

7 April 2010

MEDIA STATEMENT FROM SOLICITOR-GENERAL

R v Murnane, Leason and Land: (Damage to Waihopai Satellite Dish Cover)

1. The Solicitor-General has concluded that the Crown cannot appeal the jury's verdicts acquitting the three persons accused of causing intentional damage to the Waihopai satellite dish cover.
2. The Crown has very limited ability to appeal not guilty verdicts. A Crown appeal can only occur where the case raises a question of law, such as where the trial Judge has misdirected the jury on the meaning of the law. The Crown cannot appeal findings of fact, or where the Crown believes the verdict is unreasonable or against the weight of the evidence.
3. In this case, the trial Judge's directions of the law were generally consistent with the relevant provisions of the Crimes Act 1961, and the way in which the Supreme Court has interpreted the meaning of "claim of right".
4. That an accused person acted without "claim of right" is an element of certain offences which must be proved by the prosecution beyond reasonable doubt. It enables a defendant to advance at their trial that they genuinely believed that what they were doing was lawful, regardless of the reasonableness of that belief.
5. The Solicitor-General has concluded that the case raises serious questions about the appropriateness of the Crown being required to prove that an accused acted without "claim of right" being used in similar circumstances in the future. He has recommended that this issue be referred to the Minister of Justice with a view to ascertaining if a change needs to be made to the Crimes Act 1961 to prevent "claim of right" being used in similar circumstances in the future.
6. Consideration will now be given to commencing civil proceedings against the three acquitted persons to seek judgment for the \$1.1m damage they caused by their actions.

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