

# The Fisheries Settlement Report

## 5. Ancillary Questions

### Moriori

5.1 There is some dispute between the Runanga o Wharekauri-Rekohu and Te Iwi Moriori Trust Board and counsel for the former contended we could not hear the latter, as we could hear only claims from Maori. Moriori were not Maori, he said, and in any event, Moriori had ceased to exist. No expert evidence was called.

We would dispose of that matter briefly. 'Maori' and 'Moriori' are both dialects for 'normal' or 'usual', and when used with 'wai' mean fresh water running with the land as compared to that from the sea. When Pakeha arrived, both words came to mean 'native'. Both people are from the same stock.

'Maori' in section 6 of the Treaty of Waitangi Act 1975 denotes an aboriginal New Zealander, in our view, and none could be more aboriginal in the Chathams than the Moriori. Accordingly we do not accept the Runanga submission that Moriori are not Maori and nor do we agree that Moriori have ceased to be.

### Court proceedings

5.2 During our inquiry certain claimants took High Court and Court of Appeal proceedings. We may decline to hear a claim if a remedy can be effected in the courts, and in this case, we would not need to report if the courts invalidated the settlement. We had also to consider however that if no such relief was given, we would need to report early, covering especially matters generally outside the courts' purview but within ours, like those relating to proposed Crown policy. Therefore we proceeded with our inquiry but resolved, eventually, to defer reporting until the Court of Appeal decision had been given, as we are bound by the findings of the courts, and because a prior tribunal report might prejudice the legal process in this case. That decision has now been given and we are now able to complete this report.

### Government intentions

5.3 We considered too whether the inquiry should proceed in view of government's intention to legislate for the settlement in the near future. This would include removing the tribunal's ability to review the settlement itself.

The tribunal must act by what the law is and not in anticipation of what it might be, in our view, and it would be wrong to deny the claimants' present legal right to challenge the government's proposals.

### Legality of the settlement

5.4 We did not consider claims that the settlement or proposed legislation would be unlawful as those matters should be addressed in the courts.