IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC 54/2018
[2018] NZSC 125

BETWEEN	MATHIAS ORTMANN First Applicant
	BRAM VAN DER KOLK Second Applicant
	FINN HABIB BATATO Third Applicant
AND	UNITED STATES OF AMERICA First Respondent
	DISTRICT COURT AT NORTH SHORE Second Respondent

SC 55/2018

BETWEEN	FINN HABIB BATATO Applicant
AND	UNITED STATES OF AMERICA Respondent

SC 56/2018

BETWEEN	MATHIAS ORTMANN First Applicant
	BRAM VAN DER KOLK Second Applicant
AND	UNITED STATES OF AMERICA Respondent

SC 57/2018

BETWEEN	KIM DOTCOM Applicant
AND	UNITED STATES OF AMERICA Respondent

SC 58/2018

BETWEEN	KIM DOTCOM Applicant
AND	UNITED STATES OF AMERICA First Respondent
	DISTRICT COURT AT NORTH SHORE Second Respondent

Hearing:	5 December 2018
Court:	Elias CJ, William Young, Glazebrook, O'Regan and Ellen France JJ
Counsel:	G M Illingworth QC, P J K Spring and A K Hyde for Messrs Ortmann and van der Kolk A G V Rogers for Mr Batato R M Mansfield and S L Cogan for Mr Dotcom D J Boldt, F R J Sinclair and Z A Fuhr for United States of America
Judgment:	20 December 2018

JUDGMENT OF THE COURT

The Court has jurisdiction to hear the proposed appeals.

REASONS
(Given by William Young J)

The issue

[1] The United States of America has requested the extradition of the applicants. Following a lengthy hearing, Judge Dawson in the District Court determined that they were eligible for surrender; a determination made pursuant to s 24 of the Extradition Act 1999.[1] Section 68 of the Extradition Act provides for a right of appeal to the High Court against such determinations, a right which they exercised unsuccessfully.[2] The applicants were then given leave by the High Court to bring second appeals, on two questions of law, to the Court of Appeal.[3] Those appeals were pursuant to s 69(1)(p) of the Extradition Act and were also unsuccessful.[4]

[2] They now seek leave to appeal to this Court, but there is dispute whether there is jurisdiction to entertain the proposed appeals in respect of the extradition decision, a dispute which this judgment addresses.[5]

The key legislative provisions

[3] The Supreme Court is a creature of statute. Accordingly, an application for leave to appeal can only be granted where there is statutory jurisdiction to do so.[6]

[4] It is common ground that the case falls to be determined by reference to the law as it was when the extradition proceedings commenced, that is in 2012.[7] Importantly, this was before the Criminal Procedure Act 2011 came into effect on 1 July 2013.

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1 *United States of America v Dotcom* DC North Shore CRI-2012-092-1647, 23 December 2015.
2 *Ortmann v The United States of America* [2017] NZHC 189 (Gilbert J) [*Ortmann* (HC)].
3 *Ortmann v The United States of America* [2017] NZHC 1809 (Gilbert J).
4 *Ortmann v United States of America* [2018] NZCA 233, [2018] 3 NZLR 475 (Kós P, French and Miller JJ) [*Ortmann* (CA)].
5 As well as the appeals pursuant to ss 68 and 69 of the Extradition Act, there were also parallel judicial review proceedings in respect of the eligibility for surrender decision in the District Court. The judicial review applications were dismissed in the High Court and the Court of Appeal dismissed the applicants' appeals from that decision: see *Ortmann* (HC), above n 2, at [554]–[584]; and *Ortmann* (CA), above n 4, at [304]–[321]. The applicants seek leave to appeal to this Court in respect of the judicial review proceedings. There is an issue whether the proposed judicial review appeals are an abuse of process but we are not dealing with that question in this judgment. For a possible jurisdiction argument that might have been, but was not, raised in respect of the proposed judicial review appeals, see n 11 below.
6 *Jones v R* [2014] NZSC 85, [2014] 1 NZLR 838 at [12].
7 See Criminal Procedure Act 2011, s 397.

[5] In 2012, ss 7 and 10 of the Supreme Court Act 2003[8] provided:

> **7 Appeals against decisions of Court of Appeal in civil proceedings**
>
> The Supreme Court can hear and determine an appeal by a party to a civil proceeding in the Court of Appeal against any decision made in the proceeding, unless—
>
> (a) an enactment other than this Act makes provision to the effect that there is no right of appeal against the decision; or
>
> (b) the decision is a refusal to give leave or special leave to appeal to the Court of Appeal.
>
> **10 Appeals against decisions in criminal proceedings**
>
> The Supreme Court can hear and determine appeals authorised by—
>
> (a) Part 13 or section 406A of the Crimes Act 1961; or
>
> (b) section 144A of the Summary Proceedings Act 1957; or
>
> (c) section 10 or 10A of the Court Martial Appeals Act 1953.

[6] The Supreme Court Act defined "civil proceedings" as proceedings which are not criminal, but did not define criminal proceedings. The parties have proceeded on the basis that proceedings under the Extradition Act are criminal. The New Zealand jurisprudence on this issue arose in the context of the generally expressed right of appeal to the Court of Appeal conferred by s 66 of the Judicature Act 1908 and earlier provisions to the same effect. The position adopted by the courts was that s 66 did not extend to criminal cases,[9] which were held to encompass habeas corpus[10] and judicial review[11] proceedings issued in connection with extradition.

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8 The Supreme Court Act 2003 is applicable to this proceeding by reason of cl 10 of sch 5 to the Senior Courts Act 2016. See also *Sutcliffe v Tarr* [2017] NZCA 360, [2018] 2 NZLR 92.

9 See, for instance, *R v Clarke* [1985] 2 NZLR 212 (CA).

10 See *Ex parte Bouvy (No 3)* (1900) 18 NZLR 608 (CA) where there was no dispute that the proposed appeal was not civil in nature and thus could not be brought under s 15 of the Court of Appeal Act 1882, the precursor to s 66 of the Judicature Act.

11 See *Edwards v United States of America* CA6/02, 22 August 2002. On the reasoning adopted in that case, it might have been argued that the judicial review proceedings in respect of the eligibility for surrender decision should also be regarded as criminal. This argument, however, was not advanced. Given the approach taken generally in these reasons and the very different statutory context as to rights of appeal which now obtains, we see no utility in reviewing that argument.

[7] Some doubt as to this was, however, expressed by Cooke P in *Flickinger v Crown Colony of Hong Kong*.[12] He saw force in the argument that:[13]

> … to give full measure to the rights specified in s 23(1)(c) [of the New Zealand Bill of Rights Act 1990], s 66 of the Judicature Act should now receive a wider interpretation than has prevailed hitherto.

However, final resolution of the issue was not necessary in the context of the particular case.

[8] As well, the approach taken by this Court in *Mafart v Television New Zealand Ltd*[14] suggests that in the case of proceedings which are not criminal in the orthodox sense, caution is required before adopting a criminal classification which has the effect of precluding appeal.[15] In that case, a contested application for access to court exhibits in criminal proceedings was held to be civil in character.[16]

[9] In the very particular statutory context of the Supreme Court Act, we consider that a strong argument could be made for the view that "criminal proceedings" are confined to proceedings under the three statutes referred to expressly in s 10. This interpretation would explain why there is no stand-alone definition of "criminal proceedings". It also is consistent with the deliberate policy – adopted in the Supreme Court Act but now somewhat relaxed – of excluding rights of appeal to the Supreme Court in respect of, for instance, decisions of the Court of Appeal on interlocutory criminal appeals.[17] If this view is correct, there is, as we will explain, a right of appeal to this Court under s 7 of the Supreme Court Act.[18] What is meant by "criminal proceedings" could conceivably be of significance in future cases; this given that ss 65–71 of the Senior Courts Act 2016, in providing for the jurisdiction of this Court, still draw a distinction between civil and criminal proceedings. So, it is appropriate to flag that there remains an issue as to what constitutes "criminal proceedings".

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12 *Flickinger v Crown Colony of Hong Kong* [1991] 1 NZLR 439 (CA). See also *R v B* [1995] 2 NZLR 172 (CA) at 179 per Cooke P.
13 *Flickinger*, above n 12, at 441.
14 *Mafart v Television New Zealand Ltd* [2006] NZSC 33, [2006] 3 NZLR 18.
15 At [31]–[39].
16 At [40].
17 *Jones*, above n 6, at [23].
18 See below at [28].

[10] It not having been argued that s 7 applies, we propose to deal with the issue under s 10 – that is, on the basis that extradition proceedings are criminal in nature for the purposes of the Supreme Court Act. On this basis, the case turns on whether the proposed appeals are "authorised by" s 144A of the Summary Proceedings Act 1957.

[11] The relevant provisions of the Extradition Act were as follows:

> **68 Appeal on question of law only by way of case stated**
>
> (1) This section applies if a District Court determines under section 24 or section 45 that a person is or is not eligible for surrender in relation to any offence or offences for which surrender is sought, and either party considers the determination erroneous in point of law.
>
> (2) If this section applies, the party may appeal against the determination to the High Court by way of case stated for the opinion of the High Court on a question of law only.
>
> …
>
> **69 Application to appeal of certain provisions of Summary Proceedings Act 1957 …**
>
> (1) The following provisions of the Summary Proceedings Act 1957 … apply with any necessary modifications to an appeal under this Part as if it were an appeal under Part 4 of that Act against the determination by a District Court of an information or complaint:
>
> (a) section 107(3) to (8) (Appeal on question of law only by way of case stated):
>
> …
>
> (p) section 144 (Appeal to Court of Appeal).

These sections had not been materially amended since the enactment of the Extradition Act.

[12] Section 107 of the Summary Proceedings Act provided for appeals to the High Court against determinations of the District Court by way of case stated. And s 144 of the Act provided a right of appeal (with leave) from decisions of the High Court on appeal to the Court of Appeal. This section and ss 144A and 144B provided:

> **144 Appeal to Court of Appeal**
>
> (1) Either party may, with the leave of the High Court, appeal to the Court of Appeal against any determination of the High Court on any case

stated for the opinion of the High Court under section 107 or against any determination of the High Court on a question of law arising in any general appeal:
provided that, if the High Court refuses to grant leave to appeal to the Court of Appeal, the Court of Appeal may grant special leave to appeal.

(2) A party desiring to appeal to the Court of Appeal under this section shall, within 21 days after the determination of the High Court, or within such further time as that court may allow, give notice of his application for leave to appeal in such manner as may be directed by the rules of that court, and the High Court may grant leave accordingly if in the opinion of that court the question of law involved in the appeal is one which, by reason of its general or public importance or for any other reason, ought to be submitted to the Court of Appeal for decision.

(3) Where the High Court refuses leave to any party to appeal to the Court of Appeal under this section, that party may, within 21 days after the refusal of the High Court or within such further time as the Court of Appeal may allow, apply to the Court of Appeal, in such manner as may be directed by the rules of that court, for special leave to appeal to that court, and the Court of Appeal may grant leave accordingly if in the opinion of that court the question of law involved in the appeal is one which, by reason of its general or public importance or for any other reason, ought to be submitted to the Court of Appeal for decision.

144A Appeal to Supreme Court

(1) With the leave of the Supreme Court, either party may appeal to the Supreme Court against—

…

(c) a decision of the Court of Appeal on an appeal under section 144(1).

…

144B Powers of Court of Appeal and Supreme Court on appeal

On an appeal under section 144 or section 144A to the Court of Appeal or the Supreme Court,—

(a) the court appealed to has the same power to adjudicate on the proceeding that the High Court had; and

(b) the same judgment must be entered in the High Court, and the same execution and other consequences and proceedings follow, as if the decision of the court appealed to had been given in the High Court.

[13] The jurisdiction issue thus comes down to whether the judgment of the Court of Appeal under appeal was, for the purposes of s 144A(1)(c), "a decision … on an appeal under section 144(1)".

The competing positions of the parties

[14] For the United States, Mr Boldt's essential argument was along these lines:

(a) An appeal under s 144(1) was an appeal against a decision of the High Court made under the provisions of the Summary Proceedings Act dealing with appeals in respect of summary trials – that is appeals by way of case stated under s 107 or general appeals under s 115.

(b) The appeals to the Court of Appeal in this case were against a decision of the High Court made under s 68 of the Extradition Act and were authorised by s 69(1)(p).

(c) Those appeals resulted in a decision of the Court of Appeal which was not a decision under s 144(1); this because:

(i) the appeals were not against a decision of the High Court in respect of summary proceedings;

(ii) although required to be dealt with by the Court of Appeal as if under s 144(1), the appeals were not deemed by s 69(1)(p) of the Extradition Act to be under s 144(1); and

(iii) s 69(1)(p) referred only to s 144 and not to s 144A, which is the section which authorised appeals to this Court.

[15] Mr Illingworth QC, who took primary responsibility for putting the position of the applicants to us, advanced a number of arguments, only one of which we need to address directly. This was that, for the purposes of s 144A(1)(c), an appeal provided for by s 69(1)(p) of the Extradition Act, and required to be dealt with "as if" an appeal under s 144, was a "decision … on an appeal under section 144(1)".

A little more context

Adoption by other statutes of the procedures provided for by Part 4 of the Summary Proceedings Act

[16] Part 4 of the Summary Proceedings Act provided for appeals from the District Court to the High Court (either by way of case stated or general appeal) and, pursuant to s 144, for appeals, by leave, to the Court of Appeal.

[17] There were a number of other statutes which provided for appeal rights and which provided for such rights by adopting aspects of the Part 4 procedures. By way of example, s 121 of the Medical Practitioners Act 1995 provided for appeals from the District Court on questions of law, with subs (3) providing:

> The provisions of Part IV of the Summary Proceedings Act … so far as they relate to appeals by way of case stated on questions of law only, shall apply, so far as they are applicable and with all necessary modifications, to every appeal under this section.

By way of further example, the Resource Management Act 1991 provided, in some detail, for a right of appeal from the Environment Court to the High Court but then went on to provide for a right of further appeal to the Court of Appeal in s 308, which provided:

> **308 Appeals to the Court of Appeal**
>
> (1) Section 144 of the Summary Proceedings Act 1957 applies in respect of a decision of the High Court under … this Act as if the decision has been made under section 107 of the Summary Proceedings Act 1957.
>
> …

[18] As these two examples illustrate, the language used to borrow Part 4 procedures varied from statute to statute. Sometimes, as with the Resource Management Act and the Extradition Act, direct provision was made for appeals to the High Court but with appeals to the Court of Appeal being provided for by reference to s 144. In other instances, as with s 121(3) of the Medical Practitioners Act, the reference was broader and incorporated the whole of the Part 4 procedure. Before the establishment of the Supreme Court, both models produced the same practical effect in terms of appeal rights. If the appeal provisions of the Extradition Act had been

modelled on s 121(3), there would be no question as to the jurisdiction to hear the proposed appeals.[19]

The position under the Extradition Act and Summary Proceedings Act as it was prior to the establishment of the Supreme Court

[19] Prior to the establishment of this Court, rights of appeal in extradition cases were governed by ss 68 and 69(1)(p) of the Extradition Act, which were in the same terms as set out above, and s 144 of the Summary Proceedings Act. Section 144(1), (2) and (3) were as set out above but the section also contained subss (4), (5) and (6). These were in the following terms:

> (4) On any appeal to the Court of Appeal under this section, the Court of Appeal shall have the same power to adjudicate on the proceedings as the High Court had.
>
> (5) The decision of the Court of Appeal on any appeal under this section shall be final; and the same judgment shall be entered in the High Court, and the same execution and other consequences and proceedings shall follow thereon, as if the decision of the Court of Appeal had been given in the High Court.
>
> (6) The decision of the Court of Appeal on any application to that Court for leave to appeal shall be final.

The effect of the legislative changes made in 2003

[20] As part of the legislative changes enacted when this Court was established:

(a) s 144 was amended by the deletion of subss (4)–(6);

(b) provision was made for an appeal to this Court by s 144A; and

(c) s 144B was inserted picking up the subject matter of the former s 144(4) and part of s 144(5) but incorporating references to the Supreme Court.

[21] No amendments were made to ss 68 and 69 of the Extradition Act.

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19 *Dr C v A Complaints Assessment Committee* [2005] NZSC 56.

The legislative history of the 2003 changes

[22] When the Supreme Court Bill was introduced in 2002, it proposed a new s 144 of the Summary Proceedings Act in these terms:[20]

> **144 Appeal to Court of Appeal or Supreme Court**
>
> (1) Either party may, with the leave required by this section, appeal to the Court of Appeal or the Supreme Court against—
>
> (a) a determination of the High Court on a case stated for its opinion under section 107; or
>
> (b) a determination of the High Court (other than a determination made on an interlocutory application (within the meaning of the Supreme Court Act 2002)) made in a general appeal.
>
> (2) Either party may, with the leave required by this section, appeal to the Supreme Court against a decision of the Court of Appeal on an appeal under subsection (1).
>
> (3) An appeal to the Court of Appeal cannot be brought without—
>
> (a) the leave of the High Court; or
>
> (b) the special leave of the Court of Appeal, given after the High Court has refused leave.
>
> (4) An appeal to the Supreme Court cannot be brought without the leave of the Supreme Court.
>
> (5) A party wishing to appeal to the Court of Appeal under this section against a determination must, within 21 days after the determination, or any further time the High Court allows, give notice of application for leave to appeal in the manner directed by the rules of the High Court.
>
> (6) Within 21 days after the refusal of the High Court to give leave, or any further time the Court of Appeal allows, the applicant may apply to the Court of Appeal, in the manner directed by the rules of that court, for special leave to appeal to that court.
>
> (7) The High Court must not grant leave, and the Court of Appeal must not grant special leave, unless satisfied, as the case may be, that—
>
> (a) a question of law involved in the proposed appeal is one that, because of its general or public importance or for any other reason, should be decided by the Court of Appeal; or
>
> (b) there would arise in the proposed appeal a question of fact so important that it should be considered or reconsidered by the Court of Appeal.

[20] Supreme Court Bill 2002 (16–1), sch 1.

(8) On an appeal under this section—

(a) the Court of Appeal or Supreme Court has the same power to adjudicate on the proceeding that the High Court had; and

(b) the same judgment must be entered in the High Court, and the same execution and other consequences and proceedings follow, as if the decision of the Court of Appeal or Supreme Court had been given in the High Court.

[23] As will be apparent, during the parliamentary process, the proposed s 144 was split into three with:

(a) the repeal of s 144(4)–(6) and the truncated s 144 dealing only with appeals to the Court of Appeal;

(b) provision for appeal to the Supreme Court being made separately in s 144A; and

(c) what was s 144(8) becoming s 144B but with amendments to pick up the new role of the Supreme Court.

[24] We were offered two, sharply conflicting, explanations for this splitting up of the proposed s 144:

(a) According to the applicants, the most probable reason was for ease of reading.

(b) In contradistinction, Mr Boldt maintains that the purpose was to defer consideration whether there should be a further right of appeal to this Court in respect of the many statutes which had provided for appeal rights by reference to s 144.

There is not a clear explanation in the legislative history as to why the originally proposed s 144 was split up and we do not regard either of the explanations advanced as convincing.

[25] The form of s 144 as proposed in the Supreme Court Bill was not particularly complex. And, at least at a reasonable level of generality, it was similar to s 385 of the Crimes Act 1961 which provided for rights of appeal to the Supreme Court in respect of cases dealt with on indictment. So the idea that the proposed s 144 was split into three sections for ease of reading is not compelling.

[26] Mr Boldt stressed that the amendments ultimately made as part of the introduction of the Supreme Court Act included s 60 of the Legal Services Act 2000 which had originally provided a right of appeal to the Court of Appeal by reference to s 144. The amended s 60 expressly provided for a right of appeal to the Supreme Court and included reference to s 144A. Mr Boldt's position was that the failure to make a similar amendment to s 69(1)(p) of the Extradition Act suggests a deliberate decision to preclude appeals to the Supreme Court.

[27] We see the amendment of s 60 of the Legal Services Act as providing limited assistance:

(a) Under the schedules to the Supreme Court Bill as introduced, the proposed s 144, in combination with the existing s 60, would have undoubtedly created a right of appeal to the Supreme Court.

(b) The New Zealand Law Society made what was in effect a tidying up suggestion to the effect that the text of s 60 (which referred only to appeals to the Court of Appeal) should be amended to reflect the proposed amendments to s 144. It suggested that such an amendment might be required in a number of other statutes.

(c) The amendments to s 60 both as proposed and as enacted were unnecessary as the effect of the removal of the finality provision in s 144 – being the old s 144(5) – meant that a right of appeal to the Supreme Court was provided directly under s 7 of the Supreme Court Act. This means that the amendment as passed was premised on a legislative misunderstanding.

(d) As Mr Illingworth suggested, the fact that the Legal Services Act appeared in the schedules to the Supreme Court Bill and, in particular, the submission made by the New Zealand Law Society gave s 60 a degree of salience which provides a reasonable explanation for the particular attention paid to it by the legislature.

[28] The point we have just made in [27](c) in relation to the Legal Services Act warrants brief explanation. Under s 144, as amended, there was no finality provision. Unless the proceedings could be classified as criminal, s 7 of the Supreme Court Act created a further right of appeal to the Supreme Court. This is illustrated by cases under the Resource Management Act.[21] So to pick up a point made earlier – if the current extradition proceedings were not regarded as "criminal proceedings", there would be a right of appeal to this Court under s 7 of the Supreme Court Act.

[29] Against that background, the splitting up of the proposed s 144 into ss 144–144B could not, sensibly, have been seen as likely to exclude many appeals to the Supreme Court. In proceedings which were not criminal and governed by a statute that made reference to s 144, the absence of a finality provision in that section meant s 7 of the Supreme Court Act provided for a right of appeal. And in cases in which appeal rights were conferred by reference to the whole of Part 4, such a right of appeal was automatically conferred in any event. The policy postulated by Mr Boldt could thus have had, at best, an extremely narrow focus; that of excluding appeals in cases which although not brought directly under the Crimes Act, s 144A of the Summary Proceedings Act, or the Court Martial Appeals Act 1953, were nonetheless "criminal" and thus not provided for under s 7 of the Supreme Court Act.

The current position

[30] Since 1 July 2013 (which is when the relevant provisions of the Criminal Procedure Act 2011 came into effect), the position has been as follows:

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[21] See, for example, *Waitakere City Council v Estate Homes Ltd* [2006] NZSC 112, [2007] 2 NZLR 149 where there was no impediment to the Supreme Court hearing a third appeal against a decision of the Environment Court.

(a) Under s 69 of the Extradition Act, an appeal in respect of a surrender decision is dealt with as if it was an "appeal under subpart 8 of Part 6 of the Criminal Procedure Act 2011 against the determination by the District Court of a charge for an offence".

(b) Subpart 8 of Part 6 of the Criminal Procedure Act provides for a right of appeal to this Court against decisions of the Court of Appeal.[22]

(c) Section 71 of the Senior Courts Act 2016 confirms that the Supreme Court has jurisdiction to hear appeals authorised by Part 6 of the Criminal Procedure Act.

So if the applicants' appeal rights fell to be determined under the current law, this Court would have jurisdiction to hear their proposed appeals.

Our views

[31] The applicants' argument depends on the conclusion that a decision on an appeal to the Court of Appeal required to be dealt with "as if" under s 144 of the Summary Proceedings Act is, for the purposes of s 144A(1)(c), "a decision … on an appeal under section 144(1)". On a very strict approach to the statutory language, it can be said – as the United States asserts – that the decision of the Court of Appeal was "on an appeal under s 69(1)(p) of the Extradition Act". But given that s 144 applied to the appeal, it is not an abuse of the language to say that it was also under s 144(1).

[32] In cases which are criminal in the orthodox sense of being brought under the Crimes Act, the Court has been careful to observe the jurisdictional limitations imposed by Parliament.[23] And, similarly, finality provisions have been respected.[24] But in other cases a reasonably generous approach to jurisdiction has been adopted.[25] Treating the appeals in this case as having been under s 144 is consistent with that

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22 Criminal Procedure Act 2011, s 309.
23 See *Jones*, above n 6.
24 *J (SC 93/2016) v Accident Compensation Corp* [2017] NZSC 3 at [9].
25 See *Guo v Minister of Immigration* [2015] NZSC 76, [2015] 1 NZLR 732 at [17] and [18]; and *Mafart*, above n 14, at [37].

approach. As well, it avoids what would otherwise be a surprising anomaly in respect of extradition. If extradition proceedings were sufficiently criminal in nature to have been provided for in the Summary Proceedings Act, there would undoubtedly have been a right of appeal to this Court. If, on the other hand, they were not criminal in nature, then there would be a right of appeal under s 7 of the Supreme Court Act. The assumption on which we are deciding this issue – that extradition proceedings are criminal in nature – makes it all the more logical to treat the appeal as being under s 144. And, given the significance of extradition, there is no reason to suppose that the parliamentary purpose was to exclude a right of appeal to this Court. As to this, there is nothing in the parliamentary record to suggest an understanding that the amendments consequential to the enactment of the Criminal Procedure Act created rights of appeal to this Court which had not previously existed.

[33] Accordingly, we conclude that we have jurisdiction to entertain the proposed appeals.

Solicitors:
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