

## CHAPTER 10. ACCLIMATISATION AND WILDLIFE MANAGEMENT

### 10.1 Introduction

This chapter examines ideas and legislation surrounding animal protection in New Zealand, charting the change from protection of introduced species to protection of indigenous birds and the tuatara. Between the 1860s and the 1890s the Crown's emphasis was on protection of fish and game species acclimatised from overseas, but from the 1890s protection of indigenous birds was also incorporated into Crown policy. These policies were effected by the Acclimatisation Societies. With links to the Crown, the acclimatisation societies had a statutory role in the introduction, acclimatisation, and protection of wild game fauna under the Colonial Secretary's Office which became the Department of Internal Affairs in 1907. The societies were also involved in the introduction of other species and were later given the exclusive role of protecting indigenous wildlife. From the 1880s they were challenged by the conservationists who also had links to the Crown and who wanted protection of indigenous birds as a priority. In both phases, but especially the latter, Maori protested that their rights to indigenous fish and bird species, under the Treaty of Waitangi, were being denied them. The chapter first examines international conservation, with a brief opening section on the introduction of flora to New Zealand. It then looks at the acclimatisation movement in New Zealand and acclimatised 'pests' before considering animals protection legislation and its meaning for Maori.

As Ross Galbreath explains in his thesis on the relationships between colonisation, science, and conservation in the nineteenth century, the word 'acclimatisation' has a double meaning. Originally it meant the habituating of new species to a new climate and surroundings so that they might become established and 'naturalised'. That is the sense in which it is used in this chapter. But its meaning in New Zealand has now become restricted to the management of introduced fish and game species.<sup>1</sup> In a European context the changing meanings of 'acclimatisation' are even more complex.<sup>2</sup> Likewise, the word 'conservation' has gradations of

1. Ross Galbreath, 'Colonisation, Science and Conservation: the Development of Colonial Attitudes Towards the Native Life of New Zealand with Particular Reference to the Career of Walter Lawry Buller (1839-1906)', PhD thesis, University of Waikato, 1989, p 110

2. Christopher Lever, *They Dined on Eland*, London, Quiller Press, 1992, p vii

meanings. It can be used to mean permanent preservation and protection, or temporary protection for sustainable use. In this report the differing meanings are given in context.

## 10.2 International Acclimatisation

As Chapter Two explained, the introduction and acclimatisation of exotic species of flora and fauna to New Zealand began with Polynesian settlers. Species' introduction expanded with the first European explorers but exploded from 1840 as organised colonisation commenced. In part acclimatisers sought to create a 'Britain of the South' by transplanting 'everything of England, in short, but the soil' as New Zealand Company advertising expressed it in 1847.<sup>3</sup>

Species were released or grown for food, ornament, nostalgia, sport, and profit.<sup>4</sup> Whether a species successfully acclimatised depended on the species itself, the ecology of its new environment, and the amount of care it received. Maori, for example, ensured that efforts to acclimatise the potato were successful. Four decades after James Cook had given the potato and other vegetables to people in the Marlborough Sounds, potatoes continued to be grown there as well as at Otago Heads and Foveaux Strait. Maize, too, though less 'certain' a crop than potatoes, was successfully acclimatised by Maori in northern New Zealand as were turnips, cabbage, and pumpkins. These, along with new varieties of kumara and taro, were grown throughout New Zealand. But despite the new species Maori were cultivating, gardening tools and techniques remained more traditional. Because of tapu aspects of gardening, the European custom of fertilisation with animal manure was not adopted so readily. Missionary and settlers continued the acclimatisation of vegetables, fruit, flowers, berries, shrubs, and trees; the Wellington Horticultural and Botanical Society held its first exhibition of produce in 1842. But insect pests and diseases like woolly aphid and blight also acclimatised.<sup>5</sup> As soil and indigenous vegetation were disturbed, so-called 'adventive' flora expanded rapidly to become weeds. They had arrived as seeds embedded in sacks or as impurities in farm seeds and other cargo and acclimatised themselves.<sup>6</sup>

3. P Hamer, 'Nature and Natives: Settler Attitudes to the Indigenous in New Zealand and Australia', MA thesis, University of Victoria, 1992, p 35

4. R M McDowall, *Gamekeepers For the Nation: The Story of New Zealand's Acclimatisation Societies 1861-1990*, Christchurch, Canterbury University Press, 1994, p 17

5. Helen Leach, *1,000 Years of Gardening in New Zealand*, Wellington, A.H.&A.W.Reed Ltd, 1984, Chap 6

6. R H M Langer, *Pastures: Their Ecology and Management*, Auckland, Oxford University Press, 1990, p 17; G M Thomson, *The Naturalisation of Animals & Plants in New Zealand*, Cambridge, Cambridge University Press, 1922, p 528

### 10.3 International Acclimatisation as a Conscious Movement

For millennia plants and animals have been transferred from their original habitats as human beings moved about the globe. But with the scientific revolution, development of global capitalism, and creation of European colonies, such transferrals became matters of imperial policy. Species like breadfruit were transferred between colonies while 'New World' species were collected and removed to museums, universities, and botanical and zoological gardens in Europe. There they were systematically classified and 'named', studied, and bred for profit and pleasure.<sup>7</sup>

In 1854 in Paris, Isidore Geoffroy Saint-Hilaire formed the Société Zoologique et Botanique d'Acclimatation with a slightly different aim; to introduce, acclimatise, and domesticate 'new' plants and animals to Europe. Its primary purpose was to enrich France's food supply and economy but, in a wider sense, it was part of the western scientific idea of human progress. The society attracted titled and royal members and in its second year added 'Impériale' to its name. The French Acclimatisation Society set a precedent for others in Europe, including Britain where an acclimatisation society was founded in London in 1860. Its main aim was to domesticate animals like the kangaroo to enhance the British diet. Although this was generally ridiculed and the British Society lasted as an entity for only five years, the overall idea influenced and sustained acclimatisation societies in Australia and New Zealand. Indeed, in 1862, the Duke of Newcastle, a Patron of the British Society and Secretary of State for the Colonies, wrote to the Governors of British colonies to request their cooperation with the British Society's objectives.<sup>8</sup>

### 10.4 New Zealand Acclimatisation Societies

The earliest acclimatisation societies in New Zealand were formed in the 1860s but eventually covered the whole country. An Auckland Society was in existence in 1862 while a society in Nelson was formed in 1863. Otago and Canterbury formed in 1864; Southland in 1867; Westland, Wanganui and Hawke's Bay in 1868 and Wellington in 1871.<sup>9</sup> The Taranaki Acclimatisation Society was founded in 1874 and that of Tauranga in 1881.<sup>10</sup> By 1900 Northland, which had been covered by the Auckland Acclimatisation Society, had several societies of its own. The Bay of Islands District formed in 1895 and the Whangarei Acclimatisa-

7. Richard Grove, *Green Imperialism: Colonial Expansion, Tropical Island Edens and the Origins of Environmentalism, 1600-1860*, Cambridge, Cambridge University Press, 1995; Thomas R Dunlap, *Nature and the English Diaspora: Environment and History in the United States, Canada, Australia, and New Zealand*, Cambridge, Cambridge University Press, 1999, pp52-59; N Jardine, J A Secord, E C Spary (eds), *Cultures of Natural History*, Cambridge, Cambridge University Press, 1996; McDowall, Chap 2

8. Lever, Chaps 1-5; Galbreath, pp 118-123; for ideas of 'progress', see above, Chap 4

9. McDowall, pp 18-23, 368; Galbreath, p 121; Evaan Aramaku, 'Colonists and Colonials: Animals' Protection Legislation in New Zealand 1861-1910', MA thesis, Massey University, 1997, p 47. Apart from McDowall's history, Lever, Chap 14 on New Zealand, Ross Galbreath, *Working For Wildlife: A History of the New Zealand Wildlife Service*, Wellington, Bridget William Books Ltd and Historical Branch, Department of Internal Affairs, pp 1-8, and Janet Fay Swann, 'A Short History of the Otago Acclimatisation Society', MA thesis, University of Otago, 1962, there are also local histories. They include: The Society, *Ashburton Acclimatisation Society: 100 Years, 1886-1996*, [Ashburton], Ashburton Acclimatisation Society, 1986; W C R Sowman, *Meadow, Mountain, Forest and Stream: The Provincial History of the Nelson Acclimatisation Society, 1863-1968*, Nelson, Nelson Acclimatisation Society, 1981; Joyce M Wellwood, *Hawke's Bay Acclimatisation Society Centenary 1868-1968*, Hastings, Hawke's Bay Acclimatisation Society, 1968; Clifton R Ashby, *The Centenary History of the Auckland Acclimatisation Society, 1867-1967*, [Auckland], NP, [1967]; R C Lamb, *Birds Beasts and Fishes: The First Hundred Years of the North Canterbury Acclimatisation Society*, Christchurch, North Canterbury Acclimatisation Society, 1964; A H Stock, *History of the Southland Acclimatisation Society*, Invercargill, Southland Acclimatisation Society, 1916

10. Lever, pp 165-171

tion Society incorporated in 1896. The Hobson Acclimatisation Society followed soon after.<sup>11</sup> There was also a Manganui-Whangaroa Acclimatisation Society. A number of early, small societies around the East Coast and in the Wairarapa existed briefly as separate entities. These included Masterton, Wairoa, Waiapu and East Cape.<sup>12</sup>

The early societies, like that of Nelson, were formed after a public meeting was organised of interested citizens.<sup>13</sup> Their members were influential men; Premiers, Ministers of the Crown, Members of Parliament, Members of the Legislative Council and Provincial politicians and Superintendents.<sup>14</sup> Many of the early acclimatisers were also naturalists or professional scientists who belonged to the New Zealand Institute and some also became conservationists. In lists of early participants and committee members there are no obviously Maori names.<sup>15</sup> Governor George Grey was Patron of the Otago Acclimatisation Society. Grey was an enthusiastic acclimatiser, introducing marsupials, zebras, deer and bird species to his home on Kawau Island. His successor, George Bowen, whose ideas on civilisation and progress were quoted in Chapter Four of this report, had initiated the Queensland Acclimatisation Society. As Governor of that colony, he had received Newcastle's 1862 request and offered to send a variety of Australian animals and birds to the British society.<sup>16</sup>

In the 1860s acclimatisers' reasons for wanting to introduce exotic faunal species to New Zealand were varied. Some species were desired to make familiar an alien landscape or expand what was seen as an impoverished fauna. Others were wanted for agriculture and industry. Most particularly, species were introduced for sport. At first this was for the colonists' own recreation but, by the late nineteenth century, it was also for tourism.<sup>17</sup>

Many acclimatisers were from the middle and upper classes for whom hunting, shooting and fishing were important recreations. But colonists wanted to avoid the exclusive, punitive game laws attached to these pastimes in Britain.<sup>18</sup> Hunting, shooting and fishing, as recreations, also embodied ritualised codes of behaviour for both the pursuer and the pursued. Hunting required the hunter to be noble, honest, brave and sporting while the quarry had to be a worthy adversary by demonstrating 'fighting' qualities. Although the quarry was often eaten, the primary purpose of such hunting was not food; it was sport. As such it contrasted and conflicted with Maori hunting for food using traditional methods of snares and nets although Maori too sometimes used guns. Although

11. Jim Feldman with Greg Blunden, 'A Plague of Possums: Environmental History of a Pest in New Zealand', draft, undated, p 24

12. McDowall, pp 87, 380

13. Sowman, p 10

14. McDowall, p 18; Galbreath, p 124; Wendy Pond, *The Land With All Woods and Water*, Rangahaua Whanui Series (working paper: first release), 1997, p 138

15. The appearance of Maori names in these early membership lists is one way to begin to determine the participation of Maori in acclimatisation society activities but it is an indication only.

16. Lever, p 38

17. Dunlap, pp 54-59; Paul Star, 'From Acclimatisation to Preservation. Colonists and the Natural World in Southern New Zealand 1860-1894', PhD thesis, University of Otago, 1997, pp 78-87; Aramakutu, pp 20-23

18. Paul Star, 'T.H.Potts and the Origins of Conservation in New Zealand (1850-1890)', MA thesis, University of Otago, 1992, pp 62-63; Aramakutu, pp 55-56

hunting in the gaming sense was replete with anomalies, it was perceived to be a combat between equals in the open, not 'unsporting' entrapment. Maori, according to Hone Heke, Member of Parliament for Northern Maori in 1907, wanted to take birds when they were fat using silent methods so the birds would not be alarmed.<sup>19</sup> These essential differences - that is the values, purpose and methods of hunting - held by British colonists and by indigenous peoples in various parts of the British Empire (and therefore the consequences for the latter) have been well-examined by John MacKenzie. MacKenzie argues that, as one means of asserting Empire, European imperialists gave status to their own recreational hunting while denying indigenous practical hunting.<sup>20</sup>

In summary, by 1867 there were five acclimatisation societies in New Zealand with more in the offing. The introduction and acclimatisation of species had, of course, been carried out for decades but not systematically and not always successfully.<sup>21</sup> But the objectives of the acclimatisation societies dovetailed with those of the Government - as has been shown, they were led by the same men - and in 1867 the societies were given statutory recognition, legal authority and some finance to advance their work.<sup>22</sup>

The 1867 Animals Protection Act provided for the societies to register their formation with the Colonial Secretary and for this to be notified in the *New Zealand Gazette*. All animals 'turned out' into the wild by any registered Society were vested in that Society's chairman. The Act provided for the revenue collected from licence fees and fines to be used for the salaries of rangers appointed by the society but warranted by the Governor, with the balance going to the acclimatisation society of the relevant district.<sup>23</sup> The Act was also a consolidation of previous animals protection legislation in relation to game protection and hunting seasons. These provisions will be discussed below.

The sections of the 1867 Animals Protection Act that pertain to acclimatisation societies demonstrate the foundation of a close working relationship between them and the Crown over the acclimatisation and protection of introduced game species. Although they were not Crown bodies they were sanctioned by the Crown. In the 1860s they received support from the Provincial Governments and, after their abolition in 1876, from the Colonial Secretary and New Zealand's Agent-General in London.<sup>24</sup> The Act also reveals the considerable freedom of action allowed to the Societies. As R.M.McDowall acknowledges, the societies

19. See below

20. John M MacKenzie, *The Empire of Nature: Hunting, Conservation and British Imperialism*, Manchester and New York, Manchester University Press, 1988

21. Aramakutu, p 25

22. Aramakutu, pp 45-46 (citing Minute Book of the Select Committee on the Protection of Animals Act 1867, Legislative Department, LE file 1/1867/15, NA, Wellington)

23. Animals Protection Act, 1867, ss 3, 6, 32, 33

24. Galbreath, *Wildlife*, p 3

were given a great measure of independence and authority that 'few, if any, other similar bodies in New Zealand have ever had.'<sup>25</sup> This freedom became a little circumscribed in time. The 1889 Animals Protection Act Amendment Act required the societies to forward balance sheets and audited statements to the Colonial Secretary and to publish them in the local paper.<sup>26</sup> In 1895 another Animals Protection Act Amendment Act required everyone, including the societies, to obtain explicit permission from the Minister of Agriculture before they could import any animal. Fish, however, were not covered by this requirement so that game fish could continue to be introduced as the societies and individuals pleased.<sup>27</sup> A clause of the 1903 Animals Protection Amendment Act permitted the societies' registration as bodies corporate and allowed them to obtain and dispose of land and other property. It also regulated the formation of new societies who seceded from the established bodies.<sup>28</sup> The next major revision of law relating to the societies was not until the 1921-22 Animals Protection and Game Act.

The close link between the Crown and the societies was also demonstrated by the substantial level of public funding the societies received in their early years. Apart from the balance of licence fees and fines, they were given financial grants for introductions, and land grants for hatcheries and other acclimatisation procedures. The Southland society, for example, received a grant of 2,000 acres in 1869 from the Colonial Government. By comparison, reserves for Maori in Southland and South Otago under the 1853 Murihiku purchase totalled 4,876 acres.<sup>29</sup> The Southland Acclimatisation Society also received a financial subsidy from the Marine Department for a hatchery in 1908. In addition it received annual donations from the Southland Provincial Council between 1869 and 1881. The Auckland society received four acres of land in the Auckland Domain as well as financial grants from the Auckland Provincial Council. Similarly the Nelson society received 300 acres, £500 in 'seeding' capital in 1863, and £100 per year throughout the 1860s from the Nelson Provincial Council.<sup>30</sup> Under the 1902 Fisheries Conservation Act Amendment Act, the Minister of Public Works could acquire up to 20 acres of land under the 1894 Public Works Act to establish hatcheries. The land could then be vested in a registered acclimatisation society. The societies could also purchase land, subject to approval by the Minister of Works, for camping grounds for anglers.<sup>31</sup>

25. McDowall, p 52

26. Animals Protection Act Amendment Act, 1889, s10

27. Protection of Animals Act Amendment Act, 1895, s2

28. Animals Protection Amendment Act, 1903, s7

29. Waitangi Tribunal, *Ngai Tahu Report 1991*, vol 1, Brooker and Friend Ltd, Wellington, 1991, pp 106-107

30. McDowall, pp 52-53

31. Fisheries Conservation Act Amendment Act, 1902, ss 2, 3



The business premises of the trout hatchery in Masterton, 1900 . Photographer unknown.

Photograph courtesy of the Alexander Turnbull Library (1/2-107023)

These grants were justified by the acclimatisation societies and the Government because they believed successful introductions into the wild would benefit the whole of society and provide egalitarian access to game species. The latter was partly achieved in the Fisheries Act Amendment Act, 1902, which prohibited landowners from selling or letting the right to fish in waters on their property and redefining the meaning of privately-owned waters to bodies of water that are contained wholly within the property of one private owner.<sup>32</sup> To be successful, acclimatisation societies incurred costs of shipping, building hatcheries to rear stock to increase numbers before release, and caretakers' wages.<sup>33</sup> From the 1890s, acclimatisation societies were more concerned with administration and management of fish and game, while the Department of Tourist and Health Resorts and the Marine Department continued the work of acclimatisation of, respectively, deer and game, and fish.<sup>34</sup>

Clearly, though, not all society benefited. Maori, who depended on eels, whitebait and other indigenous fish, had these food resources greatly depleted or, in the case of the upokororo or grayling, made extinct.<sup>35</sup> Maori reaction to the work of the acclimatisation societies, especially in relation to trout, and to the animals protection legislation, will be discussed later in the chapter.

32. Fisheries Conservation Act Amendment Act, 1902, ss 4,5

33. McDowall, pp 52-53, 26, 65, 17; Galbreath, *Wildlife*, p 3; Pond, p 138

34. Galbreath, *Wildlife*, pp 5-12

35. Pond, p 108

### 10.5 Acclimatised 'pests'

In 1922 G.M.Thomson, acclimatiser, legislator, scientist and conservationist, was critical of the acclimatisation societies from a scientific perspective. Though he believed much good had been done 'in stocking our nearly empty rivers and lakes', acclimatisation 'has hitherto been carried on in the most haphazard and irresponsible manner....largely...due to the total failure of the community to grasp the scientific aspect of the question, or even to realise that it has a scientific side.'<sup>36</sup> However, this was with hindsight. As well as game species, the societies were involved in the acclimatisation of birds and animals which later came to be considered 'pests', 'nuisances' and 'vermin', although most had been introduced prior to the formation of the societies. These included small birds, the rabbit, mustelids, and the possum.

Birds, such as sparrows and starlings, were brought here for nostalgic and practical reasons such as eating insects which damaged agricultural crops. When they began to consume the crops as well as the insects, they were then deemed to be nuisances. This led to the first of the Small Birds Nuisance Acts in 1882. Birds not protected under animals' protection legislation could be destroyed by local governing bodies.<sup>37</sup>

Although rabbits were introduced by European explorers, and became a source of trade at shore-whaling stations<sup>38</sup>, acclimatisation societies were also involved in the selection, importation and distribution of breeding stock and their progeny. Rabbits became feral, quickly moving into South Island high country sheep runs. In the North Island their spread was slower due to the prevalence of forest. Guthrie-Smith, in his book *Tutira: The Story of a New Zealand Sheep Station*, writes that the 'long-threatened invasion', did not begin on his Hawkes Bay property until the early twentieth century, while the far north of the North Island was not colonised by rabbits until the 1950s.<sup>39</sup>

At the behest of the runholders, a number of Rabbit Nuisance Acts were passed, and in 1882, the ferret, because it is a natural predator of the rabbit, was gazetted a protected animal under the Rabbit Nuisance Act of that year. A Government programme to import or breed and liberate ferrets, stoats and weasels began and continued until 1903. In 1936 all protection was removed from them because they had been found to predate upon indigenous birds, game birds and domestic fowls. Some acclimatisation societies endorsed the Government programme on mustelids while others had objected because of the risk posed by ferrets, stoats and

36. Thomson, pp 3, 2

37. Waitangi Tribunal Flora and Fauna Legislation Database 1840-1912 (WTD in subsequent references), Small Birds Nuisance Act, 1882, ss 2, 3. Other Acts followed in 1891, 1902, 1908

38. Harry V Thompson and Carolyn M King (eds), *The European Rabbit: The History and Biology of a Successful Colonizer*, Oxford, Oxford University Press, 1994, p 158

39. H.Guthrie-Smith, *Tutira: The Story of a New Zealand Sheep Station*, Edinburgh and London, William Blackwood & Sons Ltd, 1953, p 358; Thompson and King, *Rabbit*, p 162; Carolyn M King (ed), *The Handbook of New Zealand Mammals*, Auckland, Oxford University Press, 1990, pp 287-330; Galbreath, 'Colonisation', pp 124-130

weasels to game birds. Ornithologists and scientists, like Professor Alfred Newton of Cambridge, had protested against their importation on the grounds that they would soon begin to predate upon indigenous ground-dwelling birds.<sup>40</sup>

In 1858 possums were successfully liberated into the wild in Southland by individuals but the acclimatisation societies were involved soon after, with further possum introductions from Australia, and acclimatisation, breeding and distribution programmes throughout much of New Zealand. The peak of their possum operations was in the 1890s. Possums were brought to New Zealand to establish a fur trade. But, as possum numbers increased from the 1880s, they became the source of several conflicts. On the one hand, extensive, uncontrolled trapping threatened to decimate the possum, thereby depriving the Government and the societies of revenue from licensing possum trappers and of skins for a sustainable industry. On the other, farmers and orchardists complained of possum depredation of their crops. From 1894 responsibility for the control of possums was vested in the acclimatisation societies. They then became responsible for enforcing possum protection when the animal became protected in 1911 under animals protection legislation. During this period possum numbers increased and populations became established throughout much of the country.<sup>41</sup>

## 10.6 Acclimatisation and Protection of Game Animals

### 10.6.1 Early Legislation

Because there were so many law changes to animals protection legislation, this chapter uses the summary of legislation in the Waitangi Tribunal Flora and Fauna Database 1840-1912. As the exigency of time prevented a comprehensive check and analysis of all legislation, most of the information in these sections on legislation is taken from this Database and from the studies of Evaan Aramakutu, and James Feldman on *Treaty Rights and Pigeon Poaching: Alienation of Maori Access to Kereru, 1864-1960*.<sup>42</sup>

Laws affecting domestic plants and animals and wild life had been enacted prior to the formation of the acclimatisation societies. The 1846 Duties of Customs Ordinance removed duties on the importation of all plants and animals. It was then found necessary to pass legislation to pro-

40. Galbreath, 'Colonisation', pp 124-129; King, (ed), *Mammals*, p 293, *Rabbit*, pp 174-176

41. McDowall, pp 357-359

42. James W Feldman, *Treaty Rights and Pigeon Poaching: Alienation of Maori Access to Kereru, 1864-1960*, A Report Commissioned by the Waitangi Tribunal, January 1998

tect introduced game species in the wild until their populations were sufficiently well-established to sustain an annual hunting season. In 1861 both the Nelson Provincial Government and the House of Representatives passed such legislation; the Province of Nelson Protection of Animals Act, 1861 and the Protection of Certain Animals Act, 1861. Under the Nelson legislation, the Provincial Superintendent could proclaim any animal, bird or fish and their eggs or spawn to be protected and prohibited from sale. An offence against its provisions could incur a substantial fine. The Central Government's legislation, passed later in the year, did not extend to fish. It was more specific in that it listed the species to which it afforded protection. These were all introduced and included urbanised birds like the thrush and game birds and animals like the hare, pheasant and deer. The Act allowed for hunting seasons for these species although hunting was not to begin until 1870. It also limited the sale of prescribed species to the hunting season for each species and provided for fines of between £1 and £20. Landowners had free shooting rights.

Neither piece of legislation applied to indigenous species. Traditional food sources for Maori were unprotected throughout the year and could be taken by Maori and settler alike at any time. The Central Government Act prohibited the use of poison, traps, snares and nets for hunting protected species. This gave rise to the possibility that Maori, using traditional hunting means during the season to target indigenous fauna, might unintentionally catch a protected species and be in breach of the law. Shooting was the only legal means of hunting protected species. Although Maori ownership of guns was widespread by the 1860s, if they had no access to firearms or ammunition, opportunities to take acclimatised game were denied them.<sup>43</sup>

43. Aramakutu, pp 28-38; McDowall, pp 54-55; Thomson, pp 541-543; Protection of Certain Animals Act, 1861, ss 2, 3, 4, 5, 7, 11

44. This is a quote from Charles Hursthouse, a professional propagandist, who leavened his *New Zealand, Or Zealandia, the Britain of the South*, London, Edward Stanford, 1857, with eye-catching but exaggerated quotes; James Belich, *Making Peoples: A History of the New Zealanders*, Auckland, Allen Lane The Penguin Press, 1996, pp 283-287, Galbreath, *Wildlife*, p 1; McDowall, p 216

45. Pond, p 80

46. Pond, p 108

47. McDowall, p 217

### 10.6.2 The Introduction of Fish

When early European settlers and visitors wrote of New Zealand rivers as being 'destitute of fish', they were deploring the lack of game or sporting fish.<sup>44</sup> As Wendy Pond has written, New Zealand waterways are full of fish but they are 'secretive and wary, they blend with their habitat and retreat into hiding'.<sup>45</sup> Apart from the now extinct grayling<sup>46</sup>, which Pakeha anglers found to be 'good sport and fine eating'<sup>47</sup>, New Zealand fishes lacked the 'fighting qualities' that European anglers demanded. Consequently Provincial Governments, Central Government departments, individuals

and the acclimatisation societies made exhaustive efforts to establish game species here. While dozens of species were tried, effort concentrated on the Atlantic salmon, Pacific or quinnat salmon, brown trout and rainbow trout. From the 1860s, in thousands of individual batches, they were acquired as ova, bred in hatcheries, and released into rivers and lakes throughout New Zealand. While anadromous stocks of Atlantic salmon have not become established, Pacific salmon runs occur particularly on the East Coast of the South Island.<sup>48</sup> The brown trout is now widely and abundantly distributed throughout New Zealand. The rainbow trout, released widely in New Zealand but now confined to lakes or river systems associated with lakes, has given New Zealand its reputation as a 'fisherman's paradise'.<sup>49</sup> This was achieved under statutes which protected introduced fish, partly by allowing the destruction of indigenous fish and birds which preyed upon the introduced ones.

### 10.6.3 Fish Legislation

The first legislation specific to freshwater fishing was the Salmon and Trout Act of 1867, the same year of the Animals Protection Act which statutorily recognised the acclimatisation societies. This was also the year that three brown trout, the first to be reared from ova brought to New Zealand, escaped into the Avon River from the Canterbury Acclimatisation Society's hatchery. Two of the three escapees were recaptured to become the 'Adam and Eve' of New Zealand brown trout.<sup>50</sup> From the societies' perspective, legislation was urgently required to protect the trout on release to ensure their establishment in the wild. This was, of course, the object of their programme and, in the wider sense, of the ideological project of establishing a 'Britain of the South'. While McDowall, as historian of the acclimatisation societies does not give evidence of society lobbying, informal lobbying for legislation is not unlikely given the links between society members and Parliamentarians.

The Act vested control of the protection and management of salmon and trout in the Governor who could delegate these powers to Provincial Superintendents and Executives. In turn, they had power to appoint officers to enforce the Act's provisions. It prohibited fishing or the use of nets and other devices for taking fish in rivers or streams in which young salmon and trout had been released, or in any other place where the Governor deemed fishing to be detrimental to the increase in salmon and

48. McDowall, pp 233, 264

49. McDowall, pp 216-292

50. McDowall, p 251; Ben White, *Inland Waterways: Lakes, Waitangi Tribunal Rangahaua Whanui Series* (working paper: first release), March 1998, p 18 (citing Waitangi Tribunal, *The Ngai Tahu Sea Fisheries Report*, Wellington, Brooker and Friend, 1992, p 135)

trout populations. The Act allowed wide-ranging regulations to be gazetted on matters pertaining to the management and protection of salmon and trout. It enabled the Superintendent of any Province to appoint officers to enforce the provisions of the Act and Justices of the Peace to issue warrants to officers appointed under the Act to enter lands where a suspected offence was occurring. The financial penalty that could be imposed for breaching regulations was considerable at not more than £100.<sup>51</sup>

The 1867 Salmon and Trout Act asserted the Crown's assumed authority<sup>52</sup> over introduced fish and their habitat that, of course, was shared with indigenous fish. This foundation of Crown control over non-commercial and commercial fishing was strengthened in subsequent legislation; the Fish Protection Act 1877, Seals Fisheries Protection Act 1878, Fisheries Conservation Act 1884, the Salmon and Trout 1867 Amendment Act of 1884, Fisheries Encouragement Act 1885 and therefore of its amendment in 1901, the Fisheries Conservation Act Amendment Acts of 1902, 1903, 1906 and 1907, and the Fisheries Amendment Act 1908. These acts variously refined the regulatory and ecological management of the 'fishing industry' – where, when and how it would operate. The Fish Protection Act of 1877, for example, provided for the Governor to issue licences that granted exclusive rights to a particular fishery upon payment of the prescribed fee. The Fisheries Conservation Amendment Act 1903 allowed the Governor additional powers to prevent the pollution of rivers and streams inhabited by salmon and trout. The Fisheries Amendment Act 1908 consolidated previous Acts and remained in force until 1983.<sup>53</sup>

#### 10.6.4 Maori, the Treaty of Waitangi, and the Introduction and Protection of Fish

Given the composition of acclimatisation society membership, it is unlikely that Maori were often consulted about the introduction of fish species. In 1872 Maori at Arowhenua sent a notice to Government, which was printed in the *Evening Herald*, requesting that introductions not be made to the waterways of the South Island's east coast. 'Do not, ye white people, place fish in these waters between Waitaki and Lake Ellesmere; in none of those waters place fish. Do not, oh white people, thoughtlessly place your fish in these streams, because it is from the native birds and fish we get most of our food.'<sup>54</sup> Te Arawa was not consulted about the in-

51. WTD, Salmon and Trout Act, 1867, ss 2,5,7,12

52. White, Chap 1

53. WTD, Fish Protection Act, 1877, s 4; Fisheries Conservation Amendment Act, 1903, s 3

54. 'Native Property', *Evening Herald*, 17 August 1872, no page given

roduction of trout to Rotorua lakes in the 1880s.<sup>55</sup> Whether Ngati Tuwharetoa discussed with the Government the first introductions of trout to Lake Taupo at the same time is unknown. But in 1900, Maori were among Taupo residents who petitioned the Government for the release of rainbow trout into Lake Taupo. Tuwharetoa had derived 'substantial revenue' from anglers by charging them for access to the lake and may have wanted to continue or increase this revenue.<sup>56</sup> In a year or two, however, Maori from the Taupo area were protesting that trout were eating indigenous fish, as is shown below.

By 1881 Alex Mackay was reporting Ngai Tahu complaints of acclimatisation activities to the Native Department.

A matter that has inflicted a serious injury on the Natives of late years, and for the most part ruined the value of the fishery easements granted by the Native Land Court, is the action of the Acclimatization societies in stocking many of the streams and lakes with imported fish. The fish are protected by special legislation, consequently the Natives are debarred from using nets for catching the whitebait in season, [n]or can they catch eels or other Native fish in these streams for fear of transgressing the law. They complain that, although they have a close season for eels, the Europeans catch them all the year round. In olden times the Natives had control of these matters, but the advent of the Europeans and the settlement of the country changed this state of affairs and destroyed the protection that formerly existed, consequently their mahinga kai (food-producing places) are rendered more worthless every year, and, in addition to this, on going fishing or bird-catching, they are frequently ordered off by the settlers if they happen to have no reserve in the locality. This state of affairs, combined with the injury done to their fisheries by the drainage of the country, inflicts a heavy loss on them annually and plunges them further into debt, or keeps them in a state of privation.<sup>57</sup>

Mackay's report thus pointedly summarises the hardships for Maori engendered by the activities of acclimatisation societies and wider European settlement programmes. Indigenous fish could not be caught by traditional means. Maori conservation methods for eels were not observed by Pakeha. Together with drainage works, eel fisheries were consequently destroyed.

55. White, p 194

56. White, pp 167, 173

57. Grant Phillipson, *The Northern South Island*, vol 2, Waitangi Tribunal Rangahaua Whanui Series (working paper: first release), p 25 (citing A Mackay to Under-Secretary of Native Department, 6 May 1881, AJHR, 1881, G-8, p 16)

Several pieces of legislation were significant for Maori in relation to their rights under the Treaty of Waitangi. The first was the Fish Protection Act, 1877. Section Eight stated that nothing in the Act could be deemed to repeal, alter, or affect any of the provisions of the Treaty of Waitangi, or to take away, annul, or abridge any of the rights of the aboriginal natives to any fishery secured to them under the Treaty. This section appears to be the first direct reference to the Treaty of Waitangi in any legislation relating to fauna and flora. However, the implications for and intentions of the Government were not explained in Parliament and remain ambivalent. While Thomas Fraser, from Otago, requested that the Bill be translated into Maori since he believed all bills affecting Maori should be introduced in both English and Maori, the Speaker ruled that it did not 'specially' affect Maori and Parliament was therefore not obliged to translate it. No Maori MP spoke in the debate. In the Fisheries Conservation Act 1884, section Two provided for the Act to be read in conjunction with the Fish Protection Act 1877. By implication, therefore, Maori rights to fisheries preserved to them under the Treaty of Waitangi remained. But no reference to Maori fishing rights was made in the second reading of the Bill and none of the Maori MPs spoke on it.<sup>58</sup> Ben White has examined these Acts and comments that prima facie Maori fishing rights were afforded broad protection as the Treaty had contemplated. But he points out that the Muriwhenua Sea Fishing Tribunal considered the provision in the 1877 Act as 'window dressing' while the Ngai Tahu Sea Fisheries Tribunal argued that regulations issued under the 1884 Act, which limited Maori rights to non-commercial fishing, were inconsistent with the Treaty.<sup>59</sup>

Maori MPs contributed to two debates on Bills in the early twentieth century by firmly stating Maori fishing rights. Hone Heke, from Northern Maori, in the 1902 Fisheries Conservation Act Amendment Bill, reported the complaints of Maori from the Taupo area, that imported fish were consuming whitebait, koura and kokopu. These Maori, Heke said, were 'unable to acquire the taste of the imported fish, and that it is nothing at all compared with the delicacy and taste of the whitebait and the crayfish'. He suggested Maori should be allowed to catch large numbers of trout to reduce their effect on the native fish. Another Member interjected that they should purchase licences to do that.<sup>60</sup>

Tame Parata, MP for Southern Maori, invoked the Treaty in the debate on the Fisheries Conservation Amendment Act 1903. The main purpose

58. WTD, Fish Protection Act, 1877, s 8; NZPD, 1877 Fish Protection Bill debate, vol 27, p 378; Fisheries Conservation Act, 1884, s 2, NZPD, vols 48,50

59. White, pp 19-21 (citing Waitangi Tribunal, *Report of the Waitangi Tribunal on the Muriwhenua Fishing Claim*, p 85; Waitangi Tribunal, *The Ngai Tahu Sea Fisheries Report*, pp 141-142)

60. WTD, NZPD, 1902 Fisheries Conservation Act Amendment Bill, vol 122, p 605

of this legislation was to prescribe the trout-fishing season for New Zealand. It also included provision for acclimatisation societies to apply for fishing restrictions in any particular district. Parata argued that the Treaty and the Ngai Tahu deed of sale, although he did not specify which, guaranteed Maori fishing rights in their rivers, lakes and seas. Parata received support from William Massey of Franklin, and William Field of Otaki. Field's speech is notable as it contains the first reference in fish protection legislation to the issue of free access to trout as a Maori right under the Treaty. Field believed that the provisions of the Treaty were 'too apt to be forgotten' in legislation and that the right of all Maori to fish freely in all rivers was unmistakably preserved by the Treaty. If it were true that native fish were being devoured by trout, he argued, then Maori were probably entitled to fish for trout without purchasing a licence.<sup>61</sup>

However assertion of rights by Maori and, as White argues, ostensible protection of rights in fishing legislation, were not upheld by the courts. In 1895 when Maori were prosecuted by the Auckland Acclimatisation Society for catching trout, their defence was that, under the Treaty of Waitangi, they were entitled to catch indigenous fish and trout.<sup>62</sup> Nevertheless, the Auckland Acclimatisation Society won their case. White gives another example from the period covered by this report when the Reverend Manihera Tumatahi was fined £5 for taking trout without a licence from Ohau Channel between Lakes Rotorua and Rotoiti.<sup>63</sup>

In the early twentieth century, Te Arawa and Ngati Tuwharetoa, achieved some acknowledgement of their claims to rights of ownership to the Rotorua lakes. Te Arawa were concerned at the decline in indigenous fish in the Rotorua lakes caused by trout predation. Before the Stout-Ngata Commission of 1907-08 and in the next decade in the Native Land Court, the iwi argued that they had never relinquished ownership of the Rotorua lakes or the right to fish in them. In 1922 a settlement with the Government was reached in which the traditional rights of Arawa to take indigenous fish (but not trout) were confirmed, the ownership of the lakes went to the Crown, and ongoing financial compensation awarded.<sup>64</sup> The Government reached a settlement with Tuwharetoa in 1926 but this was not finalised until 1949.<sup>65</sup> In the period covered by this report, the Maori owners, Muaupoko, of Lake Horowhenua also reportedly exercised their right to fish without a licence in the lake.<sup>66</sup>

Notwithstanding these settlements and the acknowledgement of Treaty of Waitangi fishing rights in the 1877 Fisheries Act (although these

61. WTD, NZPD, 1903 Fisheries Conservation Amendment Bill, vol 126, pp 115-120; White, pp 21-22

62. Ashby, p 13

63. White, pp 104, 23

64. White, pp 104-128; Galbreath, *Wildlife*, p 10 (citing Native Land Amendment and Native Land Claims Adjustment Acts of 1922 and 1926)

65. White, pp 173-194

66. White, p 74

were not confirmed in court actions), Maori access to indigenous fish was prejudicially affected by acclimatisation society action in introducing overseas fish species to New Zealand waters, as the above report by Mackay demonstrated. Indigenous fish were perceived to conflict with acclimatised salmon and trout so that the latter were privileged over the former. Eels were classified as vermin because they were known to predate trout, and eel extermination programmes, drives and competitions were held. Volunteers set baited eel pots in places where eels abounded. The Otago Acclimatisation Society took 1,880 eels weighing 5,913lbs in one six-month period in 1890. In 1903 the Nelson Acclimatisation Society spent £8 1s on bounties for 14 eels.<sup>67</sup> The black shag was also considered vermin and attempts were made to exterminate it by annual visits to shaggeries in the breeding season.<sup>68</sup> European tastes for sport and game fish, to which access had to be purchased, and the establishment of a game-fishing industry, were privileged over Maori preference for indigenous fish which they were free to catch without a licence.

#### 10.7 The Introduction of Game Birds and Animals

From exploration times, Europeans in New Zealand shot indigenous waterfowl, bush and sea birds for food, collections and sport. They became known as 'native game', a term which was carried over to the Animal Protection Acts. Vast 'bags' of birds were a cause in the decline of indigenous New Zealand birds. Sport on this scale was the antithesis of hunting-code shooting and was deplored by acclimatisers and those who adhered to the code. W.R.C.Sowman, historian of the Nelson Acclimatisation Society, complained of godwit shooters in Nelson province, that they lacked understanding of the meaning of the words honesty, integrity and sportsmanship.<sup>69</sup> Maori, too, complained of this type of shooting. In 1885 Wairarapa Maori told Edward Maunsell, the Government's agent in the Crown purchase of the Wairarapa lakes, that they 'objected to the wholesale and reckless destruction of birds by the use of large punt guns where many are wasted, being wounded they get away and die; total extinction being the probable result.'<sup>70</sup> Similar thoughts were expressed in the House of Representatives during debate on the 1889 Animals Protection Bill.<sup>71</sup> This scale of bird destruction is reminiscent of the kills of English shooting parties which prompted the earliest bird protection leg-

67. McDowall, pp 120-122: Pond, Chaps 6 and 7

68. H G Williams, *The Shag Menace*, Dunedin, H.G.Williams, 1945; McDowall, pp 124-126, White, p 173

69. Sowman, p 102

70. White, p 46 quoting Maunsell to Native Department, 20 April 1885, MA 13/97, NA Wellington

71. Aramakutu, p 98 (citing William Steward, NZPD, 1889, vol 65, p 478)

isolation in Britain, the 1869 Sea Birds Protection Act. At Flamborough Head, in Yorkshire, thousands of birds were annually slaughtered or maimed during the breeding season in what were seen as cruel and wasteful circumstances since both adult birds and their chicks died. The campaign prior to the passing of the Act was organised by scientists, conservationists and local Yorkshire people.<sup>72</sup>

Because indigenous birds were considered poor shooting, acclimatisation societies introduced, acclimatised, and liberated a great many game birds of wetland and upland habitat. Such species included the black swan, mallard duck, Canada goose, and species of pheasant, partridge and quail. To ensure the birds' establishment in the wild, acclimatisation societies opposed the continual use of poisoned grain and of mustelids to control rabbits and paid huge sums in bounties on hawks that were blamed for serious mortality in pheasants.<sup>73</sup>

Deer were amongst the most desired species for establishment here since colonists wanted to enjoy that 'sport of kings', deer hunting. From the 1840s, settlers and, later, the acclimatisation societies introduced, liberated and managed deer species throughout New Zealand. The Department of Tourist and Health Resorts under its first superintendent T.E. Donne, who wanted to promote the country as an incomparable sporting venue, was also involved from the early 1900s. The Nelson society was the first to issue deer hunting licences in 1882 when it was thought deer stocks had built up sufficiently in the wild to sustain hunting. At first deer stalking was rigidly controlled through regulations gazetted by the Government. But when comments on the damage to forest vegetation by deer began to appear from 1893, and ecological concern about the 'deer menace' mounted, the Government sponsored a deer destruction campaign in 1930.<sup>74</sup>

## 10.8 Legislation for Protection of Game Birds and Animals

In the period covered by this report, legislation for the protection of birds and animals served two functions. Initially it was to protect introduced birds and animals for sport and certain indigenous birds for sport. It was then also applied to the permanent protection or preservation of certain indigenous birds. This first section examines the main provisions of the most important pieces of legislation relating to protection for game pur-

72. Robin Hodge, 'Nature's Trustee: P  rine Moncrieff and Nature Conservation in New Zealand 1920-1950', PhD thesis, Massey University, 1999, p 70; John Sheail, *Nature in Trust: the History of Nature Conservation in Britain*, Glasgow, London, Blackie & Son Ltd, 1976, pp 10-11

73. McDowall, Chaps 20-23; Thomson, pp 99-132

74. McDowall, Chap 25; Sowman, pp 23-72; Galbreath, *Wildlife*, pp 4,5, Chap 2; Graeme Caughley, *The Story of Deer in New Zealand*, Auckland, Heinemann, 1983; P. Walsh, 'The Effect of Deer on the New Zealand Bush: a Plea for the Protection of our Forest Reserves', *TPNZI*, vol 25, 1893, pp 435-439

poses. It then outlines the development and early membership of the conservation movement, a Pakeha grouping. Protection legislation that took account of conservation values, including critiques by Maori MPs, is examined and then Maori protest is outlined. Finally there is a section on protection legislation enforcement.

Legislation to control the sporting use of birds and animals was passed prior to the formation of the acclimatisation societies. In addition to central Government's Protection of Certain Animals Act 1861, outlined above, was the 1862 Birds Protection Act which established a system of licensing laws for hunting introduced species.<sup>75</sup> In 1864 the Wild Birds' Protection Act was passed. This gave seasonal protection to several indigenous species, kereru, paradise duck (now known as paradise shelduck), and wild duck species. However this section of the Act was to apply only in districts proclaimed by the Governor. In 1865, for example, section Two was proclaimed only for Southland, Otago and Canterbury.<sup>76</sup> The Protection of Certain Animals Act, 1865 consolidated the three previous Acts but also prohibited the importation of animals and birds, like the fox, venomous reptiles and birds of prey, considered harmful to domesticated animals.<sup>77</sup> The 1866 Protection of Certain Animals Act Amendment Act extended many of the provisions in preceding Acts. It required hunters of protected species to buy the correct licence at £5, with a fine of between £5 and £20 for those prosecuted successfully under the Act. Sellers of protected species were required to hold a current licence. The Act also provided for rangers to be appointed to enforce the Act's provisions. Their salaries were to be partly funded from fines for infringements of the law. As far as protected species were concerned, the Act included the kereru and wild duck species as game thus presumably giving them the same seasonal protection throughout New Zealand as imported game. Under the 1864 Act, they had only been protected in such districts as proclaimed by the Governor.<sup>78</sup>

75. WTD, Birds Protection Act, 1862, s 5; Aramakutu, p 38

76. WTD, Wild Birds' Protection Act, 1864, ss 2, 6 (citing *New Zealand Gazette*, 18 March 1865, p 52; 25 April 1865, p 115; 11 July 1865, p 207); Aramakutu, pp 39-41

77. WTD, Protection of Certain Animals Act, 1865, s 14; Aramakutu, p 41

78. WTD, Protection of Certain Animals Act Amendment Act, 1866, ss 2, 3, 4, 5, 8; Aramakutu, pp 41-42; Feldman, *Kereru*, p 10

As was explained above, the Protection of Animals Act, 1867, gave statutory recognition to the acclimatisation societies. But this piece of legislation, by consolidating past statutes, provided the framework, not only for the societies, but for animal protection policy in the next decades. One new aspect of the 1867 Animals Protection Act was that it differentiated between 'game', which were introduced animals and birds, and 'native game' which were certain indigenous birds. The Act provided for the Governor to proclaim which birds and animals could be deemed

game and native game, and for the revocation of that status. The Governor could also proclaim a change of status for a species from game to native game should the species become sufficiently established. Under the native game provisions, several more species, including the bittern, and the black and pied stilts, were given seasonal protection but the greater protection afforded the kereru and wild duck under the 1866 Act was removed. The Governor was empowered to exempt districts from the Act's provisions relating to indigenous birds. Hunters were not required to purchase a licence to shoot native game whereas the game licence, even for owners to shoot on their own land (a reversal of the 1861 legislation) cost 50s. The sale of native game and game was restricted to the hunting periods for each species, the licence fee to sell pheasant costing £20. People were prohibited from having in their possession any protected species outside the lawful period.



Rangi Taurerewa and group after a hunting expedition, 1914. Photographer F J Denton. From the Tesla studios collection, photograph courtesy of the Alexander Turnbull Library (1/1-021550)

According to Aramakutu, Parliamentary debate on the 1867 Animals Protection Bill centred on farmer desire to protect their crops from being eaten by game birds like pheasant outside the hunting season. A second concern was that, in the system of licences and fines, the spirit of the

unpopular English game laws was being inserted into New Zealand. Although no Maori MPs were in Parliament at that time, Maori were briefly mentioned by Harry Atkinson, MP for New Plymouth town, in the context of the English game laws. Atkinson was concerned that Maori would be adversely affected because snaring and trapping were prohibited. He made plain the considerable size of the fines for offences. 'Any Maori in any part of the country, who at any time snared a pigeon, was liable to a fine of not less than £2, and not more than £20.' As Maori in some parts of the country lived on wild ducks which were invariably taken by snares, he added, prohibiting them could cause difficulty. Atkinson also suggested the Bill be translated into Maori to avoid Maori breaking the law through ignorance.<sup>79</sup>

The 1867 Animals Protection Act considerably augmented the Crown's previous assumption of power over fauna. Variations in interpretation, reversals of policy, and changing values towards the indigenous between 1867 and the next major legislation, the 1907 Animals Protection Act, led to constant amendments and repeals. In general, it has been argued that acclimatisation and protection of the introduced were the dominant imperatives until the 1880s. Thereafter the emphasis slowly changed to protection of the indigenous as greater numbers of New Zealand-born Pakeha began to appreciate indigenous fauna and flora and sought to preserve them.

### 10.9 Towards Conservation as Absolute Protection

A number of recent theses in environmental history examine the evolution of nineteenth century Pakeha attitudes toward indigenous New Zealand from contemporary sources. The shift towards an appreciation of indigenous fauna, scenery and flora resulted in their permanent protection through legislation. The formation of conservation groups that lobbied Government for these measures were important in this process.<sup>80</sup> Star, in his thesis on acclimatisation and preservation attitudes, summarised this evolution as flowing from feelings of increasing security and maturity, and a sense of nationalism. He suggested a number of reasons for it. These included a change in Government ideology from laissez-faire to intervention. There were more urbanites who did not see the environment as an obstacle to progress. There was an identification with the in-

79. WTD, Protection of Animals Act, 1867, ss 8, 9, 10, 11, 12, 13, 15, 24, 26; Aramakutu, pp 44-56 (citing H Atkinson, 1867 Animals Protection Bill, NZPD, 1867, vol 1, p 1231); Feldman, *Kereru*, p 12 (citing NZPD, 1867, vol 1, pp 1230,1231); McDowall, pp 55-56

80. Star, 'Acclimatisation', Chaps 7-8; Galbreath, 'Colonisation', Chap 5 and Ross Galbreath, *Walter Buller: The Reluctant Conservationist*, Wellington, GP Books, 1989; P Hamer, 'Nature and Natives. Settler Attitudes to the Indigenous in New Zealand and Australia', MA thesis, University of Victoria, 1992, Chap 5; Aramakutu, Chap 5

digenous – the longtailed cuckoo is ‘our messenger of spring’. There was criticism of acclimatised species like rabbits and mustelids when their depredations became obvious.<sup>81</sup> All these reasons, Star concluded, led some Pakeha to respect, care for, and promote permanent protection of the indigenous even though continuing emigration ensured that pioneering attitudes also remained.

Early conservationists included the politicians T.H.Potts, H.G. Ell, and Thomas Mackenzie. Ell and Guthrie-Smith were in the first Forest and Bird Protection Society in 1914 and Mackenzie, with E.V.Sanderson, formed its successor in 1923.<sup>82</sup> Apart from his love of the bush, Sanderson gave another reason for his evolution from hunter to conservationist. Because of its modern weapons, he believed hunting had become too one-sided. The prey had no sporting chance and numbers diminished quickly. This was also one of the reasons for the formation of the first international conservation group, the Society for the Preservation of the Wild Fauna of the Empire, to which Guthrie-Smith belonged but not Sanderson.<sup>83</sup> Thus there are elements of Empire and internationalism in the conservation movement for the absolute protection of birds and animals, just as there had been in acclimatisation four decades earlier. In addition, representatives of the Crown were Patrons of the Forest and Bird Society; for example, Viscount Bledisloe, a conservationist in Britain, was Governor-General of New Zealand between 1930 and 1935 and Patron of Forest and Bird during his tenure here.<sup>84</sup>

#### 10.10 Legislation, which Included Absolute Protection of the Indigenous, and Maori Reaction

As Feldman argues, ‘When the animals protection acts functioned primarily as game laws, the conflict between Maori and European uses of the kereru remained manageable....As conservation became a motive for animal protection, Maori access to kereru and other native birds came under threat.’<sup>85</sup> Part of the Maori response can be seen in the contributions of their Members of Parliament in debates from the 1880s. The 1886 Animals Protection Act 1880 Amendment Act provided the first step to absolute protection for indigenous birds. Section Three enabled the Governor to prohibit absolutely the taking or killing of any indigenous bird. There was no debate on the clause during discussion of the Bill but in

81. Star, ‘Acclimatisation’, p 241

82. L E Lochhead, ‘Preserving the Brownies’ Portion. A History of Voluntary Nature Conservation Organisations in New Zealand 1888-1935’, PhD thesis, Lincoln University, 1994, Chaps 8-9

83. Hodge, pp 181, 61-62. For changes in weapon technology, see MacKenzie, *Empire*, pp 302-304

84. Hodge, p 249

85. Feldman, *Kereru*, p 20

1887 the kaka was absolutely protected in Southland and in 1888 throughout New Zealand.<sup>86</sup>

Tame Parata of Southern Maori argued in 1888 that Maori should have a right to do as they liked with birds on their property. The tui, the kaka, and the pigeon were of great importance to Maori, he explained, and they were much more careful to preserve the birds than were Europeans. Maori only took them at certain times of the year and did not slaughter the birds mercilessly.<sup>87</sup>

Debate on the 1889 Animals Protection Act Amendment Bill drew much comment from Maori MPs. The Bill's provisions were designed to end the wastage and destruction of indigenous birds caused by professional hunters but debate also ranged widely over the effectiveness of the acclimatisation societies. Maori MPs voiced their own concerns. Parata, wanted the season to be changed, from June or July to September, for the shooting of native game so that it would accord with the Maori hunting season in the past. He said that Maori had never killed their birds until they were fat and in good condition. As Aramakutu argues, this difference in the timing of the hunting season between Pakeha and Maori customs was because Maori wanted to eat the birds whereas Pakeha wanted a 'more sprightly bird' as a more difficult shooting target. Hirini Taiwhanga, of Northern Maori, wanted control of native game to be returned to Maori on their own lands. He believed the Maori system of rahui, which amongst other things restricted access to an endangered resource, was quite sufficient to protect the game. Hoani Taipua, of Western Maori, also commented on the 'very excellent' methods Maori had used to protect birds and agreed that animals protection legislation should not apply to Maori. He believed that Europeans should devise laws to protect game from the encroachments of Europeans. He argued that the real causes of the disappearance of native birds were the European rat, the wholesale use of poison and the destruction of hundreds of thousands of acres of forest annually. Two Pakeha MPs gave some support to Maori arguments. Richard Monk, of Waitemata, likened the game laws to the Maori rahui while Thomas Duncan, of Waitaki, thought the Bill deprived Maori of the use of native game.<sup>88</sup>

In 1895 another Protection of Animals Act Amendment Act was passed. Section 7 of this Act closed absolutely the season for hunting kereru in 1896 and every sixth year thereafter. The Governor was empowered to exclude from closure the Urewera, which was at that time under

86. WTD, Animals Protection Act 1880 Amendment Act, 1886, s 3; Aramakutu, p 94 (citing *New Zealand Gazette*, 7 April 1887, p 447 and 23 August 1888, p 903)

87. Feldman, *Kereru*, pp 20-21 (citing NZPD, 1888, vol 61, p 373)

88. Aramakutu, pp 100-102 (citing NZPD, 1889, vol 65, pp 477, 482; Feldman, *Kereru*, pp 21-23)

investigation for the individualisation of land title, and any other native district. According to Feldman, Pakeha and Maori MPs only briefly discussed the Amendment.<sup>89</sup> Perhaps because of the negotiations with Tuhoe over the Urewera, this Amendment Act had an unusual sequel. In 1896 the Colonial Secretary asked Maori Parliamentarians to recommend places in their districts that would be suitable for exemption from the closed season. One response, from Ropata Wahawaha, survives. He had attended a hui on the East Coast and relayed its decisions. He outlined several areas that should be exempted and proposed a ban on all shooting in some places which would be reserved, presumably permanently, for birds. He also warned that the birds would disappear if Europeans continued to fell the bush. While the Government did not exempt any districts that year, it did initiate action to set aside some of the areas outlined by Wahawaha as native game sanctuaries. But seemingly, even though the House of Representatives discussed it and the Legislative Council passed a resolution in favour of the reserves, the idea was not followed through.<sup>90</sup>

One of the aims of the 1900 Protection of Animals Act Amendment Act was to standardise hunting seasons for game and native game throughout the country with the exception of Otago. Parata was opposed to this clause. He again argued for the customary Maori season. If the hunting season was to differ in Otago, he said, it should begin a month later because that was closer to when the birds matured. Hone Heke of Northern Maori also supported the idea that current hunting seasons ignored Maori custom. This Act also increased the frequency of closed seasons. The kereru, pukeko and kaka were absolutely protected every three years from 1901 although the Colonial Secretary had the power to exempt the Urewera and other native districts. Heke opposed this clause because he believed the birds suffered because settlers cut down the bush, not because of hunting.<sup>91</sup>

Heke expanded on this theme in debate on the 1903 Animals Protection Amendment Act. The timing of the hunting season, he said, 'would do a great injustice to Maori'. The season that started in May was aimed at providing the best possible sport but sporting considerations should be secondary to the subsistence of Maori. For that reason, he thought, the season for hunting native game should be later in the year and depend on the condition of the birds. He gave the example of the kereru which, he said, was a great delicacy to Maori in his constituency and could only be

89. Aramakutu, p 103; WTD, Protection of Animals Act Amendment Act, 1895, s 7; Feldman, *Kereru*, p 26

90. Feldman, *Kereru*, pp 28-29 (citing correspondence of 22 February 1896 and 11 April 1896 [sic] and maps in IA 1 1898/2874, NA Wellington); NZPD, 1898, vol 104, pp 415, 434

91. Aramakutu, p 105, citing NZPD, 1900, vol 113, p 36; Feldman, *Kereru*, p 34; WTD, Protection of Animals Act Amendment Act, 1900, s 4

killed after a tohunga had declared it to be in an edible condition. Heke believed the season commencing on 1st May, as prescribed in the Act, was too early and advocated a varying season for native game which would depend on the ripening of the miro berry. He also raised the issue of Maori control over native game on their own lands. In this he received a certain amount of support from two Pakeha MPs. Archibald Willis of Wanganui was unsure that it was wise to prevent Maori from shooting on their own land 'under certain restrictions' while Joseph Ward believed that, 'broadly speaking', the Act did not interfere with Natives shooting over their own land.<sup>92</sup>

The Animals Protection Acts of 1907-08 were consolidations of legislation since 1880. While much of the emphasis was on the protection of game for sport, conservation was also a feature. Under section 16, hunting was not permitted on land reserved under previous legislation as a sanctuary for imported and native game. Section 20 enabled the Governor to prohibit the destruction of any indigenous bird and section 25 allowed any bird or animal to be declared absolutely protected. The Schedule to the Acts listed 25 birds and the tuatara as absolutely protected. Prohibitions remained on the trapping or snaring of game and native game and on their possession outside the lawful period. Heke criticised the clause that extended the prohibition on the use of snares to native game. He described the Maori preference for snares which were silent and did not frighten the birds like guns. He argued that this clause would prevent Maori from using their old methods to catch food. Also, he again criticised the timing of hunting seasons for sport rather than subsistence. Apirana Ngata, MP for Eastern Maori, supported the latter, commenting that many Maori MPs in the past had highlighted this Maori concern. Ngata also asked for 'native districts', as they applied to the Act, to be defined.<sup>93</sup>

The legislation of 1907-08 saw an intensification of the clash between Maori and Pakeha conservationists over the protection of indigenous birds. While Maori required birds to be protected as a sustainable food source, Pakeha conservationists required them to be permanently protected for aesthetic and heritage reasons. An exchange between Heke and MacKenzie during the 1907 debate demonstrates the differing perspectives. MacKenzie asked for the sympathy and support of Maori in bird protection. Heke responded that Maori were protectors and implied that settlers destroyed the birds through their destruction of the bush.

92. Aramakutu, p 107 (citing NZPD, 1903, vol 126, pp 476, 71,74; WTD, Animals Protection Amendment Act, 1903)

93. WTD, Animals Protection Act (Parts 1 and 2), 1907, ss 16, 20, 25, 6, 35, 47; Aramakutu, pp 108-109; Feldman, *Kereru*, p 38

MacKenzie refused to discuss bush clearance but stated: 'I say that, notwithstanding the Treaty of Waitangi, we have reached the stage in this country that if the Natives will not assist in protecting that which is so beautiful, then the laws of this country will have to do so.'<sup>94</sup>

The 1910 Animals Protection Amendment Act reversed the Governor's power to absolutely protect indigenous animals. All indigenous animals were to be protected under section 10 unless they were exempted by Order in Council. In 1911 the kereru, teal, grey duck, pukeko, kea, hawk and shag were the only birds gazetted as unprotected.<sup>95</sup> Henare Kaihau, for Western Maori, again asked for Maori lands to be exempt from the workings of the Act. Maori, he said, were under the impression that they still possessed the right conferred by the Treaty of Waitangi to kill and take native game and fish for food throughout the Dominion.<sup>96</sup>

Another clause of great significance to Maori in the 1910 Act was section 4.2 which allowed Maori to keep protected species as hua hua or preserved game for longer than the legal period. The 1907-08 Acts had included sections to prevent professional hunters from killing and preserving large quantities of game during the season and later selling their stocks. But this caused problems for Maori who relied on preserved species, especially the kereru, as a food source. Te Rangihiroa, successor to Heke in Northern Maori, explained how the preservation of hua hua was a long-established custom for Maori and how they processed kereru. 'It was their right to do so', he said, 'but under the Act it is stated that anybody found with native game in their possession after a period of seven days after the close of the season is liable to punishment.' The Minister of Internal Affairs, David Buddo, introduced an amendment, which passed, that declared the ban on preserved game would not apply to hua hua.<sup>97</sup>

All this legislation and regulation, like the Acts relating to game fish, confirmed the Crown's assumption of authority over wildlife, including indigenous birds and animals, in consultation with the acclimatisation societies and later the conservationists. Nevertheless Maori pressed their claims to authority over indigenous birds, not only in Parliament as has been established, but also in other fora. The Runanga of Arowhenua, in their 1872 notice to Government which has already been quoted, plainly expressed their ownership and their disagreement with protection laws. 'It is the intention of the Runanga of Arowhenua to let the Government know their wishes respecting these birds: the paradise ducks, grey ducks, teal, plover, and other water-fowl; pigeons, mountain parrots, kakas,

94. Feldman, *Kereru*, p 44, quoting NZPD, 1907, vol 142, p 790

95. Aramakutu, p 112 (citing *New Zealand Gazette*, 13 February 1911, p 642; 6 April 1911, pp 1265-1268; 13 April 1911, p 1276)

96. WTD, *Animals Protection Act Amendment Act, 1910*, ss 4.2, 10; Aramakutu, p 113 (citing NZPD, 1910, vol 151, pp 260-261)

97. Feldman, *Kereru*, p 39 (citing NZPD, 1910, vol 151, pp 257-258 and vol 152, p 263)

wekas, and other birds. Let not these birds be protected: let no laws be passed about these birds. These birds are ours.’<sup>98</sup>

At the Maori Parliament at Orakei in 1879 to discuss Treaty issues and Maori-Crown relationships, animals protection law was also debated. One speaker, Te Rewiti, was in favour of the Crown licensing and regulatory system, seemingly because he believed kereru were being killed during the breeding season. Another, Arama Karaka Haututu, also supported restrictions on hunting kereru but thought they should not apply to Maori. ‘It is quite right to prevent persons from shooting on the land of other people; but I think that the Maoris should be allowed to shoot over their own lands without being compelled to pay licences.’ Eramiha Paikea complained that kereru had to eat Maori cultivations because Pakeha were destroying the birds’ natural food. Another speaker referred directly to the Treaty of Waitangi: ‘This is about the thirty-third year of the Treaty of Waitangi. I have something to say on behalf of the people of Nga Puhi and Rarawa....By the Treaty of Waitangi we were to continue in possession of our lands, and fisheries, and forests. I ought to have the *mana* over my fishing grounds’. Of the Resolutions issued at the end of the Parliament, and tabled in the House of Representatives, the final clause asserted the *mana* of iwi over a number of indigenous birds and the pheasant in Maori districts.<sup>99</sup>

Maori also wrote petitions to the Government, like that of Te Hata Te Rakatumaro in 1896, requesting that his hapu’s lands be exempt from the closed season for kereru that year. Exemptions were provided for in the Amendment Act of the previous year which introduced a closed season for kereru in 1896 and every following sixth year. He asked, ‘that our lands be exempted from the new notification of the Government in reference to the birds and my hapus will not agree to this notification being operative in our district’. Seemingly this request was not granted because, Feldman notes, the *Gazette* records no exemptions.<sup>100</sup>

But such requests appear to have been granted occasionally. In 1901, the Ngati Tuwharetoa chief, Te Heuheu Tukino, whose father in 1887 had gifted to the Crown the mountain peaks of what was to become Tongariro National Park<sup>101</sup>, requested an open season to kill kereru. Triennial closed seasons had been introduced from 1901 but Te Heu Heu Tukino wanted kereru for a hui for a Royal Visit to Rotorua and applied for an exemption in the districts of Tongariro and Matatua. Feldman records that Cabinet decided against the request but that James Carroll, the Colonial Secretary,

98. *Evening Herald*, 17 August 1872, no page given

99. Feldman, *Kereru*, pp 15-17 from AJHR, 1879, session 11, G-8, quotes from pp 26, 28

100. Feldman, *Kereru*, p 30 (citing Te Hata Te Rakatumaro to the Hon the Minister for Native Affairs, 27 May 1896, IA 1 1898/2874, NA Wellington)

101. Craig Potton, *Tongariro – A Sacred Gift: A Centennial Celebration of Tongariro National Park*, Auckland/ Nelson, Landsdowne Press and C.Potton, 1987, p 132

asked for a reconsideration. This appears to have been granted although the districts exempted were not exactly those requested.<sup>102</sup>

In 1907 Mamiaute Te Piripi and six others were among a number of petitioners who requested an open season that year for kereru. 'We beg you to permit us to shoot birds this year... We think upon the law, and upon our bodies as separate individuals that (the season) be open to us alone – the Maoris – and not to Europeans....It is for food too that the work would be good.' These petitions were not granted.<sup>103</sup>

However in 1910, the next closed season, exemptions were granted to people in the Urewera and Taupo districts to kill kereru because starvation threatened when blight struck their potato crops. Apirana Ngata had received a letter on behalf of Maori residents in the Urewera requesting the season remain open. Ngata recommended this to the Minister of Internal Affairs. Te Heu Heu Tukino wrote on behalf of Maori in the Taupo district. One hundred and twenty-four other people signed his petition. The Department also received other petitions.<sup>104</sup>

In 1912 many petitions and letters were again sent to the Department of Internal Affairs protesting the Department's closing of the season for kereru but the closure remained.<sup>105</sup>

Maori also petitioned on the wider issue of control of indigenous fauna on their own lands, highlighting not only the timing of hunting seasons but also questions of law enforcement. In 1905 Taiaha Paurini and 137 others requested that 'we be left to manage our Maori birds upon our own lands; we to fix the times at which they may properly be killed....Another prayer of your petitioners is that we may have the power to prevent Europeans from wrongfully coming to kill our birds. We are not permitted to go on their lands to kill birds.'<sup>106</sup> The issue of enforcement of animals protection legislation is the focus of the next section.

As conservationist pressure strengthened and ideals were incorporated in legislation, they increasingly conflicted with Maori needs to hunt birds for food. Ell and other conservationists believed that there was an abundance of food in New Zealand and therefore there was no need for Maori to kill 'native birds which are becoming increasingly rare for food'.<sup>107</sup> This chapter has shown that Maori believed the taking of native birds was their right. When the area surrounding Mataora Lagoon, near Wairau, which was an ancestral hunting ground for local Maori, was reserved as a native game sanctuary under the 1907 Animals Protection

102. Feldman, *Kereru*, p 36 (citing Te Heu Heu Tukino to the Hon James Carroll, 1 April 1901, Hugh Pollen[?]) to James Carroll, 18 April 1901, J Carroll to J G Ward, 25 April 1901, all in IA 1 1901/1583, NA Wellington)

103. Feldman, *Kereru*, p 46 (citing Mamiaute Te Piripi and others to the Hon Jas Carroll, 4 May 1907, IA 1 1907/712, NA Wellington, Document Bank, pp 23-24). Feldman notes that IA 1 1907/712, NA, hold a number of petitions for an open season that year.

104. Feldman, *Kereru*, pp 46-47 citing A U Braut to Apirana Ngata, 24 March 1910, IA 1 1910/887, NA, Document Bank, p 25; Te Heu Heu Tukino and others to the Hon The Minister for Internal Affairs, April 1910, IA 1 1910/1147, NA, Document Bank, pp 26-27; *New Zealand Gazette*, 1910, pp 1222, 1418

105. Feldman, *Kereru*, p 50 (citing *New Zealand Gazette*, 1911, p 1265 and correspondence in IA 1 25/75/pt. 1, NA Wellington)

106. Feldman, *Kereru*, p 37 (citing Taihia [sic] Paurini and others to the Speaker, 22 July 1905, IA 1 1905/2536, NA Wellington, Document Bank, p 21)

107. Aramakutu, p 111 (citing H Ell to Dr. Findlay, 15 February 1908, IA 1/1908/383)

Act, section 16, there was concern as birds could not then legally be caught there. In 1908 Hapareta Rore Pukekohatu protested to Carroll.<sup>108</sup> Aramakutu does not detail how this area came to be reserved but it may have been acquired by the Government compulsorily under various Public Works Acts, as were scenic reserves and the island sanctuary Hauturu, or Little Barrier, around that time. There was considerable Maori protest about these reservations. Pukekohatu's complaint may be part of that wider protest.<sup>109</sup>

### 10.11 Animals Protection Legislation – Enforcement and Maori

With its system of acclimatisation rangers to police the law and considerable fines for non-conformity, animals protection legislation appears to be tough. Feldman provides a table of the increasingly severe provisions. By 1884, for example, rangers had the power to seize guns and nets used in breaking the law, search sacks and packages, and enter private property in search of illegally-taken or held birds. By 1895, the fine for shooting kereru during the closed season was between £5 and £50. But in reality, as Feldman says, enforcement 'proved difficult'. Each acclimatisation society had only one or two rangers so that all had to cover large territories. Poachers had little trouble in avoiding rangers and police, who were also authorised to enforce legislation, especially in remote or difficult terrain.<sup>110</sup> For a later period, when conservationists were also vigilant, a search of the *Nelson Evening Mail* revealed only six prosecutions between 1929 and 1939.<sup>111</sup> In the period of this report some poachers were prosecuted, however, but almost all the relevant files have been destroyed.<sup>112</sup>

For Maori there are several aspects in relation to enforcement. Firstly, there is the issue of knowledge of the law. Were Maori made aware, in their own language, of animals protection legislation and of its many revisions? Atkinson asked for the 1867 Act to be translated into Maori but, given that there were no Maori MPs at that date, and that later environmental acts were not always translated<sup>113</sup>, translation was unlikely. Were official notices placed in Maori publications like *Kahiti*, the Maori-language *Gazette*? In 1868, under section 3 of the Amendment Act that year, the Governor placed a notice in the *New Zealand Gazette* exempting the native districts of Tauranga, Maketu and Opotiki from the workings of the 1867 Act.<sup>114</sup> But was this also published in Maori? Such research is

108. Aramakutu, p 111 (citing Hapareta Rore Pukekohatu to James Carroll, 11 May 1908, IA 1/1908/1278)

109. See below, chapter 11 on scenery preservation and protected areas.

110. Feldman, *Kereru*, pp 62-64.

111. Hodge, p 315

112. Feldman, *Kereru*, p 64 (citing Department of Internal Affairs memo, for the Hon. The Minister of Internal Affairs, 'Illegal Shooting of Pigeons', 6 January 1915, IA 1 25/12/pt.1,NA, Wellington)

113. For example, see chapter 12 on forestry below.

114. Feldman, *Kereru*, p 13 (citing Proclamation declaring Protection of Certain Animals Act Amendment Act in force..., *New Zealand Gazette*, 1867, pp 115, 199, 253, 37)

beyond the scope of this report. From the little information so far available, it seems that the Government acted on the issue of Maori translation only in the 1890s when conservationist legislation was increasing.

In 1895 a correspondent to the Colonial Secretary suggested putting notices about the 1896 closed season for kereru in that year's Act in 'the Native Gazette'. In 1896 the Colonial Secretary's office asked the Government Printer whether the 1895 Act had been translated into Maori. The Colonial Secretary's office then ordered a number of copies of section 7 of the Act, that section which related to the closed season and the Urewera exemption. They sent copies of the translated version from *Kahiti* to the acclimatisation societies with the note: 'it was thought that Rangers who have Natives in their districts might find it useful to have a few copies'.<sup>115</sup> In 1901 the Colonial Secretary's office produced and circulated posters in Maori and English to notify the public of the closed seasons that year for kereru, kaka and pukeko. That year, too, the Colonial Secretary announced the exemptions to the act in a number of districts mostly in Taupo and Rotorua. These would relate to Te Heu Heu's request for the Royal Visit hui. They were published in the *New Zealand Gazette* but Feldman does not say whether they were also in *Kahiti*.<sup>116</sup>

Secondly there is the matter of what was or was not known. The evidence of Rakiihia Tau in the *Ngai Tahu Report 1991* shows that, even in the 1940s, some Maori did not know kereru were protected. Tau, a child in this period, said that he was grown up before anybody told him that it was illegal to catch kereru.<sup>117</sup> However, the number of protests and petitions already cited suggest that some Maori were aware of the law. But the many law changes relating to exemptions for native districts, the protected or unprotected status of individual birds, licencing, and the timing of the hunting seasons, led to confusion in both Maori and Pakeha communities.<sup>118</sup>

Thirdly there is the question of earning money. Collectors like Walter Buller paid Maori and others to collect indigenous birds for them either for their own collections or to send to friends. Buller had been paying for birds since the 1860s but in 1892, when he knew the huia was about to be declared a protected species, asked Maori to get him some more specimens.<sup>119</sup>

Lastly there is the actual enforcement of statutes. Only two cases have come to light of prosecutions under animals protection legislation and they both involved trout. This could demonstrate Feldman's point that, in

115. Feldman, *Kereru*, pp 29-30 (citing Caleb Smith to the Hon. Colonial Secretary, 24 March 1896, IA 1 1899/898, NA; Memo, Colonial Secretary's office, 25 February 1896, 'The Government Printer', IA 1 1898/2874, NA; Colonial Secretary's office, R H Govett, 'Memo for Secretaries of Acclimatisation Societies', 31 March 1896, IA 1 1896/898, NA Wellington)

116. Feldman, *Kereru*, Appendix 1 and p 35 (citing IA 1 1901/1583, NA, Document Bank, pp 19-20; *New Zealand Gazette*, 1901, p 1068)

117. Waitangi Tribunal, *Ngai Tahu Report 1991*, vol 3, Wellington, Brooker and Friend Ltd, 1991, p 845

118. Feldman, *Kereru*, p 21

119. Galbreath, *Buller*, pp 77, 83, 184

the 1860s at least, the Government had no plans to enforce game laws in native districts.<sup>120</sup> But it could also demonstrate the ineffectualness of apparently stringent law on game and native game in the face of large, remote, and forested terrain policed by a handful of rangers. The law, however, may have allowed a more subtle form of enforcement in the form of fear of infringements, threats, and trespass warnings. As we have seen from Mackay's 1881 report, several witnesses related such incidents. Even though Ngai Tahu was granted fishery easements, they were debarred from whitebaiting after lakes and streams were stocked with trout 'for fear of transgressing the law.' At Lake Waipouri, surrounding landowners turned Maori away from eeling there after the release of imported fish. Rawiri Te Maire gave evidence that if Maori went fishing, jail was threatened and that they were 'turned off from catching birds'.<sup>121</sup> These echo the 1905 petition of Paurini and others, noted above, when they asked for power to prevent Europeans from coming onto their lands when they were not permitted to go on lands of Europeans.

#### 10.12 Conclusion

In conclusion, this chapter has examined ideas and legislation surrounding animal protection, charting the change from protection of introduced species of fish, birds and animals to protection of indigenous birds and the tuatara. It has examined the composition of the acclimatisation societies who had a statutory role in the acclimatisation and protection of introduced species and later an exclusive role in protecting indigenous species. The acclimatisation societies can be seen to have had links with the Crown through their membership which included Governors and Pakeha Ministers of the Crown. The chapter has also examined the composition of the nascent conservation movement. This, too, can be linked to the Crown through its membership which included Pakeha Ministers of the Crown.

Acclimatisation Society activity began with two pieces of legislation in 1867; the Protection of Animals Act and the Salmon and Trout Act. The former also established the statutory role of the Acclimatisation Societies although five had been formed prior to its passing. Through the many subsequent pieces of animals protection legislation for game fish, birds and animals, the Crown can be seen to have assumed authority and then

120. Feldman, *Kereru*, p 12

121. Phillipson, p 25 (citing A Mackay to Under-Secretary of Native Department, 6 May 1881, AJHR, 1881, G-8, p 16); Waitangi Tribunal, *Ngai Tahu Report*, vol 3, pp 894, 888

to have asserted control over both introduced and indigenous species. The laws allowed, in the case of fish, the protection of introduced trout and salmon and the destruction of indigenous fish like eels. In the case of birds and animals, introduced deer, for example, were protected while those indigenous species classified as native game received protection in out-of-season months. When the conservation movement grew, absolute protection was extended to some species like the kereru. The first piece of legislation to include absolute protection was the 1886 Animals Protection Act 1880 Amendment Act. The many changes in legislation made knowledge of the law confusing. While the law seemed stringent, with policing, fines and penalties, environmental circumstances and few rangers made effective surveillance impossible.

Maori, particularly from the growth of the conservation movement, but also prior to it protested the decline in indigenous species that they used for food and their right to take these species without infringing the law. 'Do not, oh white people, thoughtlessly place your fish in these streams, because it is from the native birds and fish we get most of our food', stated Maori at Arowhenua in 1872. Heke, in 1902, reported complaints that trout consumed indigenous fish and that Maori preferred to eat whitebait and crayfish rather than trout.

Maori, like Paurini in 1905, asserted their right under the Treaty of Waitangi to manage fish and animals on their own lands. Wairarapa Maori objected to the reckless destruction of game and native game birds. Maori Members of Parliament explained that traditional methods of bird conservation were effective in preserving species for food; that bird decline was due to the European rat, wholesale use of poison, and forest destruction. They criticised the prohibition on the use of traditional nets and snares for bird-catching and fishing. They also criticised the timing of hunting seasons for sport rather than food. However the only concession to Maori protest was over hua hua.

In all these assertions Maori protested against the Crown's assumption of authority over indigenous and introduced fauna.

