

Fisheries Bill Claim

5 Adequacy Of Consultation

5. Adequacy of Consultation

The main complaint concerns the adequacy of consultation. It is not consultation, it was contended, merely to call for nominations with the minister setting the criteria for selection as proposed in the October circular. We are mindful of the fact however that a legal issue is involved, and whether or not the minister has adequately discharged his statutory duty to consult in terms of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, is a matter that may be taken to the courts. As Morris J said in *Fletcher v Minister of Town and Country Planning* (1947) A11 ER 496 at p500:

If a complaint is made of failure to consult, it will be for the court to examine the facts and circumstances of the particular case and to decide whether consultation was, in fact, held.

So as not to trespass on other jurisdictions, we resolved to confine ourselves to the Treaty aspects of the case and the Maori cultural considerations involved. This resolves principally around the question of-

Waitangi Tribunal, Department of Justice, Wellington.