the 10 pm News of 21 February was not upheld.

(d) Referral of the Second Complaint to the Broadcasting Standards Authority and Mr Prebble's Later Comments

Mr Prebble's letter of 8 May restates his complaint that the 10 pm News was unfair and inaccurate, especially in broadcasting Mr Bolger's statements in Parliament without Mr Prebble's statements in response. The Complaints Committee's suggestion that he gave "tacit approval" for TVNZ not to broadcast his rebuttal in Parliament of the Leader of the Opposition's speech, is denied by Mr Prebble in these terms:



Why should I do so? Where in the Broadcasting Act is an individual given the power to grant TVNZ approval for waiving all standards?

On the same point, Mr Prebble's letter of 31 July states:

The reality of course was that Mr Harman [the reporter] made it clear that they would show footage of Mr Bolger's accusations against me and if I wanted a chance to clear my name had no choice but to agree to go on live. At no time did I agree that TVNZ would publish Mr Bolger's statements without broadcasting verbatim my reply.

Mr Prebble raises a further point about the 10 pm News in his 31 July letter:

From the line of questioning from Mr Perigo it is clear that he was under the impression from the material that TVNZ had published that I must be "guilty as charged". Viewers also, because of the unfair way in which Parliament was broadcast, did not know that I vigorously at the first available opportunity denied the Holmes Show and Mr Bolger's accusations. News at Ten's coverage of Parliament was not therefore fair and accurate.

(e) TVNZ's Comments After Referral of the Complaint

TVNZ's letter of 4 July repeats its view that Mr Prebble gave "tacit approval" to TVNZ broadcasting Mr Bolger's speech in Parliament without also broadcasting Mr Prebble's reply. TVNZ's Parliamentary Reporter's understanding that Mr Prebble's live presence on the 10 pm News superseded any need to broadcast his statements to the House is elaborated. Finally, the letter states:

As will be appreciated it would be an absurdity to have run what the complainant said in the House and then have carried all that he said in the interview.

DECISION

THE FIRST COMPLAINT

(i) Section 4(1)(a) Broadcasting Act 1989

The first matter for the Authority to determine is Mr Prebble's complaint that s.4(1)(a) of the Broadcasting Act 1989 was breached by TVNZ's broadcast of the Holmes programme of 21 February. Section 4(1)(a) is in these terms:

4(1) Every broadcaster is responsible for maintaining in its programmes and their presentation, standards which are consistent with -

(a) The observance of good taste and decency.



The essence of Mr Prebble's complaint to TVNZ was that the interview with Mr Hingano breached this provision because:

To interview a man whose English is not good, to put words in his mouth is a disgrace to broadcasting and appalling bad taste.

The essence of the Complaints Committee's decision not to uphold the complaint was that:

... a careful study of the interview showed that although the interviewee was slow in his responses he knew full well what was being said to him. This, in the Committee's view, could not in the ordinary meaning of the words, offend "against the observance of good taste and decency."

While it does not necessarily agree with the Complaints Committee's analysis of the interviewee's comprehension of the questions and statements put to him, the Authority is of the view that the concept of good taste and decency is not relevant to an assessment of the interview. That concept normally comes into play when a complaint is directed against the propriety of the content of broadcast material whereas Mr Prebble's complaint is directed against the propriety of the methods adopted in obtaining material for broadcast.

Further, the Authority believes that the reporter's method and style in interviewing Mr Hingano were not offensive. While it does not doubt that, had an interpreter been present, Mr Hingano would have been in a better position to respond to the questions put to him, the Authority considers that the reporter's manner and Mr Hingano's demeanour and answers revealed that, contrary to Mr Prebble's suggestion, that Mr Hingano was not a pawn in the reporter's hands.

For the foregoing reasons, the Authority declines to uphold that part of the first complaint which alleged a breach of s.4(1)(a) of the Broadcasting Act 1989.

Standard 26, Television Programme Codes

In Mr Prebble's letter of 26 February to TVNZ, immediately after the mention of the words of s.4(1)(a) of the Broadcasting Act 1989, it is stated:

There is underlying racism in the programme. There is the suggestion that a knowledge of English is required to participate in politics.

While Mr Prebble may have intended that brief mention of racism to raise a complaint based on standard 26 of the Television Programme Codes (which prohibits the encouragement of denigration of or discrimination against sections of the community on account of race), the Authority has already explained that it accepts TVNZ's interpretation of Mr Prebble's complaints. As a result, and despite the fact that Mr Prebble expressly mentioned its key words in his letter to the Authority of 8 May, Standard 26 is not in issue before the Authority.



However, for the information of broadcasters and complainants, the Authority makes the following comments about the application of standard 26 to the 21 February Holmes programme's interview with Mr Hingano.

In the Authority's view, the interview did not encourage denigration of or discrimination against Tongan people. The interviewer was well mannered in his approach to Mr Hingano and did not - expressly or by implication - cast blame upon, or attribute any failing to, Mr Hingano or his family in the apparent revelation of the irregularities in their registration as members of the Labour Party. Instead, by means of the interviews with Messrs. Beyer and Hoyte and the voice overs, fault was placed squarely with the Backbone Club. More specifically, by means of the reporter's conclusions about the envelope in Mr Hingano's possession, fault was placed with Mr Prebble.

In the Authority's view, therefore, the thrust of the 21 February Holmes programme, with regard to Tongan and other Pacific Island people who had been registered in the Labour Party by allegedly dubious means, was that they had been exploited by people in positions of power. Far from encouraging denigration of or discrimination against the victims of the alleged exploitation, the Authority believes that the effect of the programme was to encourage condemnation of those people accused of the exploitation. Further, the Authority believes that, for the majority of viewers, that effect would have been reinforced by Mr Hingano's demeanour during the interview: he conducted himself with dignity in the stressful situation of being confronted with alleged irregularities in his family's Labour Party membership.

(ii) Section 4(1)(d) Broadcasting Act 1989

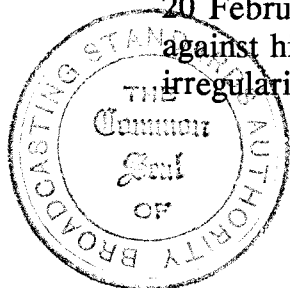
The next issue for the Authority to determine is whether TVNZ, by its broadcast of the Holmes show of 21 February, breached s.4(1)(d) of the Broadcasting Act 1989 which is in these terms:

4. (1) Every broadcaster is responsible for maintaining in its programmes and their presentation, standards which are consistent with -

...

(d) The principle that when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities given, to present significant points of view either in the same programme or in other programmes within the period of current interest.

The essence of this element of Mr Prebble's complaint is that the Holmes programme did not contact him for his comments upon the "envelope incident" which was broadcast on 21 February. In Mr Prebble's view, the failure to seek his comments so that his explanation of the "incident" could also be broadcast on the 21 February Holmes programme was all the more blameworthy because he had advised the programme, on 20 February, that he objected strongly to the allegations which Mr Beyer had made against him that day - which also implicated Mr Prebble in Labour Party membership irregularities.



Mr Prebble suggested that even although the Holmes programme failed to seek his views before going to air on 21 February, the obligation imposed upon TVNZ by s.4(1)(d) might still have been met by Mr Holmes announcing on the programme of 21 February that Mr Prebble had just telephoned and denied the allegations that had been made in that evening's Te Atatu item. Although it agrees with Mr Prebble that such a course of conduct on the part of TVNZ might have discharged its s.4(1)(d) obligations, the Authority has earlier noted its acceptance of TVNZ's explanation that Mr Prebble's telephone call to the Holmes programme on 21 February was not made in time for any such announcement to be made.

TVNZ's letters of 6 April and 4 July 1990 explain that the Complaints Committee's decision that s.4(1)(d) was not breached was based on three factors:

- the Holmes programme of 21 February had been compiled in such a tight timeframe that there was no opportunity to contact Mr Prebble prior to its broadcast;
- Mr Prebble was given the next available opportunity to present his views - in the 6 minute 38 second interview on the News at 10 pm on 21 February; and
- the Holmes programme of 22 February carried an explanation of Mr Prebble's position, accepted his assurances and "went so far as to apologise" to him.

The Authority's first comment upon this complaint is that s.4(1)(d) of the Broadcasting Act does not provide its most "natural" basis. As Mr Prebble stated in his letter of 31 July, whether or not the documents shown on the Holmes programme were sent by him is a matter of fact rather than one of opinion. The Authority notes that had Mr Prebble emphasised that argument in his original complaint, it would have provided strong support for the contention, which he later made explicit, that the essence of his complaint was that the programme was unfair and inaccurate.

While it is the Authority's view that the main purpose of s.4(1)(d) is to ensure that significant and differing opinions upon controversial issues are brought to the attention of the public, it believes that the terms of the provision are sufficiently broad to be applied to the circumstances of Mr Prebble's complaint. Certainly, TVNZ's Complaints Committee determined Mr Prebble's complaint in the light of s.4(1)(d) without any apparent qualms as to the provision's relevance to those circumstances.

Having considered the matter carefully, the Authority does not agree with the Complaints Committee's decision that TVNZ complied with s.4(1)(d) of the Broadcasting Act by broadcasting allegations of improper conduct by Mr Prebble in the Holmes programme of 21 February, then broadcasting Mr Prebble's "view" of the matter in the 10 pm News that night and, in the Holmes programme of 22 February, an acceptance of Mr Prebble's statements and an apology to him.

While it acknowledges that the terms of s.4(1)(d) are fluid and, as a result, will condone different courses of action from broadcasters in different situations, the Authority believes that the Complaints Committee took too light a view of the obligation imposed by s.4(1)(d) upon TVNZ in the circumstances of the present complaint.

First, the Authority questions the interpretation of s.4(1)(d) which seems to have guided the Complaints Committee. The Committee apparently read s.4(1)(d) as if it always gives



a broadcaster the choice to present -

significant points of view either in the same programme or in other programmes within the period of current interest (emphasis added).

However, in the Authority's view, some issues of public importance may be so controversial that s.4(1)(d)'s requirement of reasonable conduct by broadcasters may well bear the interpretation that any opposing significant point of view should be presented contemporaneously, ie in the same programme. Such an interpretation highlights, or imports, an element of "fair play" into the provision's requirement of reasonable conduct by a broadcaster when it is presenting certain highly controversial issues of public importance. On that analysis, it is the Authority's view that serious allegations of improper conduct by a senior public figure amount to highly controversial issues - with the result that s.4(1)(d) requires the allegations and any response to them to be broadcast in the same programme.

It is plain from the above that the Authority is not sympathetic to TVNZ's explanation that the timeframe within which the 21 February Holmes programme was compiled was so tight that it was justified in not attempting to contact Mr Prebble before its broadcast. In the circumstances, the Authority believes that s.4(1)(d) obliged TVNZ to refrain from broadcasting the allegations until it had made "reasonable efforts" to obtain Mr Prebble's comments so that they could be broadcast in the same programme.

In reaching that conclusion, the Authority gives most weight to the gravity of the allegations made against Mr Prebble by the "envelope incident" broadcast on the 21 February Holmes programme. But it also believes that TVNZ was put "on guard" to an added degree by Mr Prebble's lawyer's telephone call on 20 February - informing TVNZ that Mr Prebble denied Mr Beyer's allegations that Mr Prebble was involved in membership rigging in Te Atatu.

Quite apart from the foregoing analysis of s.4(1)(d), the Authority is of the view that TVNZ breached the provision by the course of conduct it adopted. That is, even if s.4(1)(d) allowed TVNZ, in the circumstances of the present complaint, to present Mr Prebble's view in programmes other than the Holmes programme of 21 February, it is the Authority's view that the requirement that "reasonable" efforts be made or "reasonable" opportunities given to present those views in other programmes within the period of current interest was not met.

It is because of the gravity of the allegations made against Mr Prebble in the Holmes programme of 21 February that the Authority believes that s.4(1)(d)'s requirement of "reasonable" conduct obliged TVNZ not only to take the next available opportunity to present Mr Prebble's views but also to present those views on the Holmes programme of 22 February. (TVNZ itself accepted that the 10 pm News and the Holmes programme may be expected to have significantly different audiences, making it insufficient to broadcast only on the 10 pm News Mr Prebble's views on the allegations made in the Holmes programme.)

From its correspondence, it is clear that TVNZ maintains that, after the Holmes programme of 21 February, it did take the next available opportunity to present Mr Prebble's views: it points out that Mr Prebble was interviewed at length on the 10 pm News that night. TVNZ also maintains that it did present Mr Prebble's views on the Holmes programme of 22



February - and went so far as to apologise to him.

However, the Authority believes the details, not the mere fact, of those later broadcasts are important to an assessment of whether TVNZ made "reasonable" efforts to present Mr Prebble's views or gave a "reasonable" opportunity for those views to be presented. Looking beyond the mere fact that those later broadcasts occurred, it is the Authority's clear view that TVNZ did not meet s.4(1)(d)'s requirement of reasonable conduct.

First, with regard to the 10 pm News of 21 February, while Mr Prebble was given a lengthy opportunity to present his views, it did not arise until some seven minutes into the lead item. That time was occupied by the rescreening of some two minutes of extracts from that evening's Holmes programme - including the "envelope incident" - followed by the Parliamentary report which, for the major part, focused upon the content of the allegations made against Mr Prebble.

The Authority accepts that, because of the different viewing audiences, the 10 pm News needed to give some explanation of the allegations made against Mr Prebble on the Holmes programme that evening before giving Mr Prebble the opportunity to present his views in an interview. However, the Authority believes that the seven minute introduction to the interview with Mr Prebble did far more than explain the allegations made against him: it served to restate them - and very forcefully.

Therefore, notwithstanding the fact that, in the Parliamentary report, the reporter twice mentioned that Mr Prebble had denied the allegations and Mr Palmer was shown saying that he believed an injustice had been done to Mr Prebble, the Authority is of the view that the first seven minutes of the 10 pm News item were unreasonably "loaded" against Mr Prebble in the circumstances.

Important amongst those circumstances is the fact that the 10 pm News of 21 February was the first available opportunity, after the Holmes programme of that evening, to present Mr Prebble's views. And by that time, TVNZ not only knew what it had known at the time the Holmes programme went to air but also that Mr Prebble had telephoned the Holmes programme near its conclusion and advised that he had not sent the documents shown there and that Mr Prebble had taken the first opportunity available to him, which presented itself in Parliament that night, to publicly deny the allegations made on the programme.

TVNZ maintains that the lengthy interview with Mr Prebble which followed the first seven minutes of the 10 pm News item gave him every opportunity to present his side of the story. Certainly, in that interview, Mr Prebble did give his explanation of the "envelope incident" as well as countering other allegations made on the Holmes programme about irregularities in Te Atatu. As has been stated, however, the Authority does not believe that it was reasonable in the circumstances to defer that interview to the end of an equally lengthy report, the major focus of which was upon the content of the allegations made against Mr Prebble.



In addition, the Authority believes that the style of the interview with Mr Prebble was not, in the circumstances, wholly consistent with TVNZ's expressed resolve to give Mr Prebble a reasonable opportunity to present his views. While noting that Mr Prebble was given a reasonable amount of time in which to present his views, the line of questions pursued by Mr Perigo in the first half of the interview was extremely negative with respect to Mr Prebble's explanation. Had TVNZ not been in possession of the information of which it was possessed by that time, the Authority would be inclined to agree with TVNZ that Mr Perigo was merely taking the role of "devil's advocate" in an effort to provoke clear and forceful responses from Mr Prebble. However, with the information which TVNZ had by that time about Mr Prebble's views, and in light of the fact that the interview was Mr Prebble's first opportunity to counter, on television, the allegations made against him on television, the Authority is of the view that Mr Perigo's stance should have been more neutral.

In sum then, the Authority believes that, in the circumstances, the efforts TVNZ made to present Mr Prebble's views on the 10 pm News of 21 February were insufficient to meet s.4(1)(d)'s requirements.

However, the Authority's decision upon this element of Mr Prebble's complaint is not based solely upon the combined effect of the Holmes programme of 21 February and the 10 pm News of the same date. In its letter to Mr Prebble of 6 April, TVNZ emphasised that the broadcast of the apology on the Holmes programme of 22 February was an essential part of the efforts it took to comply with s.4(1)(d) in the circumstances. It stated that, on that programme, an "explanation" of Mr Prebble's position was carried together with an acceptance of his assurances on the matter and that TVNZ "went so far as to apologise" to Mr Prebble.

The Authority's view of the efforts made on the Holmes programme of 22 February to comply with s.4(1)(d) of the Broadcasting Act is similar to its view of the efforts made on the 10 pm News the night before. First, it believes that it is important to an assessment of the reasonableness of TVNZ's efforts that there was no forewarning given on the 22 February Holmes programme that Mr Prebble had denied the allegations made in the previous evening's programme and that he had defended his position vigorously both in Parliament and on the 10 pm News of 21 February. Secondly, it does not agree that the 22 February Holmes programme carried an "explanation" of Mr Prebble's position. All that was said was:

We accept Mr Prebble's assurances that neither the membership cards nor the invitation were sent in the envelope from Mr Prebble's office.

Thirdly, the statements about the previous evening's programme, the acceptance of Mr Prebble's assurances (above) and the apology to him were delivered, again without any forewarning, at the conclusion of a fifteen minute item related to the Te Atatu situation. Finally, the delivery of the apology was marred, intentionally or otherwise, by Mr Holmes' "eyes left" just as he was about to read it.



The Authority considers that a genuine attempt by TVNZ to present, on the Holmes programme of 22 February, Mr Prebble's views about the "envelope incident" which had been broadcast the previous evening, would have been far more successful in alerting viewers to the fact of Mr Prebble's denial of the allegations, his explanation of the "envelope incident" and TVNZ's remorse for the situation in which it had placed Mr Prebble. At the very least, attention to Mr Prebble's denial and explanation could have been given at the outset of the Te Atatu item of 22 February. But if the presentation of his views was to be deferred until the end of the item, then a clear forewarning of the fact that his views would be presented and an apology broadcast should, in the Authority's view, have been given at the outset.

It would appear that Mr Holmes' behaviour as he was about to read out the apology to Mr Prebble was caused by a comment made to him, but not heard by viewers, by Dr Bassett - who was in the studio having just been interviewed. Regardless of Mr Holmes' intention in glancing to the side at the moment he was to deliver the apology to Mr Prebble, the Authority agrees with Mr Prebble that the effect of his behaviour was to detract significantly from the apparent genuineness of the apology. The Authority notes that Mr Holmes is a professional television presenter who must surely be able to contain his reactions to unexpected events which occur off camera - at least when the occasion demands it. In its view, there could be few occasions demanding more control by a presenter than the delivery of an apology from a broadcaster.

While some viewers may also have inferred from Mr Holmes' facial expression and comments at the conclusion of the apology - when he announced the next item - that he was not sincere in apologising to Mr Prebble, the Authority does not place weight upon those matters. In its view, the combination of features previously mentioned supports the clear conclusion that TVNZ did not make reasonable efforts or give reasonable opportunities to present Mr Prebble's views on the Holmes programme of 22 February.

For the reasons set forth above, the Authority upholds that part of the first complaint which alleged that TVNZ breached the requirements of s.4(1)(d) of the Broadcasting Act 1989.

Section 13(1) of the Broadcasting Act 1989 empowers the Authority, at its discretion, to make certain orders when it has decided that a complaint is justified in whole or in part. The order authorised by s.13(1)(a) is one:

... directing the broadcaster to publish, in such manner as shall be specified in the order, and within such period of time as shall be so specified, a statement which relates to the complaint and which is approved by the Authority for the purpose.

The Authority considers that the circumstances which have led to its decision that TVNZ breached s.4(1)(d) of the Broadcasting Act fully justify the making of an order under s.13(1)(a).



Accordingly, the Authority orders TVNZ to broadcast, on a Holmes programme and on the 10 pm News the same day, which day shall be within ten days from the date of this Decision, a statement relating to Mr Prebble's first complaint. The statement is to be read at the outset of the Holmes programme by Mr Holmes and at the outset of the 10 pm News by one of the News presenters.

The Authority advises that it will approve a statement which fairly summarises both the outcome of the Authority's decision upon Mr Prebble's first complaint and the reasons for the upholding of that part of his complaint which alleged a breach of s.4(1)(d) of the Broadcasting Act 1989.

THE SECOND COMPLAINT

Mr Prebble's second complaint is that TVNZ breached standard 12 of the Television Programme Standards (which are contained in the Codes for Broadcasting Practice) by its broadcast of the 10 pm News on 21 February 1990. Standard 12 provides:

News must be presented accurately, objectively and impartially.

In particular, Mr Prebble complained that the Parliamentary report included in the News broadcast was inaccurate and unfair in that:

- (a) it gave the impression that the Address and Reply debate in Parliament had been preoccupied with the allegations made against Mr Prebble when in fact the speeches on that matter "took only a few minutes out of the more than two hours of debate";
- (b) the presenter who introduced the Parliamentary report and later, the reporter, stated that Mr Bolger had accused Mr Prebble of "corruption" when in fact Mr Bolger had accused Mr Prebble of "corrupting the system" - a lesser charge;
- (c) Mr Prebble's statement to the House, denying the charges against him and explaining how the envelope came to be in Mr Hingano's possession, was omitted; and
- (d) the reporter's comments about Mr Palmer's behaviour in response to Mr Bolger's accusations against Mr Prebble gave the impression that Mr Palmer acquiesced in those charges.

TVNZ's Complaints Committee considered the above matters when it declined to uphold Mr Prebble's complaint. In addition, it considered a point not expressly made by Mr Prebble in his complaint - but with which he later took issue - about the interview with Mr Prebble which followed the Parliamentary report. That point is expressed in TVNZ's letter to Mr



Prebble of 6 April as follows:

Your suggestion that the content of the report caused Mr Perigo to conclude that you were guilty of corruption was not accepted. Mr Perigo, in the manner of any competent interviewer, was seen to be adopting the "devil's advocate" approach in his discussion with you, using previously broadcast information as the basis of his question line. You were uninterrupted in your replies to these questions and you were seen to vigorously defend your position.

The Authority will deal with the above mentioned matters in turn.

(a) TVNZ supplied the Authority with the Hansard report of the major part of the Address and Reply debate in Parliament on 21 February. It is plain that the attention given to the allegations made against Mr Prebble occupied only a minor proportion of that debate.

Mr Prebble's complaint is that by the news reporter's statement that the debate had been "overshadowed" by the allegations made against Mr Prebble and the report's almost exclusive focus upon statements made in Parliament about those allegations, the News item gave an inaccurate impression of the content of the Address and Reply debate. TVNZ's response is that it is a convention of journalism only to report that which is new or topical and that no branch of the media has ever endeavoured to report in full the contents of any Parliamentary debate.

The Authority has some sympathy for both of the above arguments. On balance, it believes that TVNZ's position is the more defensible. The journalistic convention upon which TVNZ relies is not only well known but necessary in a television environment in which strictly limited time is devoted to the presentation of news. While the Authority has some qualms about the reporter's statement that the Address and Reply debate was "overshadowed" by the allegations made in the Holmes programme against Mr Prebble, it believes that the use of that word did not necessarily imply that the allegations had preoccupied the debate. Another implication was that debate upon the allegations against Mr Prebble comprised the most topical part of the Parliamentary proceedings - an implication which would seem to be justified - and, perhaps, that the debate upon those allegations comprised the most fiery part of those proceedings. From its reading of Hansard, the Authority notes that the latter implication would also appear to be justified.

(b) With regard to the terminology used by the presenter and the reporter to explain Mr Bolger's charges against Mr Prebble, the Authority accepts Mr Prebble's point that it is a very serious matter indeed for a Cabinet Minister to be accused of "corruption". It also accepts that Mr Bolger did say that Mr Prebble was "corrupting the [Parliamentary franking] system".

However, the statements by both the News presenter and the reporter that Mr Bolger had



accused Mr Prebble of "corruption" also have support - both from Hansard and from the film of Mr Bolger's speech which was broadcast on the 10 pm News. In that film, Mr Bolger was seen to say:

I cannot call that corrupt, Mr Speaker, because you've said that I must not ...

From that statement, it can be deduced that Mr Bolger may have already accused Mr Prebble of corruption and been reprimanded by the Speaker for so doing, or, perhaps, that he would have gone on to make that accusation but for an earlier warning delivered by the Speaker. A reading of Hansard reveals that, in fact, upon Mr Bolger accusing Mr Prebble of "corrupting the system", Mr Mallard interjected with a point of order claiming that Mr Bolger had accused Mr Prebble of "corruption". In response to Mr Mallard's interpretation of Mr Bolger's accusation, the Speaker explained that a charge of "corruption" has a special meaning when levelled against a politician and advised Mr Bolger to avoid the use of that word.

It is the Authority's view that, quite apart from the support found in the Parliamentary proceedings for the statements made by the presenter and reporter to the effect that Mr Bolger had accused Mr Prebble of "corruption", most viewers of the 10 pm News of 21 February would be unaware of the difference between an accusation of "corruption" against a politician and one of "corrupting the system". The Authority ventures that, to the ordinary person unfamiliar with the statute law establishing that distinction, those accusations would seem equally serious. In the result, the Authority does not accept Mr Prebble's argument that the 10 pm News was inaccurate or unfair insofar as it reported that Mr Prebble had been accused by Mr Bolger of corruption.

(c) The next element in Mr Prebble's complaint focuses upon the omission, from the Parliamentary report, of his statement to the House during the Address and Reply debate. Part of his complaint is that the reporter's statements that Mr Prebble "denied" the allegations made against him were imprecise in that they did not inform of the fact that Mr Prebble had explained how the envelope came to be in Mr Hingano's possession. Further, Mr Prebble maintains that it was unfair for Mr Bolger's accusations in Parliament to be broadcast without Mr Prebble's statement in response being broadcast as well.

In order to determine this aspect of Mr Prebble's second complaint, the Authority must look at the 10 pm News item as an entity in itself: its earlier consideration of the News item, given in the context of Mr Prebble's first complaint, is irrelevant. Having considered the News item as a whole in order to determine whether it was unfair and inaccurate in the respects now under consideration, the Authority agrees with TVNZ's Complaints Committee upon the matters.

In this context, the Authority believes that the fact that Mr Prebble was given a lengthy opportunity - in the interview with Mr Perigo straight after the Parliamentary report - to present his denial and explanation of the allegations which had been the focus of the report,



negates his criticisms that it was unfair and inaccurate. The omission from the report of Mr Prebble's explanation as to how the envelope came to be in Mr Hingano's possession, was supplied by him in the interview, in response to questions from Mr Perigo which were aimed at eliciting that explanation. The other omission of which he complains - ie of his statement in Parliament - was, in the view of the Authority, justified granted that it was known when the report was compiled that Mr Prebble would be appearing live on the News and would have a lengthy time in which to present his rebuttal of both the Holmes programme's and Mr Bolger's allegations.

In the light of those matters, the Authority does not believe that the 10 pm News item was unfair or inaccurate in omitting to broadcast Mr Prebble's statement to Parliament or in broadcasting the reporter's summary of that statement.

(d) With regard to Mr Prebble's complaint that the reporter's comments gave the impression that the Prime Minister acquiesced in the charges that had been made against Mr Prebble, the Authority accepts that the reporter's choice of words did not present Mr Palmer's defence of Mr Prebble in the most favourable light. To say that the Prime Minister "sat quietly while Mr Bolger mounted his attack" - even although it be true - is capable of being construed, in the circumstances, to mean that Mr Palmer did not oppose the accusations made by Mr Bolger. To then say that "Mr Palmer, replying to Mr Bolger, paid only scant attention to the Te Atatu affair" - even although it be true - again, is capable of the construction that Mr Palmer "glossed over" the matter or did not defend Mr Prebble's position.

However, immediately after the latter of those statements by the reporter, Mr Palmer was shown making a statement in Parliament about the allegations made against Mr Prebble. A reading of Hansard reveals that what was broadcast was all that Mr Palmer said upon the matter. In that statement, the Prime Minister expressed his belief that -

a considerable injustice is being done by the manner in which the material was used in the House tonight in respect of the Member for Auckland Central.

The Authority observes that Mr Palmer's statement was neither as lengthy nor as forceful as the statements made by Mr Bolger. In its view, TVNZ's film coverage fairly reflected the comparative emphasis and force which Messrs. Bolger and Palmer gave to the allegations against Mr Prebble.

In the result, the Authority has determined that the reporter's voice over comments about Mr Palmer's behaviour in Parliament did not breach standard 12 of the Television Programme Standards. They were certainly not inaccurate. The only objection that could be made to them is that they were capable of being construed unfavourably to Mr Prebble. However, the Authority does not believe that the connotations of the reporter's comments render them "partial" or not "objective" in breach of standard 12. While the Authority can understand Mr Prebble's sensitivity to the connotations of the reporter's comments, it does



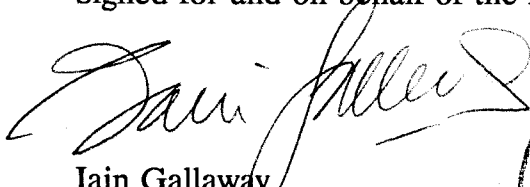
not consider that such oblique unfavourable references to his situation constitute a breach of the Television Programme Standards.

The final matter of relevance to Mr Prebble's second complaint is Mr Perigo's manner in the interview which followed the Parliamentary report. In this context, the Authority notes again that it must consider the News item as an entity rather than, as was the case in dealing with Mr Prebble's first complaint, considering it as part of a series of broadcasts.

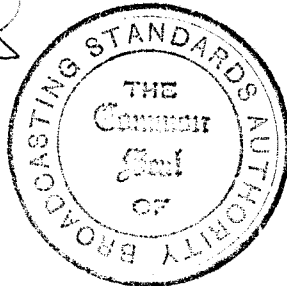
In this context, the Authority agrees with TVNZ's Complaints Committee that Mr Perigo's manner was consistent with the "devil's advocate" style commonly adopted in media interviews upon controversial matters. It is trite to observe that the essence of this interviewing style is that the interviewer appears to oppose the interviewee's views. However, when the interview is put in its context within the News item, the Authority considers that Mr Prebble was given a fair opportunity to respond to the allegations which had been the focus of the earlier part of the item, regardless of Mr Perigo's adoption of the "devil's advocate" approach. Further, the Authority considers that Mr Prebble made his points with such strength that, by the end of the interview, Mr Perigo had "toned down" his adversarial style.

For the foregoing reasons, the Authority declines to uphold the second complaint.

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson



1 October 1990