

THE APPLICATION OF THE PETROLEUM ACT WITH REFERENCE TO THE WAIHAPA NGAERE CASE

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Abstract

In 1988 litigation was commenced by the Waihapa joint venture against the Minister of Energy. The case concerned decisions taken by the Minister as regulating authority in relation to the Waihapa Oilfield. The case ultimately went to the Privy Council where it was decided earlier this year.

The Privy Council decision will be discussed, focusing on the way the Court addressed the issues that arise when the dual capacities of a public official come into conflict.

At the heart of the controversy is the expectation in the Petroleum Act 1937 that as well as being the regulator of the industry the Minister represents the Crown's ownership interests in the resource. It was for the purpose of exploiting such interests that the Minister, on behalf of the Crown, had become a party to the joint venture that discovered the Waihapa oil field.

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JOHN MCGRATH Q.C. assumed the office of Solicitor-General in May 1989. John graduated Bachelor of Laws from Victoria University in 1967 and Master of Laws in 1969. In 1975 he went to Buddle Anderson Kent and Co where he was a partner until 1983. From January 1984 he was a barrister sole and took silk as Queen's Counsel in April 1987.

John has been active in the Wellington District Law Society. He has taken a very active part in the affairs of Victoria University of Wellington, from being President of the Students' Association during 1966 to becoming Chancellor in 1984, an office he still holds.