

Kenneth J Landaus

1/19 Sheehan Street, Milton, Brisbane 4064, Australia

15 August 2000

Graham Thomas
Superintendent
Ministerial Adviser
New Zealand Police
PO Box 3017
Wellington
NEW ZEALAND

Dear Superintendent Thomas

COMPLAINT - ALLEGED BREACH OF THE MINING ACT

Thank you for your letter of 7 August 2000.

Although you have advised me that it is considered that this is not a matter for the Police to investigate, I wish to raise the following matters for your consideration.

The reason I have made this complaint is because the Chief Ombudsman has stated that he cannot rule on the actions of Ministers of the Crown, especially resolving questions of law where this may involve determining which of two (or more) possible interpretations of statutory law is correct.

The point I make is that pursuant to the Ombudsmen Act, I have no recourse on their final report to reiterate that neither the Office of the Minister or the Ministry have ever put forward an interpretation other than provide a date line of events and to state they have not breached statutory law. The previous Minister of Enterprise and Commerce refused comment on the matter.

I obtained a legal opinion, which advises me that clearly on the provisions of the Acts I could privately prosecute for a breach of the Act and apply for a penalty pursuant to S234 of the Mining Act. On these provisions I could also lodge a claim against the Attorney General for a breach of statutory duty on the basis that S109 was not adhered to.

The Ministry have clearly indicated to both myself and the Office of the Ombudsmen that they have advised the Ministers concerned of all matters that should be attended to. More recent correspondence from both the Ministry of Economic Development and the Chief Ombudsman does confirm the then Minister of Commerce did not adhere to the provisions of the Act.

I don't see why I should have to bring this matter before the High Court for a ruling when it is very obvious to all parties concerned.

My understanding of the law is that if a complaint is lodged with the Police with more than ample evidence that a statutory law may have been breached in the process of drafting a new Act such as the Ngai Tahu (Pounamu Vesting) Act and the office responsible for administering those Acts does not investigate then the Police should in turn investigate why the department responsible has not acted according to law.

This is the specific reason I have redirected my complaint to your office.

I intend to take up your advice and raise the issue once again with the Ministry but am sure it will be to no avail and will have to leave this complaint with your office until it is raised again in the Courts.

Yours sincerely

Kenneth J Landaus