

The Fisheries Settlement Report

4. Issues

At a chambers meeting the tribunal expressed its view that the claims and complaints amounted to a contention that the settlement promoted policies that would be contrary to the Treaty and prejudicial to claimants in proposing the abrogation and substitution of treaty rights without adequate consents and in imposing new arrangements that had not been agreed. This was in addition to the overall claim that the settlement would diminish Maori rangatiratanga and fishing rights.

'Adequacy of consent' was seen to raise questions of representation and ratification. Who could consent and had sufficient consents been obtained?

'Abrogation' raised questions of whether that taken away was fully compensated by that which was given (would Maori fishing rights in fact be diminished?) and the 'new arrangements' included the establishment of the commission and the proposals for allocation.

Central to those issues were basic questions about customary and modern Maori society and on how local and national Maori opinion might form. The answers required wide consultation with Maori and lengthy, considered submissions; but time, and members other commitments did not allow this. We were aware that government proposed early legislation and that we would need to report promptly or not at all.

Accordingly hearings were curtailed and, with regret, important delegations that came late were not heard (for in addition, some members were involved in North Auckland and Taranaki sittings at the time). Further evidence was restricted and counsel were required to respond in writing within four days after the issues were defined and without further personal appearance. In addition we had not the opportunity to inquire of all whom we would like to have seen.

This report bears those limitations. Our consideration of Maori societal structures is based mainly on our own understanding. There were submissions from T O'Regan and H M Mead and an affidavit from G S Latimer, but we did not hear full argument. Our conclusions on social structure must therefore be limited to this case. No doubt they will be amended after a fuller debate within the Maori community.

A lack of submissions from those supporting the settlement also restricted our inquiry. Some wrote in but did not appear. The Maori negotiators did not wish to intrude on what they saw as the dissentients' opportunity to be heard, but following our request for particulars of the hui they filed copies of their affidavits in the Court of Appeal, and later, a full record of the hui proceedings.

We now refer to certain preliminary matters.