

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 18/92

Dated the 14th day of May 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

MURRAY SHAW  
of Auckland

Broadcaster  
TELEVISION NEW ZEALAND  
LIMITED

I.W. Gallaway Chairperson  
J.R. Morris  
R.A. Barraclough  
L.M. Dawson

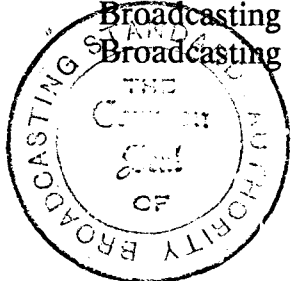
DECISION

Introduction

The role of homosexual clergy in a church's organisation was the issue dealt with by TV1's *Frontline* programme broadcast by Television New Zealand Ltd on Sunday 18 August 1991. The item focused on the Rev. Dr David Bromell, who as an acknowledged homosexual, was seeking to be confirmed as the Methodist Minister in a Dunedin parish. Bishop Spong, the Episcopalian Bishop for New Jersey who was visiting New Zealand and lecturing about the subject, was also featured.

Mr Murray Shaw complained to TVNZ that the programme was unbalanced. He said that the programme gave prominence to Dr Bromell's opponents rather than to his supporters and, in particular, it omitted to record the support that Dr Bromell was receiving from the main-stream churches. Furthermore, he added, the item focused on the views of those who believed it was possible to change sexual orientation rather than on the scientific conclusion that sexual orientation was determined by the age of four.

As TVNZ declined to uphold the complaint, Mr Shaw referred its decision to the Broadcasting Standards Authority for investigation and review under s.8(a) of the Broadcasting Act 1989.



## Decision

The members of the Authority have viewed the programme complained about and have read the correspondence (summarised in the Appendix). As is its usual practice, the Authority determined the complaint without hearing formally from either party. Ms Sugrue of Dunedin also complained about the programme on a number of grounds, of which some overlapped with this complaint, and a majority of the Authority in Decision No: 11/92 dated 30 March 1992 declined to uphold that complaint.

Mr Shaw complained that the *Frontline* programme broadcast on 19 August 1991, dealing with the role of homosexual clergy, breached s.4(1)(d) of the Broadcasting Act 1989 and standards 4, 6 and 16 of the Television Code of Broadcasting Practice. Section 4(1)(d) requires broadcasters to maintain 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.

Standards 4 and 6 require broadcasters:

- 4 To deal justly and fairly with any person taking part or referred to in any programme.
- 6 To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.

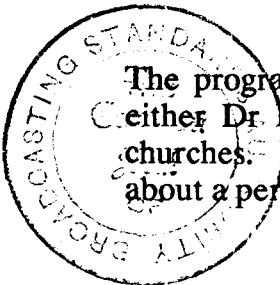
Standard 16 reads:

- 16 No set formula can be advanced for the allocation of time to interested parties on controversial public issues. Broadcasters should aim to present all significant sides in as fair a way as possible, and this can be done only by judging every case on its merits.

In his complaint to TVNZ, Mr Shaw stated that the programme covered the following four issues:

- (a) Whether or not it was proper to draw the inference from the Bible that God condemned homosexuality.
- (b) Whether or not a person's sexual orientation could be changed.
- (c) Whether or not a homosexual person should become celibate.
- (d) Whether or not the Methodist Church dealt with Dr Bromell's appointment in an appropriate way.

The programme, he continued, had been unbalanced by not presenting the views of either Dr Bromell's parishioners or the representatives from the other main-stream churches. Nor, he added, had it presented the psychological or scientific perspective about a person's sexual orientation. Moreover, the overall allocation of time was heavily



weighted in favour of those opposed to the ordination of homosexual clergy. The programme breached standard 4, he alleged, by not treating Dr Bromell fairly when it discussed those issues and by suggesting that Bishop Spong was part of a "lunatic fringe".

TVNZ declined to uphold the complaint as it argued that balance was achieved in view of the clarity with which Dr Bromell put his case and the eminence and the lucidity of Bishop Spong. Bishop Spong, it added, was presented in a friendly manner - not as part of a "lunatic fringe". TVNZ also argued that the balance standard did not require the presentation of all views about an issue, but the presentation of the significant views on the aspect(s) of the topic which a programme dealt with. Further, it was a matter of editorial discretion to decide which aspects of a topic would be covered.

Before addressing the particular points raised by Mr Shaw, the Authority records that much of his complaint, and TVNZ's rejection of it, is based on differing views about the programme's theme. TVNZ argued that the item examined the role of homosexual clergy within a church's organisation and that it "pegged" the issue on the current debate surrounding the Rev. Dr David Bromell, an acknowledged homosexual who was seeking confirmation as a Methodist Minister. In response, Mr Shaw maintained that points (a) and (b) above fell within TVNZ's description of the programme's broad theme. While he did not explicitly accept TVNZ's interpretation of the theme as correct, his subsequent arguments seemed to accept it for the most part. TVNZ maintained, nevertheless, that the points made when Mr Shaw referred his complaint to the Authority, continued to be based on his mistaken interpretation of the item's theme.

Having viewed the programme, the Authority concluded that it agreed with TVNZ that the role of homosexual clergy, not one specific homosexual clergyman, was the issue. The Authority then examined each aspect of the complaint although, in view of its decision about the programme's theme, its approach to the issues and the relevance of the standards cited did not necessarily correspond with Mr Shaw's approach.

The question whether the item should have dealt with the scientific perspective about a person's sexual orientation was the first aspect of the item assessed. It corresponds with Mr Shaw's point (b) above and was considered under standards 6 and 16. The Authority was divided in its conclusion. In view of the item's focus on theological issues, the majority decided that comment about scientific issues was not essential to its theme, although some explanation might have improved the programme. The majority accepted TVNZ's point that a broadcaster was entitled to impose reasonable limits on the boundaries of any topic to be addressed to ensure that a programme complied with a format suitable for broadcasting and noted Dr Bromell's reaction, recorded in the programme, that the feasibility of changing one's sexual orientation was a scientific issue. His comment left the majority with the clear impression that he thought the issue outside the scope of the programme.

On this point, the majority concluded that although some discussion of the scientific question may well have added to the programme's interest, the issue was peripheral and thus its omission did not affect the item's overall balance.

On the other hand, the minority of the Authority noted that one of the opponents to the ordination of homosexuals, a Mr Mosen from the Lion of Judah Ministry, was given a considerable amount of air time in which he spoke at some length about his conversion from homosexual to heterosexual behaviour. He expressed his view that all homosexual

men could do so and that homosexual clergymen should do so. The minority of the Authority believed that, because of Mr Mosen's lengthy comments, the possibility of people changing their sexual orientation had become part of the programme's broad theme. The minority concluded that the item, by omitting to discuss the scientific aspects about a person's sexual orientation, had not achieved balance within the requirements of standards 6 and 16. In arriving at that conclusion, the minority did not suggest that a programme had to cover all aspects of an issue. However, when an aspect was raised in a general way as part of a programme's theme, (and in addition to Mr Mosen's remarks, Dr Bromell had mentioned specifically the scientific perspective about sexual orientation but declined to comment on it), a broadcaster was required to treat the issue in a balanced way.

With reference to the complaint about the lack of lay support shown on the programme for Dr Bromell, the majority decided that the supporters of homosexual clergy who were featured on the programme, Bishop Spong from New Jersey and Dr Bromell himself, put their case comprehensively and, indeed, with considerably greater lucidity than their opponents. The majority also concluded that those two were given the opportunity to answer the important theological points and claims made by the opponents of homosexual clergy, so that in this important sense, balance within the requirements of the standard was maintained. On the other hand, a minority of the Authority noted, while the programme provided a forum for lay persons to express opposition to homosexual clergy, not one person from Dr Bromell's apparently thriving congregation was interviewed in the programme. These points, the minority of the Authority concluded, placed the programme in breach of s.4(1)(d). Furthermore, it considered that the failure to present even one woman's viewpoint was a serious omission.

In regard to some other issues raised by Mr Shaw, the Authority did not accept at all that, as a rule of thumb, the balance required by standards 6 and 16 could be measured with a stopwatch. Assessing balance included an examination of the eminence of the speakers, the length of time given to the proponents of the different perspectives and the order in which the speakers were presented. However, even these points were insufficient in themselves in reaching a conclusion about balance. Alongside each point, it was essential to assess the significance of the views being propounded to ensure that, overall, a balance of significant views were expressed. Furthermore, the Authority did not agree with Mr Shaw's complaint that TVNZ had characterised Bishop Spong, a controversial theologian, as part of the "lunatic fringe".

Apart from the two points noted where the Authority was divided -i.e. the absence of any scientific or psychological discussion about sexual orientation and the absence of the lay view which supported Dr Bromell - the Authority decided that the programme did not breach the broadcasting standards.

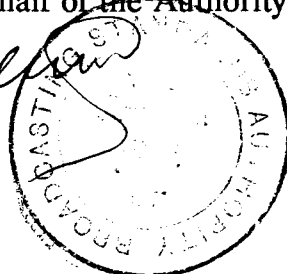
**For the reasons set forth above, the majority of the Authority declined to uphold the complaint.**

Signed for and on behalf of the Authority

*Iain Gallaway*

Iain Gallaway  
Chairperson

14 May 1992



AppendixMr Shaw's Formal Complaint to Television New Zealand Limited

In a letter dated 13 September 1991, Mr Murray Shaw complained to Television New Zealand Ltd about the *Frontline* programme broadcast on TV1 on 18 August 1991 which dealt with the ordination of homosexual clergy and featured the ministry of the Rev. Dr David Bromell. As an acknowledged homosexual, Dr Bromell was seeking to be confirmed as the Methodist Minister in a Dunedin parish. Mr Shaw considered that the broadcast breached s.4(1)(d) of the Broadcasting Act 1989 and standards 4, 6 and 16 of the Television Code of Broadcasting Practice.

Mr Shaw expanded on his complaint in a letter dated 23 September. He listed the four issues discussed on the item as:

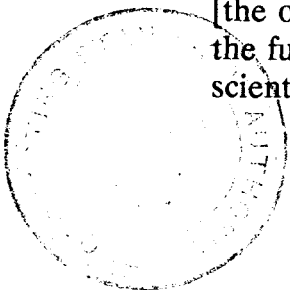
- (a) Whether or not it was proper to draw the inference from the Bible that God condemned homosexuality.
- (b) Whether or not a person's sexual orientation could be changed.
- (c) Whether or not a homosexual person should become celibate.
- (d) Whether or not the Methodist Church dealt with Dr Bromell's appointment in an appropriate way.

He recorded the amount of time given to each side of the argument on each issue. That analysis, he argued, showed that the programme was unbalanced. He also described, first, the approach taken to each of the major contributors, and secondly, the point in the programme when each contributed, and he concluded the programme clearly breached standards 6 and 16 and possibly 7.

Referring to the requirement in standard 16 that a broadcast must present all significant points of view, he stated that the programme did not present the opinion of the public, Dr Bromell's parishioners or those of the other main-stream churches. Further, on the issue of a person's sexual orientation, the programme omitted any psychological or scientific perspective.

He concluded:

It may be that *Frontline's* most basic error has been to rely on an adversarial style of journalism rather than an investigative one. It is my view that the viewing public has the right to see the inherent weakness of the position of [the opponents to the ordination of homosexual clergy] that would result from the full exposition of theological argument, public and church opinion and scientific evidence.



### TVNZ's Response to the Formal Complaint

TVNZ advised Mr Shaw of its Complaints Committee's decision in a letter dated 24 October 1991.

It explained that the issue in the item was homosexual clergy and that Dr Bromell's situation was used as an illustration. It added that an item's impact was usually measured by the eminence of the speakers, rather than by a stopwatch, and that the prominence and calibre of the Episcopalian Bishop for New Jersey outweighed the views of the others who had spoken on the item.

TVNZ, referring to Dr Bromell's comments, disagreed with Mr Shaw's complaint that the programme did not present the scientific perspective on sexual orientation. It continued:

A key element in your complaint, and highlighted in the information you supplied, was that the lay people of the Dunedin parish, in which Dr Bromell officiates, were not given the opportunity to express their views.

During its investigation of the many facets of your complaint the Committee was satisfied that interviews with supporters of Dr Bromell were unnecessary because he himself was on the programme to put his point of view. The programme depicted both Dr Bromell and his critics.

In regard to the amount of time which Mr Shaw said had been allocated to each issue, TVNZ observed that stopwatch counts were irrelevant when assessing balance. Regarding the position at which the various speakers were placed in the programme, TVNZ pointed out that different arguments could be made about the impact, for example, of the first and last speakers portrayed.

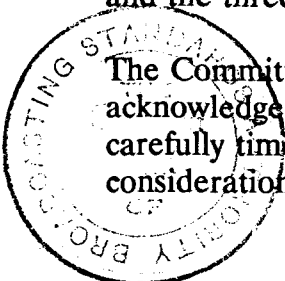
On other matters, TVNZ wrote:

As the Committee saw it the nub of the matter was the examination of the issues of homosexuals in the ministry. The controversy surrounding Dr Bromell was merely a topical, and relevant example. ... In its concluding observations the Committee noted that running through your complaint was the theme that *Frontline* downplayed Dr Spong by treating him as an occupant of some way out fringe. It was unable to agree with that view.

It concluded:

Notwithstanding all the above factors the Committee conceded that the item may have been better rounded had a supporter of Dr Bromell been seen and heard on the programme. But that factor of editorial discernment was not seen as in any way giving cause for any determination that the Act provision and the three codes had in any way been breached.

The Committee respected the stand you have taken in this matter and acknowledged the effort you have made in breaking the programme down in to carefully timed subject segments. But when taking all the circumstances into consideration it was unable to determine that any of the cited provisions had



been breached. Accordingly, your complaint was not upheld.

#### Mr Shaw's Complaint to the Broadcasting Standards Authority

As he was dissatisfied with TVNZ's response, in a letter dated 21 November 1991 Mr Shaw referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989. He provided the details of his referral in a letter dated 5 December.

He began by maintaining that the item's subject was broadly the question of whether or not Dr Bromell should be allowed to become a Minister in the Methodist Church. Despite TVNZ's argument that the role of homosexual clergy was the topic, he pointed out that the item still had to comply with the standards regarding balance, fairness and the presentation of significant points of view. Referring to the four issues in the programme which he had noted in his original letter of complaint, he noted nevertheless that the first two dealt with the general issue of homosexual clergy.

He repeated the specific complaints in his original letters of complaint and recorded, but rejected, TVNZ's approach to them all. Briefly, while agreeing that a stopwatch approach to balance as required by standard 6 was unhelpful, the item's "gross" imbalance was not countered by TVNZ's arguments about each speaker's eminence and credibility. Viewers' opinions about credibility might differ to those advanced by TVNZ. Moreover, he added, TVNZ's reply to some of the balance questions was irrelevant as it had misinterpreted his complaint.

In regard to the s.4(1)(d) requirement to provide reasonable opportunities to present significant points of view, Mr Shaw argued that as the viewpoint of Dr Bromell's parishioners might have differed with that of Dr Bromell, it should have been presented. Secondly, as Dr Bromell was not a scientist, the scientific perspective on sexual orientation was not presented.

The total item, as a consequence, Mr Shaw wrote, had dealt with Dr Bromell unfairly. While the broadcasting standards were aimed at investigative journalism, *Frontline's* adversarial style of journalism required that each side be given equal time to state its case. TVNZ's approach, he said, "to provide greater opportunity for one side of the argument because it uses its time less effectively is anathema to the ethos of adversarial journalism".

#### TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's comment on the referral. The letter to TVNZ is dated 13 December 1991 and its reply, 11 March 1992. TVNZ expressed the opinion that the issues raised by Mr Shaw when he referred his complaint to the Authority, were substantially similar to the issues raised in his original letter of complaint and had been dealt with by TVNZ in its reply to that letter. Nevertheless, TVNZ made some general observations.

TVNZ noted that Mr Shaw persisted with his incorrect assumption that the item was

about the Rev. Dr Bromell. An analysis of the programme showed that the role of homosexual clergy was the issue, that Dr Bromell had been shown as a local example, and that the item had dealt with the broad issue in a fair, balanced and objective manner. It added that the programme had attempted to acquaint the public with the general issue and that it had not been concerned with the details of either ecclesiastical issues or Dr Bromell's circumstances.

TVNZ repeated its point that the eminence of a speaker was a factor in assessing balance and that it was impossible for the programme to include every pertinent view on a controversial issue. The broadcaster was required to identify significant points of view. The views which Mr Shaw wanted represented, TVNZ added, would result in a programme of unacceptable length.

Dealing with specific points, TVNZ argued that Bishop Spong was a well-known international ecclesiastical personality who could not be dismissed, as Mr Shaw claimed, as part of the "lunatic fringe". The reference in the item to the Bishop's preference to be known as "Jack", TVNZ added, was an interesting human angle.

TVNZ agreed that the viewpoint of the Dr Bromell's congregation may well have been "significant". Its contribution which was filmed, as it was not the most pertinent, had not been used. TVNZ added:

While all significant points may not have been fully covered, as many significant sides as feasible were presented within the confines of a *Frontline* format.

Referring to two decisions from the Broadcasting Tribunal, the Authority's predecessor, TVNZ argued that its obligation under s.4(1)(d) was to present significant points of view of the aspects of the topic which it was decided to deal with. In Decision 12/90, the Tribunal recorded:

A programme is entitled to limit, or even refrain from, controversial aspects of a topic, unless that results in unfairness or partiality or, in the case of a news programme, a lack of objectivity. There is not obligation to widen the topic or investigate subsidiary or peripheral byways.

### Mr Shaw's Final Comment to the Authority

When asked for his comments on TVNZ's response, in a letter dated 14 April 1992 Mr Shaw maintained his argument that the broadcast was "decidedly biased". He also argued that Bishop Spong, who was sponsored by his publishers and not by the Anglican Church, was largely unknown before his visit to New Zealand.

Describing himself as a concerned member of the public, he wrote:

Television New Zealand has failed to respond, in my view, to the key complaint that it presented a biased and slanted view of the issues in the programme, and indeed has acknowledged that it failed to cover all the sides that were pertinent to this issue.

