

# PRESS COUNCIL ADJUDICATIONS

## ADJUDICATION NO. 741

**The Press Council has upheld a complaint by Brendan Donnelly over a photograph and caption in the Sydney Morning Herald.**

The photograph accompanied an article ("1 billion trees will be 3 billion short"), which contended that there was a wide disparity between the number of trees planted under a Federal Government reafforestation program, and those lost through harvesting or removal for agriculture.

Mr Donnelly complained that the article did not implicate production forestry, which he said is based on sustained yield to ensure the harvest of trees is less than or equal to re-growth. He therefore considered the photograph of a logger working in a NSW State forest, and its caption ("Barking up the wrong tree ..."), to be a "scurrilous misrepresentation".

Mr Donnelly wrote a letter to the editor to this effect. However, 3 of its 7 paragraphs pilloried the paper for its "promulgation of environmental stereotypes". The letter was not published.

The Herald rejected Mr Donnelly's claims, noting that the use of the word "harvesting" in the article covered production forestry as well as agricultural clearing, and that forestry plantings had been included in its statistical analysis of the issue. The article's author agreed that a strong contemporary photograph of agricultural land clearing would have been a more apt choice to illustrate the text, but the Herald "didn't have one on the day". The Council considers these inadequate justifications for using an inappropriate photograph and, for this reason, upholds the complaint.

Regrettably, the Herald dismissed Mr Donnelly with as much pique as he had shown towards the paper in his letter. It described him as "insufferably rude" and as having "an attitude problem".

It did, however, recognise that he had a legitimate point of view, "however unreasonable and wrong". The Herald subsequently published a letter from another reader which made the same points as Mr Donnelly, and which, though shorter, was scarcely less vitriolic about the paper's alleged bias and journalistic standards.

The Press Council acknowledges that the selection of letters for publication must ultimately be at editors' discretion. However, the Council believes that readers' interests are best served when letter writers and papers alike focus on matters of genuine public concern, and not on each others' perceived personal or professional shortcomings.

## ADJUDICATION NO. 742

**In upholding in part a complaint by Rodney Johnstone against The Sydney Morning Herald, the Press Council points out that its principles one and two require newspapers to present news honestly and fairly and to take reasonable steps to ensure the truth of their statements.**

A court report headlined, "Man jailed for falsely accusing ex-deputy mayor", was published on 6 July 1994 and reported that Mr Johnstone had been jailed for one month on three counts of public mischief.

On the same day, the newspaper was informed by an associate of the complainant that this was not in fact the case. Mr Johnstone had appealed and was on bail. Fairness required that a correction should have been published when the newspaper was alerted to a change of circumstance.

The journalist, in a letter to the Council, wrote, "The guy was sent to jail by the magistrate and duly taken away by the Corrective Services people. I don't know any more than that". However, Mr Johnstone was released on appeal from the court cells shortly after the hearing, thus making the Herald's report inaccurate. This aspect of the complaint is upheld.

Mr Johnstone also complained that the Herald had wrongly reported him as the sole member of the Burwood Action Group. The Council is in no position to rule on this matter. He further complained that the article had been designed to ridicule and discredit him. The Press Council does not believe there was such a design and dismisses this aspect of the complaint.

## ADJUDICATION NO. 743

**The Press Council has dismissed a complaint by Brian Ogle about a Ginger Meggs comic strip in The Sydney Morning Herald on 11 July 1994.**

Mr Ogle claimed the comic strip, the theme of which revolved around the eating of a "blow fly sanger", was disgusting and reprehensible, particularly at breakfast time.

The newspaper accepted that the strip was in poor taste but "delightfully" so and said this was what Ginger Meggs is all about.

The Press Council agrees that the contents of the strip were not ideal breakfast reading, but found that the cartoon was not so excessively vulgar as to be in breach of any of its principles.

## ADJUDICATION NO. 744

**The Australian Press Council has dismissed a complaint by Bob Ellis that the Manly Daily exhibited bias against him for six months prior to and including 26 March 1994, the period of his Federal by-election campaign for the Sydney seat of Mackellar.**

His major complaints:

- He said a 26 March front page headline, LIBS 'HOME', above a story in which senior Liberals predicted a big win that day for their candidate, Bronwyn Bishop, tended to persuade the electorate there was no point in voting for anyone else.

The Council notes the headline was routine newspaper treatment for such a forecast-story, the quotation marks making it clear the statement was by someone other than the paper (as the story itself detailed) and believes it would be so seen by the average reader.

It also notes the story itself gave fair space to Mr Ellis' views, differing as they did from those of the quoted Liberals.

- Mr Ellis further stated celebrity concerts he organised to aid bushfire victims "went largely unremarked" by the paper, while a beach appearance by Mrs Bishop "was hugely emphasised on the front page".

The Council accepts the newspaper's statements that (1) it was careful to see the concert results were given the same coverage as were other bushfire appeal events and (2) that the picture of Mrs Bishop objected to did not appear in the Manly Daily.

- Mr Ellis also complained that a letter he wrote in response to "a series" of letters attacking him as a fascist because of links to Vladimir Zhirinovsky was not published, despite an editorial assurance that it would be. It is unclear what happened to the letter, but Mr Ellis ignored two further requests by the paper to resubmit it.

The paper showed there was no series of Zhirinovsky letters; in fact there was one letter and it did not describe Mr Ellis as a fascist.

Other letters - number unknown, although the newspaper recalls two - by Mr Ellis were not published, although a lengthy one by his wife was. Similarly, says the paper, no letters by Mrs Bishop were published, although one by her manager was.

In its answer to the charge of bias, the

paper said it received roughly three times the number of letters during the campaign critical of Mr Ellis as it did of Mrs Bishop but the letters published were almost equally divided between those critical of Mr Ellis and those critical of Mrs Bishop.

Mr Ellis' claims that the Manly Daily transgressed seven Press Council principles are rejected.

Mr Ellis also complained about the newspaper's treatment of his advertisements but the Council cannot rule on this aspect as advertisements do not fall within the Council's charter to deal only with the journalistic side of publications.

## ADJUDICATION NO. 745

**The Australian Press Council has dismissed a complaint by Peter Bubendorfer over an editorial published in the Northside Chronicle on 1 June 1994.**

The editorial and a news story in the same issue were on the subject of a controversial public housing development at Shorncliffe, Queensland.

Following local protests, the height and density of buildings in the development were reduced, but Mr Bubendorfer, who is president of the Sandgate Heritage Action Group, was quoted in the news story as saying the design should be further changed to a heritage style.

The editorial, headed "Amicable settlement is pleasing", said that, as the State Government had showed it was capable of compromise and bowing to residents' wishes, "anyone who still disapproves should think twice about speaking out and showing their true colours".

Mr Bubendorfer complained to the Press Council that this last statement about "true colours" could only be seen as referring to him, and to another residents' spokesman quoted in the news story. He said it was not fair comment, it implied improper motives to him, and was a personal attack which reflected on his character.

The paper, in reply, said the editorial was the Northside Chronicle's opinion on a local issue, and was not a personal attack. It said that the editorial agreed with an opinion that some critics of the development will remain opposed to it regardless of compromises on size and design. Mr Bubendorfer was within his rights to take exception to the views expressed, and to write a letter to the editor.

The Press Council accepts that newspapers have a right to express editorial views on local matters. As Mr Bubendorfer was not named in the editorial his claim that he was personally attacked is hard to sustain. The Press Council believes, as it has frequently said in the past, that a strongly worded letter to the editor would have been an appropriate response.

## ADJUDICATION NO. 746

**In upholding complaints against The Sydney Morning Herald and The Daily Telegraph Mirror, the Australian Press Council views with concern the papers' failure to verify or attribute properly statements made by the National Parks and Wildlife Service (NPWS). A similar complaint against The Australian was withdrawn by the complainant following the publication of a balancing report.**

In stories published on 31 December last year all three papers said in headlines and in their introductory paragraphs that the Independent Commission Against Corruption (ICAC) had, after investigation, cleared NPWS officers of charges of corruption relating to the smuggling of wildlife and to the kangaroo meat industry.

The following paragraphs did correctly attribute various statements to the NPWS, but the opening paragraph and the headlines were bald assertions.

In fact, ICAC was later reported as saying it had informed the NPWS that only allegations referring to the kangaroo meat industry had not been substantiated. Allegations of the NPWS officers being involved in wildlife smuggling were "subject to ongoing investigation" and a report on the matter was before the ICAC operations review committee. That, according to ICAC, remains the situation.

The complaints against the papers were made by Raymond Hoser, whose book "Smuggled - The Underground Trade in Australia's Wildlife" carried the allegations against NPWS officers. Those allegations were referred by the NSW Minister for the Environment, Chris Hartcher, to ICAC.

In his complaints, Mr Hoser accepted that the papers had published their stories in good faith, basing them on a press release issued by the NPWS. He sought from them either the publication of a letter or a report correcting the mis-information in the original stories.

Some months later, after the Press Council had become involved, The Australian published a story which Mr Hoser accepts corrected some aspects of the original mis-statements and he withdrew the complaint against that paper.

Mr Hoser's suggested letter was strongly worded and marked "not to be edited". The Sydney Morning Herald and the Daily Telegraph-Mirror printed neither the letter nor a correcting story, and this failure was the nub of Mr Hoser's complaints.

The papers cited legal reasons - Mr Hoser's publishers are suing the NPWS over the losses allegedly caused by the NPWS' threat to booksellers over the book - for their refusal.

The Press Council cannot see why some form of letter or correcting story could not have been negotiated.

The complaints against The Sydney Morning Herald and The Daily Telegraph

Mirror are upheld. The NPWS' press release was in error (the cause of which the Council has no evidence). The papers should either have been extremely careful to attribute the "cleared of corruption by ICAC" line to the NPWS itself, or checked with ICAC directly. The Press Council commends The Australian for its correcting story, however late it was.

## ADJUDICATION NO. 747

**The Australian Press Council has upheld a complaint from Mr Greg McKie about an article in the Herald Sun, entitled "Decrease blamed on female teachers". This article purported to cite Mr McKie's Master of Arts thesis on reasons for the decline of sport and physical education in Victorian schools. The article opened with a paragraph which read "An increase in female and older teachers has been blamed for the decline of sport and physical education in schools".**

Throughout the article Mr McKie and his thesis are referred to and there are apparent quotations from the thesis.

Mr McKie complains that none of the comments attributed to him actually came from his thesis. He claims that the thesis has only just been submitted and that he never supplied the newspaper with a full copy of that thesis. Mr McKie had apparently faxed a copy of an article which he had prepared for the Victorian Cricket Association to the paper after a phone request from the journalist who prepared the story. That article was not a synopsis of the thesis. Apparently the article did contain other reasons for the decline in organised team sport in government secondary schools.

According to Mr McKie, there were other errors contained in the article in relation to his involvement in sporting organisations. Mr McKie claims that he contacted the newspaper on a number of occasions in writing and by phone and that the newspaper had not responded.

The newspaper claims it has no knowledge of an earlier complaint and says the reporter has no recollection of Mr McKie telling him the material he faxed was a copy of some other submission and not a synopsis of his thesis. There remains a dispute as to whether Mr McKie contacted the newspaper independently of the request from the journalist preparing the story.

The thesis referred to in the newspaper article contains, according to the complainant, a number of theories to explain the decline in organised school sport. From whatever material the newspaper had, it selected one aspect only and featured that. While that particular theory may have been topical, the manner in which the article has been prepared could be regarded as damaging to the reputation or interests of the complainant. The newspaper did not correct any misconceptions by publishing subsequent letters from Mr McKie, which indicated the broader range of his study.

**ADJUDICATION NO. 748**

**The Press Council has upheld in part a complaint by G M Niall against the Melbourne Age over an editorial headed "The media barrens".**

The leader, published on 23 April 1994, was highly critical of a Senate print media inquiry, branding it "a political soap opera" and "a slanging match". To quote the paper's executive editor, the paper made "an unfortunate reference" to Kerry Packer's appearance before the House of Representatives select committee (not the Senate inquiry), which later on he described as "a relatively minor muck-up". Nevertheless, the reference to the wrong inquiry was used to back up strongly the leader's highly critical tone.

Six days later, however, The Age published a much longer article by the chairman of the Senate inquiry, Senator Richard Alston. Under the headline "getting it wrong in print just confuses the debate", Senator Alston strongly criticised The Age leader and the confusion in it.

Undoubtedly Senator Alston set the record straight on the two inquiries. The Press Council believes it would have been in keeping with the paper's reputation if it had added a footnote to the article admitting to the mistake.

The confusing of the two inquiries was, in the Press Council's view, more than "a minor muck-up", but this was corrected by the Senator Alston article. The views expressed in the leader continue, says the paper, to be its position without recourse to the wrong inquiry.

The Press Council upholds the complaint that the paper failed to publish a direct correction; the publication of the Senator Alston article went some way to make the correction, but not far enough.

A peripheral matter raised in the complaint was the leader's use of the phrase "the summoning of editors and newspaper executives" to appear before the Senate committee when, in fact, said Mr Niall, they appeared voluntarily. Since the invitation to appear before a Senate committee can reasonably be interpreted as a summoning, but not a summons, this aspect of the matter can be left to rest.

**ADJUDICATION NO. 749**

**The Australian Press Council has dismissed complaints by the NSW Police Service against the Illawarra Mercury over the newspaper's treatment in 19 separate articles of the violent death of four members of one family.**

Many of the articles were on page one, some were accompanied by detailed photographs of the dead family, twin girls aged three months, a six year old daughter and their mother, and most

speculated on whose hand cut their throats. In its complaint, the Police alleged the Illawarra Mercury had breached five of the Press Council's principles. In adjudicating, the Press Council examined them one by one:

(1) *That the paper had not presented news and comment "honestly and fairly" and had not respected the privacy and sensibilities of individuals.*

In covering a mass killing of great public interest in the local community, the paper unearthed many details from its own sources, and there was no evidence that it was wrong or unfair in any detail. That the police, for their own doubtless legitimate reasons, refused officially to give out any but the barest details about the slayings, is no reason for them to find fault with a newspaper determined to unearth the facts any way. There is also no evidence that the privacy of individuals was unreasonably invaded. Relatives willingly gave interviews and the family invited the paper into the church to take photographs at the funeral service.

(2) *That the newspaper had not taken "all reasonable steps" to ensure the truth of its statements.*

On the contrary, the paper in this case appears to have gone to exceptional lengths to get the facts right.

(3) *That it did not identify rumour and unconfirmed reports as such.*

Not only was speculation clearly identified as such, but bylined opinion articles about the case were clearly identified as such.

(4) *That, while newspapers are entitled to advocate their views strongly on controversial issues, this one could have treated its readers unfairly by distortion, misrepresentation or suppression of relevant facts.*

Again, there was no evidence that the Illawarra Mercury transgressed in this area.

(5) *That the paper lapsed into breaches of taste so repugnant as to bring freedom of the press into disrepute or be extremely offensive to the public.*

The Police complained under this heading generally about the articles and most specifically about the multi-page coverage of the funeral, including two pages of pictures and a page one colour photograph of the bereaved father bending over the body of one of his daughters.

Acknowledging that senior executives had agonised over the decision to run the story the way it did, the newspaper said that an important point in its decision was that the family had invited the paper to take photographs inside the church at the funeral.

Taste is a concept about which it is difficult to lay down strict guidelines. Some readers were offended by the page one photograph and complained to the newspaper, but no complaints came from the family or relatives. Given the circumstances of a traumatic local story, obvious public interest in it, the continuing hunt for the killer and the attitude of the family, the Press Council does not accept that its principle regarding taste was breached.

**ADJUDICATION NO. 750**

**The Press Council has upheld in part a complaint by Rick Boatswain against the Illawarra Mercury and has dismissed a complaint on a related matter against the South Coast Register.**

The complaints arose out of reporting by the Illawarra Mercury and the South Coast Register in relation to the death of Leeanne Boatswain, the sister of the complainant. The reporting, it was alleged, was improper and blatantly irresponsible; and that the family, apart from being distressed by the reporting, had been "unduly exposed to a multitude of sensationalist media reports".

The Illawarra Mercury, in its edition of 30 November 1993, reported the death of Leeanne Boatswain, an invalid pensioner, under the headline "Disabled woman, 27, slain - Nowra Murder". The thrust of the complaint was that, at the time, the cause of death had not been established by the police authorities and that the newspaper was therefore drawing a conclusion "based upon their own prognosis". The newspaper was also said to be factually inaccurate in reporting that the police were interviewing "potential murder suspects". It was further alleged that the newspaper had caused distress because it had identified the dead person before all relevant members of the family had been informed.

The complaint against the South Coast Register was directed at the "perversely offensive" photograph which accompanied a report of the death in its 1 December 1993 edition.

The hearing of the complaints was held in abeyance, at the Mercury's request, until the completion of the official inquest.

The Council upheld the complaint against the headline in the Illawarra Mercury on the grounds that it was not substantiated by the body of the story, which noted, among other things, the possibility of death by an epileptic fit.

The Illawarra Mercury had published the name of the deceased in the belief that it had been cleared by the police for publication. If an error had occurred on this occasion, it was attributed to an "unfortunate breakdown in communication somewhere along the line". The Council accepts the assurance of the paper that it is not their policy to be recklessly indifferent when publishing names of deceased people. However, the Council is not convinced that the newspaper had taken appropriate steps to ensure that the authorities had cleared the name for publication. This aspect of the complaint against the Illawarra Mercury is also upheld.

The Council does not accept the contention of the complainant that the 1 December photograph was "extremely repugnant". The complaint against the South Coast Register is thereby dismissed.

## ADJUDICATION NO. 751

**The Australian Press Council has considered a complaint by a reader, John Kincaid, about what he saw as a slur in the Gold Coast Sun on British First World War performance and the paper's failure to print his letter on the issue or to apologise.**

In the issue before Anzac Day 1994, the weekly paper published an interview with the son of one of four brothers who had enlisted in the First World War. The son was quoted as saying, "they (the British) looked on the Australians, the Indians too, as gun fodder".

Mr. Kincaid wrote a vigorous letter a week later defending the British and quoting statistics demonstrating the huge casualties the British suffered. He complained that the letter was not published and alleged the newspaper had breached several Press Council principles, including failure to take all reasonable steps to ensure the truth of its statements, and failing to redress material damaging a group of people (the British).

The newspaper said it considered publishing the letter but, by the time it arrived and could have been printed, it would have been two or three weeks after the original story. In view of the fact that the issue of the British generals' attitudes to Australian (and Indian and other colonial and dominion troops) had been widely canvassed over many years, it believed there was no useful purpose in publishing the letter.

The Press Council has a strong policy encouraging newspapers to provide as much space as possible for readers who reasonably believe publications have erred or provided insufficient balance in reporting an issue.

In this case, having regard to the impossibility of printing all readers' views, the Press Council believes the newspaper responsibly used its right of letter selection. As the editor pointed out, the quote in the original story did not cast any slur on the fighting qualities of any of the troops, but referred only to the way they were used.

The complaint is dismissed.

## ADJUDICATION NO. 752

**The Press Council has dismissed a complaint by Bret Christian over an article appearing in the Local News Cottesloe on 2 February 1994.**

The article, titled "Mates feud over pub," contended two former colleagues, the proprietor of Post Newspapers Pty Ltd, Bret Christian, and the proprietor of the Cottesloe Beach Hotel, Peter Eakins, had "fallen out" over an application by Mr Eakins to extend the hotel's trading hours.

Mr Christian, who lived near the hotel, was among 86 local residents objecting to the extension of hours. He complained the article contained inaccurate and emotive references to him and had breached seven principles of the Press Council.

They included requiring a newspaper to present news honestly and fairly with respect for the privacy and sensibilities of individuals and take all reasonable steps to ensure the truth of its statements.

In a letter to the Council, Mr Christian complained the article was tailored and distorted to fit a particular set of prejudices. The basis of his complaint was the coverage by the Local News Cottesloe of an adjourned hearing before the Liquor Licensing Authority to which Mr Christian had given evidence.

Mr Christian had sought the publication of an apology but this has been rejected by the Local News Cottesloe on the grounds that the terms set out by Mr Christian were "untrue, defamatory and malicious."

The author of the article contended the article was "supposed to be a bit of fun", and people he had shown it to had found it amusing or funny. "What was meant as a simple piece of light-heartedness did in fact amuse a great many people," the author said. "In fact, some found it uproarious."

The people discussed in the article are public figures in the area and the newspaper was entitled to publish a story combining their background with the issues involved in the Licensing Authority hearing.

## ADJUDICATION NO. 753

**Dr Simon Chapman and Prof Richard Taylor have complained to the Press Council that a P P McGuinness column in The Australian contained gross misrepresentations of the actual risk of getting lung cancer in Australia today. They refer in particular to the following paragraph in his column:**

**"It is surely true that smoking increases your chances of getting lung cancer. But if, say, the increase is 100 per cent, and the probability of lung cancer is one in a hundred, this only means an increase of the probability from 1 per cent to 2 per cent. It can be perfectly sensible to consciously take such a risk. ... But smoking is a lot safer than driving a car."**

They have presented detailed scientific papers which they say demonstrate that Mr McGuinness's statistical conclusions are not true. They believe it is likely many smokers who read his column may take comfort from these words, perhaps even delaying a decision to give up smoking.

Mr McGuinness, through his editor, says his column, headlined "Warning: defending smoking damages your credibility", was about the behaviour of the anti-smoking lobby. He says he does not smoke and disapproves of the practice. He sought to

criticise what he sees as "the intolerance, arrogance and censoriousness of anti smoking propagandists, and their belief that both the degree of risk in active smoking and the proven ill-effects of passive smoking are firmly established". He says the complainants are saying he should not be permitted to express views on, or interpretations of, the evidence.

The council is not a scientific body and is unable to rule on whether the conclusions drawn by either the complainants or Mr McGuinness are correct. It cannot therefore uphold the complaint.

The readers of newspapers are entitled to be informed on the issues, and particularly on the views of eminent scientists on matters of considerable public interests.

Letters were sent by Dr Chapman, on behalf of the Cancer Council, as well as from the Heart Foundation: they were not published. The Australian says that it has run exhaustive letters page correspondence protesting against Mr McGuinness's position each time he tackles the issue.

While the particular letters in question were not published, a very large amount of material on the damage of smoking has appeared in The Australian.

## ADJUDICATION NO. 754

**In adjudicating on a complaint by The Eros Foundation against The Herald Sun, the Press Council restates its opinion that newspapers have a duty to ensure balance in matters of public debate.**

The complaint makes a number of allegations. The Council has focused on two major concerns as identified by the complainant:

- (i) that the newspaper in its reporting was biased against the sex industry; and
- (ii) that an article supplied by the complainant to the newspaper was not published, contrary to an alleged "promise" to do so by the newspaper.

In relation to (i), the complainant draws attention to articles, editorials, cartoons and the imbalance in letters to the editor over a two year period, with 104 out of 106 such letters "expressing derogatory or degrading statements about people who work in the sex industry". The newspaper disputes that it is biased against the sex industry. It claims that its editorials, at one time or another, have been critical of every industry, including the mining industry, the forestry industry and the racing industry. Where appropriate they have also praised these industries.

The newspaper maintains that it adopts a responsible approach to discussing a subject-matter and points out that the newspaper some years ago had run editorials advocating the legalisation of

brothels. At the same time, they had advocated that governments should pay attention to the concerns of local residents, and had also expressed concerns about the processes by which brothels obtained permits. It denies that articles in the newspaper constitute an ongoing campaign against the sex industry, that its reporters are directed as to how they should write, or that cartoonists are instructed what to draw. The newspaper also points out that it does not receive many letters supporting activities relating to the "sex industry". The allegation of bias, in the Council's view, is not made out, and this aspect of the complaint is dismissed.

On issues of interest and importance to the community, it is legitimate for a newspaper to express strong views. Where such airing of views impinges on the interests of members of the community it is not unreasonable to expect a newspaper to provide opportunities for responses to be published. Determining what responses should be published is a matter of discretionary judgment on the part of the newspaper, provided the discretion is not exercised in an unreasonable manner. Whether an undertaking or "promise" was made by the newspaper to publish a response from the complainant is immaterial for, in this case, the Council is of the view that, given the nature of the article provided by the complainant, the discretion has been exercised reasonably.

Nevertheless, the Council believes the newspaper could have negotiated with The Eros Foundation towards the submission of a publishable article. To the extent that it did not, the complaint is upheld.

### ADJUDICATION NO. 755

**The Press Council has upheld in part a complaint by John Dobinson against The Melbourne Weekly.**

The origin of Mr Dobinson's complaint was an item in "Round the Town", a column written in humorous vein, published in June 1993.

The item stated that The Age newspaper had refused to allow Mr Dobinson, aged 39, to sit for a cadet selection committee examination as the age limit for candidates was 26. The item said Mr Dobinson had taken the paper to the Equal Opportunity Commission which had found The Age's position "perfectly reasonable".

The item went on to say Mr Dobinson had been the subject of Age stories in October 1992 as the founder of the Bolte Movement, an alliance of conservative state election candidates "who dispersed when the Liberal party objected" to the party's name.

Mr Dobinson's concern with the factual matters in The Melbourne Weekly item was in two parts. First he stated the paper

was in error by referring to the Equal Opportunity Commission - he had in fact approached the Human Rights and Equal Opportunity Commission for a meeting with The Age. The meeting, however, took place in the Equal Opportunity Commission board room as the HREOC did not have a Melbourne office. The Commission offered further conciliation, but did not make a finding on the matter, as the paper asserted. Secondly, Mr Dobinson claimed the name of his movement was not dropped because of pressure from the Liberal Party, but in deference to the wishes of the late Sir Henry Bolte's brother. He also said that the paper had mocked him.

Mr Dobinson expressed his concern to The Melbourne Weekly and suggested a follow-up article or publication of a letter, but neither course was accepted by the paper. In September 1993 Mr Dobinson decided to let his original complaint to the Council lapse but he continued to correspond with the Melbourne Weekly in an attempt to get a clarification printed. He sent the paper a lengthy "correction" with a request that it be published. The editor-in-chief of The Melbourne Weekly replied saying, in principle, he would have no problem with a 120-word clarification and requesting a draft. Mr Dobinson says he sent a "correction" of that length in early 1994.

In the event, after a further exchange between Mr Dobinson and the paper, The Melbourne Weekly published its own clarification of the original article in its 31 May 1994 issue.

After consultation with his legal advisers, which delayed hearing of his complaint, Mr Dobinson made a formal complaint about the tone and content of the 31 May clarification.

The Press Council is of the opinion that, while the original article offended Mr Dobinson, it did not go so far as to disparage or mock him. Further, Mr Dobinson himself decided to let the original complaint lapse and, leaving aside an unrelated article in the December issue of The Melbourne Weekly which annoyed him and caused him to renew his complaint, the paper has not deliberately aggravated the sense of offence felt by Mr Dobinson. However, the 31 May clarification did not address all the questions of fact related to the cadetship - specifically that there had been no finding made by the HREOC. Although the Press Council does not believe that the tone of the clarification disparaged or mocked Mr Dobinson, the paper did not adequately address this matter of fact and, to that extent, the complaint is upheld.

A good deal of correspondence might, however, have been avoided if the paper had promptly and formally acknowledged Mr Dobinson's first letter of complaint.

### ADJUDICATION NO. 756

**In upholding a complaint against The Australian, the Australian Press Council**

**reiterates its concern that newspapers should exercise great care in composing headlines and the words on promotional posters.**

Denis McCormack complained that the headline "PM puts the brakes on migrants" above a 6 May 1994 page one story on the future migrant intake, and similar words on posters outside newsagents, breached the Press Council principle against distorting facts in text or headlines.

As the story, including its opening paragraph, accurately relates, the government was in fact increasing the migrant intake, if moderately, from the previous year's level.

In its defence, the newspaper argues that its readers would be "well informed enough" to understand that the headline indicated that Australia would not be going back to "traditionally high immigration levels".

The story certainly explained the point. The fact is, however, that the headline and poster did not. They were both inaccurate.

Mr McCormack wrote a sharply worded but relatively brief letter to the newspaper, which did not publish it.

For the sake of readers, many of whom do not have expert knowledge of such major public issues as immigration, a negotiated version of the letter should have been published.

Better still, more care should originally have been taken in composing the headline and poster, especially given that The Australian had chosen to make the story the lead item in the paper that day.

### ADJUDICATION NO. 757

**The Press Council has upheld a complaint against The Age, Melbourne, about a brief column piece under the headline "Welsh choir is the only one made in Japan". It publicised what The Age called the "9th Festival of Welsh Male Choirs".**

The article was wrong in that it was a festival of male choirs while the headline and first mention in the text of the Japanese choir incorrectly described both as Welsh.

Wal Davies, who supplied the information to The Age, complained to the Press Council after a letter he wrote was not published.

The Council upholds Mr Davies' complaint that The Age was careless in reporting that the choir and the festival were "Welsh" (and the consequent tone of the article) when publicity material clearly showed this was not the case and believes The Age should have published either his letter or an appropriate correction.



## ADJUDICATION NO. 758

**The Australian Press Council has dismissed complaints made by David Simpson about three articles which appeared in The Sydney Morning Herald on three separate days in April this year.**

One of the articles was a by-line column piece by commentator Gerard Henderson. Another was a by-line article by the Herald's European correspondent, Peter Ellingsen. The third was a straight report from London about statements attributed to the Archbishop of Canterbury, Dr Carey.

What linked these complaints - in fact, at the heart of these complaints - was Mr Simpson's view that these articles were consistent examples of the Herald's "anglophobia", dishonest propaganda to denigrate Britain, and that they contained misrepresentations and distortions of fact.

The commentary by Gerard Henderson was mainly in praise of Australia's multicultural successes. It noted that a British-born journalist, who had spent years reporting on Australia for the BBC and The Times, had made a TV documentary outlining the virtues of Australia's migration programs and noting that the Japanese Government was examining the Australian success as a possible model for assisting minorities in Japan.

The final paragraph of a long article contained the only reference to Britain. It suggested that any Australian who believed immigration and multiculturalism were at the root of all Australia's problems "should have a look at contemporary Britain. It has few immigrants and no multicultural programs. Yet Britain is a nation in manifest decline".

Mr Simpson contended this was not a fact but was "the view of someone with a well established racist view ...".

The Press Council finds, to the contrary, that it was the honest and fair view of a noted commentator, and that, though these views might not suit everybody, the Press Council asserts the fundamental right of free expression and the contest of ideas as a normal responsibility of the press.

As to the article by Mr Ellingsen, he was describing the malaise of Britain as perceived by the British themselves, the growth of poverty and violence, and the increasing level of concern about these issues.

It would be odd indeed, in the view of the Press Council, if issues constantly aired by major British commentators and widely discussed in British newspapers should somehow be forbidden territory for an Australian newspaper.

Mr Simpson's third complaint is that an article in the Herald, reporting an article in Britain's Daily Telegraph, was not an accurate account of comments by the Archbishop of Canterbury and that the

headline was an inaccurate representation of the Archbishop's remarks.

The Archbishop was reported as saying that Britain was now "an ordinary little nation" with deep class divisions and mediocre education, had lost much of its naval and air strength, and was a fragmented, divided society now largely isolated in the world.

The Herald heading was: "UK a nobody, prelate laments".

The Press Council finds no reason to condemn this heading and accepts the view of the Herald that it had no reason at the time to doubt the veracity of the report by The Daily Telegraph in London.

## ADJUDICATION NO. 759

**The Australian Press Council has upheld in part a complaint by a minor against The Newcastle Herald over the reporting of an accident in which she was involved.**

The story, published on 12 February 1994, was headed "Amazing survival of teenager run over by coal train". It gave a detailed account of how the 14-year-old girl had been walking along the railway line and had been struck by a fully laden coal train. She had survived by "a one in a million chance", though she received a fractured skull and lacerations to the head.

The paper gave the girl's age and school (including the Year she was in), and provided a diagram of the location of her home in relation to the scene of the accident. It illustrated the story with an artist's impression showing a girl walking along a railway line with a train bearing down on her.

The complainant claimed that the story was in breach of Press Council principle 1, which provides for respect for the privacy and sensibilities of individuals in reporting news; and of principle 2, which obliges newspapers to take steps to ensure the truth of their reports, in that a statement that she was intoxicated was not confirmed by medical staff or family members. However, the story had quoted police & a Freight Rail spokeswoman as saying the girl was intoxicated.

The girl says that the story has caused much anguish and damaged her reputation with her school and her peers.

The Press Council believes The Newcastle Herald was fully entitled to report the accident, as the survival of a person struck by a train is a newsworthy event.

However, it believes that, in view of the girl's age and the circumstances of the accident, she should not have been identified. To the extent that she was, the complaint is upheld.

## ADJUDICATION NO. 760

**The Australian Press Council has dismissed a complaint against The Daily Liberal newspaper in Dubbo, NSW, regarding an**

**editorial about a private contractor's proposal to carry out recycling for Dubbo City Council.**

The editorial on 4 May 1994 said, in essence, that the city council should reject the one and a half page proposal because it was short on detail and because the recycling operation had not been put to tender as required by law.

Brian Abbott, financial advisor to the board of directors of The Westhaven Association, which submitted the proposal through an associated company, complained that the editorial misrepresented the document by comparing it to a detailed response to a tender. He said the company had merely presented a business proposition quoting a price for a service, a fairly straightforward and usual procedure in the business world.

Mr Abbott said, in a letter he wrote to the editor eight days after the editorial appeared, that the newspaper should "set the record straight".

However, the Press Council believes the editorial was fair comment on a matter involving public money, and the newspaper provided balance by publishing a lengthy, unedited letter from the president of The Westhaven Association, John Tunks, responding to the editorial on 13 May 1994.

## ADJUDICATION NO. 761

**The Australian Press Council has dismissed a complaint from the Hon. Ian Causley, the Minister for Agriculture and Fisheries and Minister for Mines. In "An open letter to the people of Grafton" dated 14 June 1994, Mr Causley had sought to explain the Grafton Hospital budget. He sent it to the newspaper which reported it in some detail, with extracts, on the front page on 15 June 1994. The editor stresses it was not a letter to the editor, and there was no request that it be published in full.**

On 18 June the Daily Examiner published an open letter accompanying a new report which expressed concern about the level of funding at the hospital. The 11 signatories, including the editor, indicated that if funding were not increased they would not be able to support Mr Causley at the next election.

Mr Causley says the Daily Examiner should have revealed that the editor had instigated and largely written the letter. The editor says he had written a first draft in response to a request from a prominent member of the community. This was developed into a final version in collaboration with another person. Both were signatories to the letter. The editor invited other community leaders to sign and he was, in fact, one of the signatories, describing himself in the open letter as editor.

The Council's principles provide that a newspaper is entitled to advocate its own views provided that fact and opinion are distinguishable and relevant facts are not suppressed. The Council believes that readers would have had no difficulty in distinguishing between the facts and the newspaper's editorial line. While the newspaper was under a clear obligation to disclose that it was partisan in the debate, this was effected by the editor appending his signature to the letter.

The newspaper was under no obligation to set out further details of the editor's role. Moreover, the Council believes that both sides of the debate were adequately represented to the readers in the two editions.

### ADJUDICATION NO. 762

The Press Council has dismissed a complaint from Gareth Smith against an article in *The Canberra Times* on 25 August 1994 which dealt with, in part, a demonstration at the Indonesian Embassy in Canberra in which he had participated.

Mr Smith and his co-protester had climbed two columns of the embassy building, unfurled a banner, and remained there twenty minutes.

In the article, published two months after the protest, *The Canberra Times* reported Indonesian officials as complaining about "attacks on Indonesian property" in Australia. The article further noted that in one of the recent incidents "the Republic's Canberra embassy was attacked by protesters in June ...".

Mr Smith objected to the use of the word "attack". He complained that the word suggested "terroristic connotations".

However, the Press Council believes the word "attack" does not necessarily have this connotation and in its common usage was an acceptable way to describe Mr Smith's actions.

Further, it was clear from two previous reports on the protest in *The Canberra Times* that violence or obstruction were not involved.

### ADJUDICATION NO. 763

On 2 August 1994, *The Courier-Mail's* Business Editor reported *Schroders'* latest six-monthly financial review and forecast with the headline, "Official rates may leap", followed by a text which began, "Official interest rates could more than double in the next 18 months, sending home mortgage rates soaring ...".

Murray Simpson claims the article transgresses Press Council principles which require newspapers to present news and comment honestly and fairly; to take steps to ensure the truth of its statements; to identify rumour and unconfirmed reports; and to make amends for publishing harmful information.

In his letter of complaint, he wrote "Fortune telling is still illegal in Queensland. Courier presses higher interest rates' theory for weeks; bill rates move up a few points; a better story appears; rates go back to normal. The small business person who has to roll a Bank Bill when the completely false upward pressure is applied pays". Later, Mr. Simpson added, "Not even the *Courier-Mail* can produce evidence that interest rates will double".

The *Courier-Mail* replied that "interest rates are a matter of public interest" and appended three further articles with similar speculations: "Home rates warning" (18 August) reporting Treasurer Ralph Willis calling for wages calm; "Home buyers hardest hit" (18 August) reflecting the financial opinions of banks and building societies; and "Rate rise was too soon" (19 August) which was a report discussing analysts' opinions of Australian Bureau of Statistics' figures.

The Press Council believes the article of 2 August does not breach its principles. It is simply part of the ongoing financial debate which of its nature can contain speculative language, not designed to mislead, but to inform, the reader.

The complaint is dismissed.

## ABOUT THE PRESS COUNCIL

The Australian Press Council was established in 1976 with the responsibility of preserving the freedom of the press within Australia and ensuring the maintenance of the highest journalistic standards, while at the same time serving as a forum to which anyone may take a complaint concerning the press.

It is funded by the newspaper industry, and its authority rests on the willingness of publishers and editors to respect the Council's views, to adhere voluntarily to ethical standards and to admit mistakes publicly.

The Council consists of 21 members. Apart from the chairman (who must have no association with the press), there are 10 publishers' nominees, seven public members, two journalist members and an editor member. The newspapers' representatives are drawn from the ranks of metropolitan, suburban and country publishers as well as from AAP. The public is represented by people from all walks of life, none of whom can have had any previous connection with the press.)

The Press Council is able to amend its constitution with the approval of its constituent bodies. Significantly, great importance is placed on members acting as individuals rather than as the representatives of their appointing organisations.

### Complaints Procedure

If you have a complaint against a publication, you should first take it up with the editor or other representative of the publication concerned.

If the complaint is not resolved to your satisfaction, you may refer it to the Australian Press Council. A complaint must be specific, in writing, and accompanied by a cutting or clear photocopy of the matter complained of, with supporting evidence, if any. Complaints should be lodged within three months of publication.

The Council will not hear a complaint subject to legal action or, in the Council's view, possible legal action, unless the complainant is willing to sign a waiver of the right to such action.

Address complaints or inquiries to:

Executive Secretary  
The Australian Press Council  
Suite 303, 149 Castlereagh Street  
Sydney NSW 2000

For information or advice, telephone (02) 261 1930; callers from outside the Sydney Metropolitan area can ring on Free Call (1800) 02 5712.

A booklet setting out its aims, practices and procedures is available free from the Council.

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Lay-out by McDonnell Herman; Printing: Print Mail © Australian Press Council, 1994