

CHAPTER 5

FINDINGS AND RECOMMENDATIONS

5.1 Findings on Treaty Principles

The tribunal finds that the Crown is under a Treaty obligation actively to protect Maori citizenship rights and in particular existing Maori rights to political representation conferred under the Electoral Act 1993. This duty of protection arises from the Treaty generally and in particular from the provisions of article 3.

The tribunal further finds that the partnership relationship the Treaty envisages should be founded on reasonableness, mutual co-operation and trust. The Crown in carrying out its obligations is not required, in protecting Maori citizenship rights to political representation, to go beyond taking such action as is reasonable in the prevailing circumstances.

5.2 Other Findings

The tribunal finds:

- That the precise number of eligible Maori voters who are not enrolled is not known but it is reasonable to assume the number is not less than 50,000 and may be between 50,000 and 60,000.
- That the measures required to inform and educate Maori on the Maori Electoral Option and to facilitate both enrolment and effective participation fall into two broad categories.
 - (a) The traditional Maori method of face to face communication and instruction (kanohi kite kanohi) and
 - (b) Certain conventional methods of mass communications targeted to a specific audience, in this case Maori electors both potential and actual.
- That if adequate funding is not provided by the Crown in addition to that already provided to facilitate a comprehensive kanohi ki te kanohi campaign in conjunction with an extensive and effectively targeted mass media programme, the Maori political rights conferred under the Electoral Act 1993 will not be effectively implemented and Maori will be seriously prejudicially affected.
- That the present level of funding and services being provided by the Crown through the agency of New Zealand Post and Te Puni Kokiri is substantially less than is reasonably required to meet the Crown's Treaty obligation to protect Maori citizenship rights and in particular the effective exercise of the Maori Electoral Option, and is in breach of Treaty principles which require the Crown actively to protect Maori rights to political representation conferred under the Electoral Act 1993 and as a consequence the effective exercise of the Electoral Option by Maori will be seriously prejudicially affected by such a breach.

5.3 Recommendations Pursuant to Section 6(3) of the Treaty of Waitangi Act 1975

1. That the Crown funding to Maori be increased as a matter of urgency to a level sufficient to achieve the maximum possible enrolment of Maori electors and to achieve adequate promotion and information upon the exercise of the Maori option.
2. That the Crown as a matter of urgency consult with representatives of the three pan-Maori organisations - the National Maori Congress, the New Zealand Maori Council and the Maori Women's Welfare League - with a view to settling the programmes necessary to facilitate a comprehensive kanohi ki te kanohi campaign in conjunction with an extensive and effectively targeted mass media programme, such consultations to include the amount of additional funding required to implement such programmes over and above the funds and services already made available through New Zealand Post and Te Puni Kokiri.
3. That consistent with the tino rangatiratanga of Maori protected under the Treaty, responsibility for the implementation of the additional programmes be vested in the Maori representatives of the three pan-Maori organisations subject only to such control as may lawfully be required.

In accordance with s6(5) of the Treaty of Waitangi Act 1975, the Director of the tribunal is requested to serve a sealed copy of this report on:

- (a) The claimant Hare Wakakaraka Puke
- (b) The claimant's solicitors, Woodward Law Offices
- (c) Minister of Maori Affairs
Minister of Justice
- (d) Solicitor-General

DATED at Wellington 10th this day of February 1994

G S Orr, Presiding Officer for and on behalf of:
Brian Corban, Member
M P K Sorrenson, Member
Makarini Temara, Member
Keita Walker, Member
Hepora Young, Member