

IN THE HIGH COURT OF THE COOK ISLANDS
HELD AT RAROTONGA
(ELECTORAL COURT)

MISC NO: 39/2014

IN THE MATTER of Section 92 of the
Electoral Act 2004

AND
IN THE MATTER of an election of Members of
Parliament of the Cook
Islands held on 9th July 2014

BETWEEN **TEREAPII PIHO**, Candidate
Petitioner

AND **HENRY PUNA**, Candidate
First Respondent

AND **CHIEF ELECTORAL**
OFFICER
Second Respondent

AND **RETURNING OFFICER**
FOR THE MANIHIKI
CONSTITUENCY
Third Respondent

AND **REGISTRAR FOR THE**
MANIHIKI
CONSTITUENCY
Fourth Respondent

AND **CHIEF REGISTRAR OF**
ELECTORS
Fifth Respondent

Hearing: 10 September 2014
Counsel: Mr Mitchell and Mrs Browne for Petitioner
Mr Manarangi for 1st Respondent
Solicitor General (Mrs Saunders) and Ms Evans for 2nd – 5th
Respondents

Judgment: 10 September 2014

JUDGMENT OF THE HONOURABLE CHIEF JUSTICE TOM WESTON

Introductory observations

[1] I am giving this oral decision immediately following closing submissions at the end of the second day of hearing of this petition. I'm conscious in delivering this decision that, yesterday morning, I delivered a decision in the Penryhn case which has traversed some of the territory that I need to cover here. I am also conscious that, in the case of the Penryhn decision, I spoke of the technology which we had used in order to facilitate this hearing and I do not need to repeat what I said at that time. The technology has enabled us to conduct this hearing from Rarotonga with the assistance of witnesses in Manihiki. Indeed, as I am delivering this oral decision, I am conscious that the Manihiki team is still on-line and able to listen and watch as best they can. I do need to note that the quality of the skype link today has been diminished compared to that of the previous two days of use. There have occasionally been long delays between both Rarotonga and Manihiki. However, that became clear to me reasonably early on and I have been able to adjust for it in my assessment of witnesses.

[2] Generally, I feel I have been able to make a full and proper assessment of the credibility of witnesses. This is a case where I am required to make such an assessment as I will shortly explain.

[3] The case falls into two halves. First of all, there is the qualification challenge and, secondly, there is a bribery challenge. Yesterday, I gave some preliminary indications as to the outcome of the qualification challenges following the hearing of the various people listed in the petition. This was to enable Mr Manarangi to decide whether he wished to proceed with his cross-petition at the time. As a result of my indications, he decided not to do so. Strictly speaking, he has reserved his position and I note that that reservation continues notwithstanding this judgment. In other words, it does not merge in the judgment should at any time it be necessary to re-visit those challenges.

The qualification challenges

[4] The easiest way to address the qualification challenges is to go through each of the six challenges that remain alive. The first four of those are allegations that people who did vote should not have done so. The fifth and sixth allegations concern people whose votes were disallowed where the petitioner says they should have been allowed as being proper votes. I now address each of the six people in turn.

[5] The first person challenged was Ms Kairenga Simiona. She gave evidence of a history of miscarriages. She explained that she fell pregnant in November 2013 and, within a short time, medical testing proved that she was pregnant. She left Manihiki for Rarotonga on 27 November 2013. There was an issue as to whether she left primarily for the purpose of going to an unveiling in Atiu, but this proposition was not put to her and at the end of the day I can reach no final view as to the primary reason for her leaving. I am satisfied though that one of the reasons for her leaving Manihiki for Rarotonga was because of her desire to be near medical attention should she have complications with her pregnancy.

[6] Whatever the exact reasons for her departure, it is clear that, by March 2014, which is getting to be a material date, she was under medical advice. She attended the ante-natal clinic for the first time on 17 March. Then, as a letter dated 13 May 2014 says, she thereafter remained under the direction and control of the ante-natal clinic. That letter from the hospital speaks of her being a high risk patient and a recommendation was made for her to stay in Rarotonga for her safe delivery.

[7] There seem to be a number of issues concerning this voter. First, it was asked whether she received medical treatment here in Rarotonga. I am satisfied that she did. She attended the ante-natal clinic and she was under medical supervision. I do not believe that the expression “medical treatment” only contemplates invasive medical procedures. It must be given a proper and fair interpretation. I do not wish to take a strict view of this interpretation so that women in the outer Islands feel that they cannot come to Rarotonga in order to ensure that vulnerable pregnancies are properly managed. Consequently, I conclude that by at least March (but possibly

earlier) she did fall within in the terminology at section 7(6) of being in Rarotonga for medical treatment.

[8] While she did apparently leave Manihiki in November 2013 for mixed purposes, I believe that if she were thereby disqualified as an elector, she certainly re-qualified in March (in effect s.7(6) deems her to be in Manihiki) and therefore that any vote that she subsequently made in the Manihiki constituency was a relevant one. So I do not uphold the challenge to her vote.

[9] The second challenge concerned Mr Tahiri Mehau. He gave evidence of medical reasons to be out of the constituency. He was away for six months. One of the reasons that he said that he went was to have his hearing aids adjusted but it turns out that he left his hearing aids behind when he went to New Zealand. While I can understand that Mr Mehau might have wished to go to New Zealand, both to check up on his hearing problems and his wider health issues, I do not believe he falls within the exclusion in section 7(6). Therefore in his case, I uphold the challenge to his voting.

[10] The third elector under challenge was Navakatini Greig. He gave evidence of being in New Zealand in January in relation to an illness like a stroke, as he put it. It seems he was in hospital for a week. Then he came back to Rarotonga once that problem was addressed and underwent some extensive dental procedures in March and April. He returned to Manihiki on 14 May. I am satisfied that Mr Greig does fall within the medical treatment category in section 7(6) and I allow his vote.

[11] The fourth voter under challenge was Louisa Mairi who was said by the petitioner to be of unsound mind. I note at the outset that there is no legal definition in the Electoral Act of this term. Counsel have referred to provision in the Cook Islands Act which allows for a declaration to be made that a person has an unsound mind for relevant purposes. I do not know whether that would apply to the electoral law but, in any event, no such declaration has been made. I was most impressed by the evidence given by the nurse Elina Henry. She was a powerful and convincing witness. While she acknowledged that Louisa Mairi suffered from Alzheimer's, and had some bad days and could be forgetful, I did not gain the impression that Louisa

Mairi would fall within any concept of unsound mind. It may be that, as her condition progresses, she will be considered at some point to be of unsound mind.

[12] I am conscious in assessing this issue that she asked to vote and, obviously, in order to do so, must have had some concept of voting and of her desire to exercise her franchise. Her son, Trainee Samson, gave evidence of that conversation.

[13] Ultimately, the challenge to her vote comes down to the proposition that because she voted for Mr Puna from the Cook Islands Party, rather than for someone from the Democratic Party for whom she normally voted, that was clear evidence of her unsound mind. I do not accept that proposition. If I were to reach a view that a voter was of unsound mind, I would need to have compelling medical evidence in order to reach such a conclusion. It is not sufficient to reach that conclusion on the basis of lay evidence, particularly where the nursing evidence from Ms Henry leaves considerable doubt as to whether one would go so far as to say that this person was of unsound mind. Mr Manarangi reminded me that, in order to disenfranchise a voter, I would need to be quite certain that he or she was of unsound mind. I am not so certain and I do not reject this vote.

[14] That now leaves the final two electors who were challenged in relation to votes that they made which were disallowed.

[15] The first of these was Nancy Tiare Kora-Newnham whose vote was disallowed. She was in Rarotonga and voted, so she thought, in the Manihiki constituency. She gave evidence how she had been in Rarotonga from about December 2012 through until today's date with approximately a month in Manihiki somewhere between April and May of this year. None of the circumstances which called her to Rarotonga fits within the exclusions in section 7(6) of the Act and none was advanced. It was clear from her evidence that she was anxious to vote in the correct constituency and she engaged with officials to try and ensure that her vote was validly made. In my opinion, she did everything possible to try and get it right. Unfortunately, I believe she voted in the wrong place. She should have voted in a

Rarotonga constituency. I believe her vote was properly disallowed. So I do not accept this allegation in the petition.

[16] The last challenge was to Catherine Kaitara. She did not give evidence herself. Evidence was given on her behalf by her elderly father. With respect, it was not entirely helpful evidence, in part because some of it could only be given by way of hearsay. During the course of preparing for this hearing, I received amongst the materials that were sent to me, a letter prepared by Doctor Maea from the Ministry of Health in relation to Catherine. This was not formally produced before me. However, I am conscious that my jurisdiction is that of an inquiry and I think it would be short sighted if I were to pretend that somehow I had not seen that letter. It strikes me as being a relevant document. This document makes it clear that Catherine Kaitara had visited New Zealand to visit families and friends. It also makes it clear that, while impaired, she was under control by way of medication. It seems to me revealing that her father, when asked what happened when the medication ran out, said she does not let it run out, she goes to get some more. This seems to me to show someone who controls their medical condition. There seems to be no connection between her mental health issues in a real sense and her voting. Nor does it provide an explanation for her to be in New Zealand. As far as I can tell, this voter was in New Zealand at all material times and her vote was properly disallowed. Therefore the challenge to that is rejected.

[17] In the relation to the qualification challenges, we have reached this position. The fifth challenge made in relation to Dean, was conceded. I have allowed the challenge in relation to the second person listed Mr Mehau, so that means that two have succeeded. Those challenges are not enough to overcome the difference between the two candidates.

Bribery

[18] The bribery part of the petition has been argued today. During the course of that process, I have heard witnesses in both Rarotonga and Manihiki.

[19] I start by setting out section 88:

88. *Bribery* - Every person commits the offence of bribery who, in connection with any election -

(a) *directly or indirectly gives or offers to any elector any money or valuable consideration or any office of employment in order to induce the elector to vote or refrain from voting; or*

(b) *directly or indirectly makes any gift or offer to any person in order to induce that person to procure or endeavour to procure the return of any candidate or the vote of any elector; or*

(c) *upon or in consequence of any such gift or offer, procures or endeavours to procure the return of any candidate or the vote of any elector; or*

(d) *advances any money to any person with the intent that that money or any part thereof shall be expended in bribery within the meaning of this section; or*

(e) *being an elector, directly or indirectly receives or agrees to receive any gift, money, valuable consideration, office, or employment as aforesaid in return for voting or refraining from voting or for agreeing thereto.*

[20] The part of section 88 which is relevant is the reference to the making of an offer in order to induce an elector to vote. Here, as I will shortly explain, it is said that Mr Puna made an offer at a public meeting in order to induce the people present to vote for him.

[21] Originally, there were six allegations of bribery made in the petition. By the start of the hearing today, those allegations have reduced to two being paragraphs (b) and (f) in the petition as follows:

(b) *“On the 24th day of June 7pm at a public meeting held at Tauhunu, the first respondent offered every household in the electorate of Manihiki a 15 HP outboard engine if the first respondent was returned as the successful candidate”*

(f) *“Starting on 23rd April and completed on 3rd July, a Government programme commenced to repair aluminium boats in Manihiki. In all 85 boats were repaired and such repairs were paid for with public funds.”*

[22] Mr Manarangi sought further particulars of the first allegation and the response was made that further particulars could not be provided other than would

be included in the various witness statements that were then supplied. I will shortly describe those witness statements. In short, all of them referred to a statement allegedly made by Mr Puna with the clear inference that he would be reaching into his own pocket to pay for these outboard motors. Mr Puna had responded to these statements with his own affidavit refuting that allegation and explaining, again as I will say shortly, how the question of outboard motors arose. It was certainly signalled in that document, though, that he did not accept the allegation that he said anything about reaching into his own pocket.

[23] The petitioner has now sought to amend the allegation in the petition to make it clear that, not only was there an alleged reliance on private money (that is Mr Puna paying this himself), but that, as an alternative, it should be open to the petitioner to allege that Mr Puna made an offer that he would fulfil the offer by way of public funds. Mr Mitchell suggested that that expression could be introduced after “engine” in the pleading.

[24] Mr Manarangi opposed the amendment. I think the easiest way to address that application is as part of my overall assessment of the evidence and I’ll come back to it shortly.

[25] I was addressed by Counsel on the law. Mr Mitchell spent some time dealing with the Court of Appeal decision in *Wigmore v. Matapo* which I also addressed in the Penrhyn case. He referred to paragraphs [28], [40], [41] and [42] endeavouring to draw an analogy between the facts in that case involving pig digesters and the offer made in the present case. He emphasised the proximity between the alleged offer and the election. He accepted that, ultimately, the case turned on my assessment of the witnesses which I will discuss in a moment.

[26] Mr Manarangi, in his submission drew attention to the decision of the former Chief Justice in *Pitt v. Ioane (Misc 82/2006)* and referred to extracts on pages 15 and 16 to submit that there were three issues in play which were, first, whether an offer had been made; secondly, whether there was the necessary intention; and then, thirdly, whether the intention was to induce the voter to vote. It may be that the formula of words favoured by the former Chief Justice leads to the same thing but, it

seems to me, this case can usefully be thought about by focussing on two things. First of all, whether an offer was made within the terms of section 88 and, secondly, whether there was a significant intention to induce the vote using the language in *Wigmore v. Matapo*.

[27] I now turn to the two allegations. I start with the second of the two concerning the boat repair programme, because that is more straight forward than the first one concerning the outboard motors. I also start with it because it is part of the context for considering the allegation concerning the outboard motors.

[28] Prior to the hearing, Mr Neeves, the financial secretary, had supplied a brief of evidence. He was not available yesterday or today and, in his place, the petitioner called Peter Tierney from the Ministry of Finance who gave evidence about the processes in place which supported the boat repair programme. He said that the contract had been let in August 2013 which clearly shows that at least some steps had been taken prior to that time. It's clear to me that this is a long-standing programme and in no way can be suggested to be inspired as part of the election.

[29] Perhaps recognising this, Mr Mitchell sought to argue that once the election was called on or about 17 April, the outstanding work in the programme should have been delayed until after the election. With respect, that cannot be right. There is absolutely no connection in my opinion between this programme and the election. It is only by the most imaginative thinking that any connection can be made. I reject the allegation.

[30] I then turn to the more significant allegation involving the outboard engines. There is quite a bit of common ground between the parties as to what actually happened at the meeting on 24 June 2014. For example, it's clear that this was a public meeting at which Mr Puna was the speaker. There may have been about 50 or more people there and Mr Puna, it seems, spoke for around about an hour. It is clear that he did discuss 15 HP outboard engines because he accepts in his own evidence that he did so. Indeed, he went even further and said he was more specific than that because he talked about four stroke 15 HP engines. So those matters are

not really in dispute. What I need to assess is whether there was an offer made by Mr Puna and, if so, what was his intention in making that.

[31] The evidence that I will shortly discuss from the petitioner really deals with the form of the allegation as it stood in the beginning of the day. That is, that it was said that Mr Puna made an offer to use his personal funds to pay for the outboard motors. When Mr Puna gave evidence, and I will describe this later, I asked him how many households there were in Manihiki. He said there was some 73 or 74. I then asked him how much one of these outboards might cost. He said perhaps around about \$3,000.00 each. So, in order to put this in some context, if he had made a promise to reach into his own pocket to do this, the cost would be in excess of \$200,000.00 which by any standard is a very significant sum of money.

[32] The Petitioner called six witnesses on this topic. The first respondent then gave evidence and Ms Sheena John also gave evidence on his behalf. Mr Puna accepted that he had spoken about outboards and the main purpose of his evidence was to give the context in which he had spoken about them. He said once that context was properly understood then his comments, equally, could be understood.

[33] I heard a total of eight witnesses on this topic. Before I review these, I remind myself that in order to prove bribery, evidence to a high standard must be presented to the Court.

[34] The first witness for the petitioner was Mr Kaitara who gave evidence in a very halting and unsure way. I say that even putting to one side the question of delays on the skype link. It's obvious that he struggled in giving his evidence. I also had some uncertainties at the end of his evidence as to whether the written statement that he produced was written by him or not (it seems the petitioner was present at the time it was written). This statement was hand written in Maori and Mr Kaitara read it out. It appeared to me that he struggled in that reading but, nevertheless, I note that the English translation of that statement contained the clear assertion that Mr Puna had said, "If I am successful, I will buy a 15 HP outboard motor for each household".

[35] Mr Kaitara was cross-examined by Mr Manarangi as to the events on the evening of 24 June. It is clear that Mr Kaitara was present together with the second witness called, Mr Papapia Taraeka, who I will discuss shortly. Both of these were sitting some distance from Mr Puna at a range of figures between 20 and 30 metres. It is also established that there was a wind that evening which was noisy and that many people around them were speaking. What is odd is that the only thing that Mr Kaitara seems to have heard was the very precise statement that he has made in his evidence and which I have referred to above. He says that when he heard that said, both he and his friend looked at each other, but said nothing. As I will shortly say, however, his friend heard something different to that and it really doesn't seem entirely credible that the two of them simply looked at each other without more if in fact, Mr Puna had said what is now asserted.

[36] The second witness, Mr Taraeka, seems only to have heard Mr Puna say something about machines. When pressed by what they might be, he said perhaps they were boat machines, but he could not be sure. Even if I were to assume that the word 'machine' in Manihiki translates as an outboard engine, it is notable that Mr Taraeka is quite unsure as to what Mr Puna actually said.

[37] Like the previous witness, Mr Kaitara, this seems to have been the only thing that Mr Taraeka heard all evening. I look at the evidence of both of these witnesses. I think it useful to analyse them together. They both only heard the one thing, but it seems to differ as to what it was. The second of the two witnesses is quite unclear as to what was said. Assessing two of these together, I do not think they were very credible witnesses.

[38] I then turn to the third witness, Ms Ngari Tangiia. Her evidence took a long time to give. For much of that, I would describe her as anguished. She fidgeted a lot; she looked extremely uncomfortable and unhappy. She frequently mopped her face. When pressed to go further than her statement, she was most reluctant to do so and on some occasions refused to do so. I think all of that behaviour has an explanation which I will come to shortly. She said quite clearly in her evidence in chief that Mr Puna said at this gathering, "if I win, I will buy a 15 HP outboard motor for each household". For much of her evidence, she endeavoured to restrict what she was

saying simply to that proposition. However, under some skilful cross-examining by Mr Manarangi, she eventually conceded that Mr Puna's statement was made in another context, and that was in the context of the boat repair programme. It turns out that she had mentioned this in her original statement which she has since destroyed. Following intervention, it seems from Mr Piho, she prepared a second statement which did not contain that context. She was pressed as to why she had done this. She said because otherwise it would split the family. It turns out that she has a close association to Mr Piho and indeed one of her children may have been adopted by him.

[39] I note a considerable similarity between what she said Mr Puna had said and the very precise statement that Mr Kaitara also claimed to have heard. I have to say, with respect, there is an element of the evidence having been schooled. It just looks too convenient that the formula of words is almost identical and seems to correspond with the statutory requirements.

[40] I was greatly troubled by this witness. On the one hand, she gave very clear evidence as to what was said. On the other, I have real reservations about whether I heard anything approaching the full story. I also think it is significant that, when pressed, she was prepared to concede that the context of her statement involved the boat repair programme which coincides, as I will shortly explain, with what Mr Puna says. At this stage, then, I note I have reservations about this witness and I will return to that evidence.

[41] That then takes me to the fourth witness, Mr Jack Pokipoki. He too, gave very clear evidence as to what was said by Mr Puna. He was obviously an articulate and intelligent man, and he had a good grasp of English. He said that Mr Puna had said that he would buy a 15 HP outboard motor for each household if he gets back into politics. It might be observed that this form of words has quite a resemblance to that of the first and third witnesses that I have already discussed.

[42] But there is an interesting dimension to this witness. It was alleged by the first respondent that he was not actually at the meeting. It is said, instead, that he was playing cards at Mr Piho's place and that Mr Piho was there together with Ms

Sheena John. Mr Pokipoki denied this. He said that he went to the meeting at 7:00pm, shortly after it had started. In that respect, as Mr Manarangi notes, his evidence is in conflict with other witnesses. They speak of the meeting starting slightly later than that. Indeed, Mr Pokipoki is the only one who has it starting quite as early. I also note that there is a conflict between the evidence of the first two witnesses and Mr Pokipoki as to where the first two witnesses were sitting. While I accept Mr Mitchell's warning that one needs to be realistic about the accuracy of memories over time as to where people at a meeting are located, it seems to me there was quite a significant gap between where the first two people claim to have been sitting and where Mr Pokipoki said they were sitting. Those differences trouble me.

[43] It is probably sensible at this point also to address the evidence of Ms Sheena John even though it was called last in the sequence. Like many of the witnesses, there were aspects about what she said that were not entirely helpful. However, overall, I found what she did say useful. She explained that she was playing cards at Mr Piho's place on the evening of 24 June. She said that she went there with Thomas Kora, probably around about 7:30pm or perhaps 8:00pm and she left sometime after 10:00pm. While it turned out that she did not have a watch, she explained that she had a mobile and was able to tell the time from that. She accepted that she played cards many times at Mr Piho's. It was put to her she might be mistaken about which night she was talking about but she said she was not. She was very clear in her evidence that Mr Pokipoki had not left the card game during the period that she was there. If she were right as to this, Mr Pokipoki could not also have been at the meeting.

[44] I am faced here with a direct conflict. While Mr Mitchell was disparaging about Ms John, I prefer her evidence to that of Mr Pokipoki to the extent that I need to do so.

[45] That leaves two further witnesses for the petitioner to talk about. There was Maria Teama, who gave some peripheral evidence which I did not find helpful. That, of course, is not her fault. She was called to give such evidence as she could and she did that truthfully. It's just that the evidence was of no particular use.

[46] Finally, Mr Piho was called in relation to the card game. He was candid in his recollection of the evening. He said that card games occurred quite frequently at his house and that, amongst others, Mr Jack Pokipoki would be there. Indeed, that seems hardly surprising because Mr Pokipoki is an employee of Mr Piho and also lives in that house (which forms part of my assessment of Mr Pokipoki's credibility). Mr Piho was not able to recall accurately whether Mr Pokipoki had left from the card game that evening or not. As a consequence, it seems to me there is a proper basis for me to find, and I so find, that Mr Pokipoki was at the card game that evening rather than at the public meeting.

[47] I now turn to Mr Puna's evidence. He absolutely denied the allegation made in the petition that was put to him by Mr Manarangi in various different ways, just to make sure that there was no possible variation on a theme which was correct. Mr Puna denied all of those. Mr Puna referred to his affidavit and confirmed the truth of that. It's probably useful if I set out paragraph 20, because that is an important provision and he was cross-examined on it.

“ I also spoke about priorities for Manihiki. A priority policy would be to address the loss of people from Manihiki. The Manihiki Island Government is a significant employer and it was necessary to have a bread winner in every household to reverse this trend. In connection with this I mentioned it was important for each household to have a boat and outboard motor and that the boat repair project was a start to implementing this policy.”

[48] Mr Puna expanded upon this in evidence. Although he spoke of the meeting as a opportunity to present the record of his Government's achievements, ultimately he accepted that it was a campaign meeting, the point of which was to get people to vote for him. He said, however, he wanted to set out the record of achievement, and then set out a vision for the future. He talked about the boat repair programme. He repeated suggestions that had been made to him by electors in his constituency that the programme should be expanded so that each family could receive an outboard motor. He said that he told the meeting that the Government would do what it could to see if funding would be obtained for that. He explained that two potential funding sources were from an Indian fund and another from a Japanese fund.

[49] He gave evidence about the importance of boats to the people of Manihiki and said that, in many ways, they were comparable to a car or motor bike in Rarotonga. He said that they were relevant to his vision of retaining people in Manihiki. He explained that a 4 stroke 15 HP motor was desirable because it was environmentally better than a 2 stroke motor.

[50] He was cross-examined by Mr Mitchell. On several occasions, Mr Puna made it clear that he was a veteran of many previous petitions and indeed the case law shows that to be true. He said that he was very careful about what he said and was conscious that he could not, and should not, say anything that might amount to bribery. Towards the end of the cross-examination, he was asked whether the public could have been left with an impression they would receive outboard motors. He said that he did not guarantee it and said that what he could offer was that they would try and find funding sources to achieve that.


[51] At this point, I deal with the application by Mr Mitchell to widen the grounds of the petition. I reject that application. I think it is far too late in closing to endeavour to extend the ambit of such a serious allegation particularly when an affidavit from the first respondent gave a clear signal that this would be the approach taken by the first petitioner. As I go on to say, though, notwithstanding that I refuse this application, I do not actually think it would have made any difference to the outcome.

[52] I do not believe that Mr Puna made an offer in terms of section 88. I believe he spoke carefully as an experienced politician who knows where the line is drawn. Therefore, I do not think that that part of the statute is satisfied.

[53] In relation to any conflict between his evidence and that of the petitioner's (particularly Ms Tangiia) I prefer his evidence. I do not think that Mr Puna had an intention of inducing voters to vote for him by making a promise to supply outboard motors whether from his own personal money or from some public source of funds. As I have said, though, I've rejected any amendment to include the latter. I have no doubt whatsoever in my mind that Mr Puna did not say that he would personally supply an outboard to every household in Manihiki. I also think the sheer cost of the exercise being in excess of \$200,000.00 speaks for itself.

[54] For the reasons that I have endeavoured to summarise above, I reject this allegation in the petition. That means that the two surviving allegations of bribery have failed. Because of my decision in relation to the qualification challenges, it means that the petition overall has failed and that means that Mr Puna, as I apprehend it, remains the successful candidate.

[55] It seems to me that that leaves only the question of costs to be resolved. I reserve the question of costs, either to be agreed or if not agreed to be resolved following an exchange of memoranda.

A handwritten signature in blue ink, appearing to read 'Tom Weston, CJ', positioned above a horizontal line.

Tom Weston, CJ