

<p>HE AHA/ WHAT:</p> <p>SOE's case & the principles of the Treaty</p>	<p>I HEA/ WHEN:</p> <p>1987</p>	<p>KEI HEA/ WHERE:</p> <p>Wellington</p>
<p>KO WAI/ WHO:</p> <p>NZ Māori Council Attorney General NZ Government</p>  <p>The treaty text itself is not regarded as a law because:</p> <ul style="list-style-type: none"> the English and Māori versions do not have exactly the same meaning it focuses on the issues relevant at the time it was signed. <p>Instead, the intentions and goals of the treaty are taken into account.</p>	<p>HE AHA AI/ WHY:</p> <p><i>New Zealand Māori Council v Attorney-General</i>, also known as the "Lands" case or "SOE" case, was a seminal New Zealand legal decision marking the beginning of the common law development of the principles of the Treaty of Waitangi.</p> <p>In what became the first of many similar provisions in other acts, Section 9 of the State-Owned Enterprises Act stated, 'Nothing in this Act shall permit the Crown to act in a manner that is inconsistent with the principles of the Treaty of Waitangi.'</p> <p>The Act did not define what the Principles of the Treaty of Waitangi were, so this case defined the Principles.</p> <p>A major issue raised by the State-Owned Enterprises Act 1986 was whether the transfer of land and other assets such as Forestry Corporation or Land Corporation to state-owned enterprises could proceed without taking account of the Crown's obligations to Māori under the Treaty of Waitangi. The NZMC feared that land or assets would not be available for treaty settlements.</p> <p>In short, the Crown was selling State Owned Assets that Māori believed should be made available to Māori as part of treaty settlements. The NZMC argued that to do so was inconsistent with the principles of the Treaty.</p> <p>In June 1987, six months after the passage of the Act, the Court of Appeal ruled that the transfer of specific assets to state-owned enterprises could not proceed without a system in place to consider whether it would be consistent with the principles of the Treaty.</p> <p>The following year, the Act was amended to make land transferred from the Crown to state-owned enterprises subject to 'resumption', whereby it was still available for treaty claims. These decisions paved the way for some significant Māori claims over land and assets vested in state-owned enterprises.</p>	

<p>X</p>	<p>In their judgments the Court recognised a number of principles of the Treaty of Waitangi, including,</p> <ul style="list-style-type: none"> • <u>The treaty set up a partnership, and the partners have a duty to act reasonably and in good faith.</u> • <u>The Crown has a duty to actively protect Māori interests.</u> • <u>Participation: The Crown has a duty to consult with Māori.</u> • <u>The Crown has freedom to govern.</u> • Māori retain rangatiratanga over their resources and taonga and have all the rights and privileges of citizenship. • The needs of both Māori and the wider community must be met, which will require compromise. • The Crown cannot avoid its obligations under the treaty by conferring authority on some other body. • The treaty can be adapted to meet new circumstances. • Tino rangatiratanga includes management of resources and other taonga according to Māori culture. • Taonga include all valued resources and intangible cultural assets. • The Crown has a duty to remedy past breaches.
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