# CHAPTER 11. SCENERY PRESERVATION AND PROTECTED AREAS

## 11.1 Introduction

This chapter is concerned with the protection another aspect of indigenous New Zealand, that of areas set aside for the permanent preservation of scenery, flora, and fauna. These include national parks, scenic reserves and offshore island bird sanctuaries. The chapter briefly outlines the Western historical background of reserved areas and the nineteenth century international context to this movement, before examining the New Zealand position. The scenery preservation movement – membership, motivations and actions – is analysed. Issues surrounding the establishment of Tongariro, New Zealand's first national park, and Little Barrier Island, New Zealand's second bird sanctuary, are discussed. Finally, the Scenery Preservation legislation between 1903 and 1910 is examined.

The acquisition by the Crown of these reserved areas had a major effect on Maori. Although Ngati Tuwharetoa initiated the establishment of Tongariro with a gift of its three mountain peaks, Maori owners of other lands, which were compulsorily taken by the Crown, had far less agency. The consequences for Maori are discussed.

## 11.2 Historical Background

The idea of a protected area or park, in which urban gardens or parks were set aside for leisure, pleasure and recreation, has evolved over the millennia in Western culture into a number of forms.[1] During medieval times in England, areas were designated by the sovereign as being under Forest Law, although they were not always entirely trees and not necessarily the king's own demense lands. Forest law over these areas was designed to protect the vegetation of the area and the wild animals that lived within it; deer, boar, foxes, hares, and pheasants. There, they were protected from capture in the non-hunting season although outside they could be taken by anyone.[2] Thus areas proclaimed under Forest Law were

1. M Stopdijk, 'Between Two Acts. An Investigation into Attitudes and Lobbying in New Zealand's National Parks Movement 1928-1952', MA thesis, University of Canterbury, 1988, pp 4-5, (citing W W Harris, 'Three Parks: An Analysis of the Origins and Evolution of the New Zealand National Parks Movement', MA thesis, University of Canterbury, 1970, chapter 2)
2. Chris Besant, 'From Forest to Field', *Legal Service Bulletin* (Australia), vol 16, no 4, 1991, p 161

temporary sanctuaries for flora and fauna in the same way as the medieval church offered sanctuary to human beings. Later, the great estate parks of royalty and the aristocracy protected flora and fauna for the private use of their owners.

## 11.3 Nineteenth Century International Context

In the nineteenth century, Western ideas about mountains, natural forests and wild water began to change in some sections of the community. Under the doctrine of Romanticism, widespread attitudes of fear, loathing, and avoidance became those of appreciation and reverence. It was thought that wild places were not only beautiful but could serve as areas of physical recreation and mental and spiritual rejuvenation for those oppressed by civilisation and urbanisation. In Europe, walking in the wild became popular and the first Alpine Club was formed in London in 1858. In the United States, when the scenic mountain and thermal wonders of the west were 'discovered' by white explorers, the 'new world' was seen to be rich in such areas of renewal compared to Europe. The idea of a 'park' was redefined, from human-made landscaped garden to wild unbounded nature and came to include the concepts of nationalism and of public ownership in its vision.

Wilderness areas, if they were permanently protected from exploitative commercial development, offered a unique, nationalist identity to countries of the 'new world'. They not only presented a variety and abundance of Romantic experience but could also become the equivalent of Europe's grand cathedrals, palaces, and gardens. It was felt that these new world parks should be in public rather than private ownership, reserved by state or federal legislation, and therefore open to all people. Public ownership could prevent destruction and depreciation by private or excessive commercialism as had occurred at Niagara Falls. All these themes were incorporated into the legislation that created Yellowstone, the world's first national park, in 1872.[3] It became the model for successive 'new world' national parks[4] although ideas involving conservation purpose, beneficiaries, and methodologies evolved within Yellowstone itself as well as in other 'new world' countries.[5]

The position of Native American races within American national parks has been paradoxical and controversial. In 1832 one of the original

3. Roderick Nash, *Wilderness and the American Mind*, New Haven, Yale University Press, 1973 rev ed, Chaps 3, 4, 6,7. California's Yosemite Valley became a state park in 1864

4. Harris, pp 20-21, 24-26

5. Paul Star, 'T.H.Potts and the Origins of Conservation in New Zealand', MA thesis, University of Otago, 1992, p 91; Stopdijk, 6-18; Robin Hodge, 'Creating a Park: Pérrine Moncrieff and the Abel Tasman National Park', Diploma of Humanities research essay, Massey University, 1993; R W Cleland, L W McCaskill, P H C Lucas, *World Centennial National Parks 1872-1972. A New Zealand View*, Wellington, Department of Lands and Survey, 1974.

proponents of national parks, the painter George Catlin, called for wilderness preservation of 'man and beast…in all the wild and freshness of their nature's beauty'.[6] This comment not only conforms to the Romantic Savage concept but is a clear recognition that human beings had long inhabited the mountainous regions. That acknowledgement does not sit easily with the idea of untouched wilderness which has been the prevalent historical construction of national parks and wilderness areas. Recent American scholarship discusses this anomaly and the ways in which indigenous peoples have been dispossessed of territories in national park areas, but have been 'used' in national park culture. Native American traditional ways of life have been proscribed in national parks, for example, but an officially-approved echo of these 'vanished' ways was encouraged by the National Park Service for tourists in 'Indian Field Days' at Yosemite.[7] New Zealand experience does not equate exactly with that of the United States but there are similarities. Maori have been excluded from living in national parks and sanctuaries. Their traditional practices in the use of flora and fauna found in protected areas have been increasingly proscribed, despite Treaty of Waitangi guarantees.

While the idea of a national park was a new concept in the nineteenth century, so too was that of the nature sanctuary which could be reserved permanently as habitat for particular species. The concept of nature sanctuaries is an extension of the Judeo-Christian idea of refuge in a temple or church's sanctuary – a place recognised as consecrated or holy and therefore a place of safety for human fugitives from secular law or persecution. Applied to flora and fauna, sanctuaries have been created in Europe since medieval times but this was only a temporary reservation to allow numbers to increase and be preserved for annual or future use. In Britain and the United States, the occasional individual and groups of conservationists established sanctuaries that envisaged the permanent protection of the species within it and their ongoing interactions. In both countries, where land was in private ownership, this was through gift or purchase. But in parts of the United States where State or Federal Government 'owned' the land, sanctuaries were achieved by statute, which also became the New Zealand practice.[8] The sanctuaries were often on the mainland, unlike the New Zealand reserves of this type at this time, which were offshore islands.

6. Quoted in Nash, p 101

7. Colin Fisher, Review of Mark David Spence, *Dispossessing the Wilderness: Indian Removal and the Making of the National Parks*, New York and Oxford, Oxford University Press, 1999, H-Environment@h-net.msu.edu (August 2000), p 4. Also, William Cronon (ed), *Uncommon Ground: Rethinking the Human Place in Nature*, New York and London, W.W.Norton and Company, 1996

8. John Sheail, *Nature in Trust*, Glasgow and London, Blackie & Son Ltd, 1976, Chap 7; Stephen Fox, *John Muir and His Legacy*, Boston and Toronto, Little, Brown & Cpy, 1981, Chaps 4, 6, p 180

## 11.4 New Zealand – Early Moves

In New Zealand the Crown had legal authority since 1840 to create reserves as 'places fit to be set apart for the recreation and amusement of the Inhabitants of any Town or Village or for promoting the health of such Inhabitants'.[9] But until the 1903 Scenery Preservation Act, which provided a framework for the identification, statutory recognition, and management of scenic or thermal landscapes, the designation of national parks, scenic reserves and island bird sanctuaries was ad hoc. Various pieces of legislation had given the Department of Lands and Survey the power to preserve land for a variety of reasons. For example, in Part 7 of the 1877 Land Act, section 144 allowed for reserves 'for the growth and preservation of timber, gardens, parks or domains'. Reserves for springs and natural curiosities were permitted under section 34 of the 1884 Land Act.[10] In the 1892 Land Act under section 235, reserves of Crown land specifically for scenery could be gazetted.[11] From the late 1860s, proposals were made by several individuals for different types of areas to be reserved. The politician William Fox, who had visited Yosemite, saw parallels between Yellowstone and Rotorua. In a Memorandum in 1874 he applauded the concept of public ownership in the Yellowstone legislation to prevent exploitative commercialism. In 1881 the Yellowstone statutes were brought up in Parliamentary debates on the Thermal Springs Bill, passed that year.[12] Fox was possibly instrumental in the reservation of Mount Egmont/Taranaki in 1875. The politician and conservationist, T H Potts, in an 1878 article called 'National Domains', proposed several different types of reserve. He submitted that a sanitarium should be established in the hot-springs district of Rotorua for the ill; that tracts of native forest be preserved for future use and as nurseries and 'storehouses' of indigenous flora; and that islands like Resolution and others off the North Island's north-east coast be set aside as bird sanctuaries. He argued that the effects of colonisation – changes in land use, game sports and collectors – had reduced native birds but that protected refuges could prevent their extinction.[13]

9. Queen Victoria's Instructions to the First Governor of New Zealand, 5 December 1840, Repro 13, NA Wellington, No 43. The New Zealand Company also made provision for reserved open areas; Star, 'Potts', p 88

10. Star, 'Potts', pp 87-88

11. L E Lochhead, 'Preserving the Brownies' Portion. A History of Voluntary Nature Conservation Organisations in New Zealand 1888-1935', PhD thesis, Lincoln University, 1994, p 97; M M Roche, *Acquisition, Design, and Management of Scenic Reserves in New Zealand: A Geographical Perspective*, Wellington, Department of Lands and Survey, 1981, p 7; L W McCaskill, *A History of Scenic Reserves in New Zealand*, Wellington, Department of Lands and Survey, 1972, p 4

12. Harris, pp 34-35, 42-43; M M Roche, 'A Time and a Place for National Parks', *New Zealand Geographer*, vol 43, no 2, 1987, p 104 (citing AJHR, 1874, H-26, p 4)

13. Harris, p 37; Star, 'Potts', pp 95-98; and T H Potts, 'National Domains' in *Out in the Open: A Budget of Scraps of Natural History*, Christchurch, 1882, Capper Press Reprint, pp 30-36

## 11.5 The Scenery Preservation Movement

From the 1880s more individuals became involved so that scenery preservation groups formed, although an equivalent organisation for birds - as New Zealand's most prominent faunal species - did not form until 1914. The first scenery preservation group was the Dunedin and Suburban Reserves Conservation Society in 1888, and by the turn of the century there were groups in the other main centres as well as Taranaki and Nelson. In the next decade groups also came into existence in Hawke's Bay, Gisborne and other places.[14]

The groups comprised leading Pakeha members of their communities; lawyers, businessmen, publishers, senior public servants, politicians in national and local government, amateur and professional scientists, and teachers. No obviously Maori names appear in accounts of members and activities. The impetus for the Dunedin society came from Alexander Bathgate, a barrister and solicitor, writer, and company director. Another member was G.M.Thomson who was also a politician, scientist, and acclimatiser. Leading members of the Christchurch Beautifying Society were the botanist Leonard Cockayne and H.G. (Harry) Ell whose initiative led to the Scenery Preservation legislation. Ell was also an advocate for indigenous bird conservation. The Lands and Survey department surveyor, William Henry Skinner, was a founding Taranaki society member. Thomas Cheeseman, a botanist and curator of the Auckland Institute museum, supported the Auckland society. The Nelson society included the Crown solicitor and former Mayor, C.Y.Fell, and a well-known teacher, F.G.Gibbs.

The preservationists were inspired by a number of motivations. One was an inherent love for the forested, mountainous, riverine or coastal scenic areas that remained and a wish to protect them. Society members did not believe the bush was inevitably doomed to extinction and regretted the amount of wasteful destruction in the formation of farms and by deliberate vandalism. Members campaigned against 'wanton' fire-raising and the cutting of fern fronds for civic decorations. Their campaigns were less concerned with intrinsic values and the needs of other species – though two societies sought bush protection as an important food source for birds[15] - than for utilitarian reasons. The Wanganui society was concerned with the issue of flooding and stressed the need to preserve forest in the Upper Wanganui catchment to reduce the risks of soil erosion and major floods in the town itself. But they also wanted the forest retained

14. Lochhead, pp 86, 133. Information on the societies comes from Lochhead, Chaps 3-5

15. The Christchurch Beautifying Society in 1902 for Parkinson's Bush; Lochhead, p 147 and the Nelson Scenery Preservation Society in 1898 for the Rai valley area; Lochhead, p 162

since the river was seen as a scenic tourist attraction. Tourism was a leading motivation for scenery preservation. In Wellington, a major concern was reafforestation of the town belt. They wanted to retain beautiful, natural areas for recreation and picnics, as 'haunts of peace wherein tired men and women may find the rest of changed and happy thought.'[16] Recreation was another leading motivation. Science, too, was a reason for preservation. Professor A.P.W.Thomas of Auckland University College argued that 'in the interests of science, it is most desirable…to establish one or more reserves, where the native flora and fauna of New Zealand may be preserved from destruction.'[17] As with the desire to protect indigenous birds that roughly paralleled the scenic protection movement and which was discussed in the preceding chapter, nationalist identity was another motivating factor. While some leading members of the movement, like Bathgate, had not been born in New Zealand, he certainly identified with his adopted country and therefore wished to preserve flora that was unique to it. The societies wanted to be able to pass on to future generations a little of New Zealand's ancient natural heritage. However, they were quick to point out, lest they were dismissed as fanatics, that they only wished to preserve areas that were not required for settlement.

The members of scenery preservation societies were involved with many projects. In its early years the Dunedin society's schemes included the reclamation and landscaping of sandhills and a campaign against the discharge of sewerage into the ocean. The Hawke's Bay group cleared tracks and erected a foot bridge to the Tongoio Falls where they wanted the bush protected. The Nelson society in 1898 petitioned Parliament for a national park in the Ronga and Opouri valleys between Nelson and Marlborough to permanently preserve 'Native Bush and Fauna'.[18] This was unsuccessful, as were many of the preservation society campaigns, and often the societies themselves were short-lived. Although they comprised many prominent men and their goals had the support of the Governor, Lord Onslow, in his term between 1888 and 1892[19], the societies had no national organisation nor statutory position like the acclimatisation societies. But they were considered by Robert McNab, Minister of Lands in 1903, to have 'a *quasi*-official status'.[20] They were clearly part of the Pakeha movement to identify with the indigenous New Zealand environment.[21]

As part of this nationalist, New Zealand identity, Pakeha appropriated language hitherto used by or applied to Maori. In the 1890s throughout

16. Lochhead, p 140
17. Ross Galbreath, *Walter Buller: The Reluctant Conservationist*, Wellington, GP Books, 1989, p 177
18. Lochhead, p 165
19. Galbreath, *Buller*, p 180
20. R McNab, 22 October 1903, NZPD, 1903, vol 126, p 707
21. Lochhead, chapters 3-5, (citing, on national identity, Keith Sinclair, *A Destiny Apart. New Zealand's Search for National Identity*, Wellington, Allen & Unwin with Port Nicholson Press, 1986)

the country, New Zealand Natives Associations were formed whose members advocated scenery protection, forest conservation and bird protection as patriotic causes. Use was made of the word tapu to denote the reservation, and possibly thereby the sacredness, of an area. Potts used it in his 'National Domains' article; 'considerable areas of land might be set aside and held under tapu as to dog and gun'.[22] Lochhead gives another example from 1895 and suggests that a New Zealand sense of identity lay behind the scenery preservation societies' protection of Maori pa sites. [23]

But their ideals and practice, however, held equivocal outcomes for Maori. The Taranaki Scenery Preservation Society, for example, in the 1890s obtained protection for a considerable amount of land, most of which was owned by Maori. These reserves included what is now called the Kaitake Range within the forest reserve of Egmont/Taranaki, land on the banks of the Manganui River, and an area at the headwaters of the Onaero River. In the early 1900s the society promoted protection of the Mokau River where scenic reserves, at least one of which had been Native Reserve land and wahi tapu, were gazetted in 1912.[24] Maori may well have approved the retention of forest as scenic reserve, rather than its destruction for farms, to retain access to flora and fauna but the Taranaki Scenic Preservation Society was also determined to prevent traditional use. When Maori took tui and kereru, claiming their right under the Treaty of Waitangi, the society tried, sometimes successfully, to have them prosecuted. This reference comes from L.E.Lochhead's thesis on the early preservation groups. She cites the diaries of Skinner, the Taranaki surveyor, which are held in the Taranaki Museum.[25] Skinner, in his book *Reminiscences of a Taranaki Surveyor*, gives a list of the reserves and their size but says nothing about prosecutions.[26]

## 11.6 National Parks

By 1912 New Zealand had two national parks, Tongariro and Egmont, while 800,000 hectares of Fiordland 'was reserved for national park purposes'.[27] In 1898 the Nelson Scenery Preservation Society had presented a petition to Parliament's Waste Lands Committee to have the Ronga and Opouri Valleys in the Nelson-Marlborough district declared a national park. Although the Committee recommended consideration of the val-

22. Potts, p 35
23. Lochhead, p 141
24. Geoff Park, *Nga Uruora. The Groves of Life*, Wellington, Victoria University Press, 1995, p 351 and Chap 3
25. Lochhead, pp 108-110, 116-118 (citing the Diaries of W H Skinner, a surveyor with the Department of Lands and Survey and a founding member of the Taranaki Scenery Preservation Society)
26. W H Skinner, *Reminiscences of a Taranaki Surveyor*, New Plymouth, Thomas Avery & Sons, 1946, pp 87-94
27. David Thom, *Heritage. The Parks of the People*, Auckland, Landsdowne Press, 1987, p xvi

leys' conservation, this did not occur.[28] This section examines the origins of the establishment of Tongariro as it was New Zealand's first national park and unique in that much of the initiative for its creation and the gift of its heartland mountain peaks came from a Maori leader, Horonuku Te Heuheu Tukino, paramount chief of Ngati Tuwharetoa.

## 11.7 Tongariro

Tongariro was New Zealand's first national park, founded in 1887 although not established by statute until the Tongariro National Park Act of 1894.[29] Its core comprises the central North Island volcanic cones, Tongariro, Ngauruhoe, and Ruapehu, which are snowclad in winter. As a remote, mysterious, and wild landscape, it certainly conformed to Western Romantic international ideals as to what was suitable for protection as a national park.

Exactly when and by whom the idea emerged for Tongariro national park is uncertain, but the context lies in the determinations of title to central North Island lands by the Native Land Court in the 1880s. With the completion of the main trunk railway, and settlement and tourism imminent, Ngati Tuwharetoa in whose tribal lands the volcanoes lay, Ngati Maniapoto, and Whanganui tribes contested boundaries.[30] Potton notes that during the 1881 Rangipo-Murimoto hearing the question of the mountains' disposal was debated.[31] Roche writes that in 1884 Dr A.K.Newman, Member of Parliament for Thorndon and who was later to belong to the Wellington Scenery Preservation Society, asked the Government to establish a national park comprising Mounts Tongariro, Ngauruhoe, and Ruapehu. Roche also notes that Lawrence Grace, the Member for Tauranga, and the son-in-law of Te Heuheu Tukino, suggested offering the mountain peaks as a gift to the Crown in 1884 and again in 1886.[32] The journalist, J.H.K.Nicholls, also suggested a park in an article the following year after he had toured the area in 1882.[33] Whatever the exact origin of Tongariro as a national park, Te Heuheu Tukino seized the initiative by gifting the summits of the three mountains as its nucleus. The transaction was formally completed in 1887 when John Ballance, Native Minister and Minister of Lands, introduced the Tongariro National Park Bill into Parliament. Further additional gifts of land by Tuwharetoa and Crown purchases of land were necessary to increase the

28. Lochhead, Chap 6
29. Roche, 'National Parks', p 104; Craig Potton, *Tongariro – A Sacred Gift*, [Auckland, Nelson], Landsdowne Press, 1987, p 132; James Cowan, *The Tongariro National Park, New Zealand*, Wellington, Tongariro National Park Board, 1927, p 33. The Tongariro National Park Act, 1894, No 55, *Statutes of New Zealand*, 1894, p 472
30. Thom, pp 91-97; Malcolm McKinnon, *New Zealand Historical Atlas*, Auckland, David Bateman in association with Historical Branch, Department of Internal Affairs, 1997, p 84
31. Potton, p 130
32. Roche, 'National Parks', p 104
33. J H K Nicholls, 'Exploration in the King Country', *Weekly News*, Auckland, 8 September 1883, cited by Harris, pp 46-47

size of the park. In addition, negotiations with other tribes over ownership, a Commission of Enquiry into 1887 land settlement decisions, and many questions in Parliament were required before legislation could be debated during sessions in 1893 and 1894.[34] Of the 62,300 acres covered in the bill, almost one third was still either under negotiation (14,510 acres) and so presumably still owned by Maori, or classified as Native Land (8,900).[35] The park was not gazetted until 1907.[36] The legislation provided for a life appointment of Tureiti Te Heuheu Tukino, Horonuku's son, as a Trustee of the management board and on his death, for another member of Ngati Tuwharetoa, if possible, to be appointed. Tureiti requested that his father be commemorated in the park's name but this recognition was reduced to the naming of one of the three park districts.[37]

According to Grace, Cowan and Thom, Te Heuheu Tukino had several interconnecting reasons for his gift. They included emotional and spiritual connections associated with his father's death in a landslide on the mountain in 1847; he did not wish to see the land cut up for Pakeha settlement. Another reason was a wish to establish his loyalty to the Crown, given his wartime support of the King Movement in the 1860s. In the Land Court hearings of the 1880s this loyalty was challenged by chiefs like Te Keepa Te Rangihiwinui from Whanganui (also known as Major Kemp), who had fought with the Crown against the King Movement. Another reason for the gift was to assert Te Heuheu Tukino's personal mana over other Tuwharetoa chiefs, and the future mana of Tuwharetoa itself over their lands and sacred mountains. As Cowan quoted him, 'If…our mountains of Tongariro are included in the blocks passed through the Court in the ordinary way, what will become of them? They will be cut up and perhaps sold, a piece going to one *pakeha* and a piece to another. They will become of no account, for the *tapu* will be gone. Tongariro is my ancestor, my *tupuna*; it is my head; my *mana* centres round Tongariro.'[38]

In the debates on the Tongariro National Park Bill, Pakeha MPs saw the park's creation in various ways that were representative of contemporary thinking. Ballance in 1887 emphasised recreation and tourism.[39] John McKenzie, Minister of Lands, in moving the second reading of the Bill in 1893, advised that the land would not produce anything but foresaw its thermal wonders and fine scenery as being beneficial for the future when New Zealand was more crowded. Newman placed it within the international context of Canada [Banff National Park] and Yosemite before de-

34. Harris, pp 56-59
35. These figures come from Tongariro National Park Bill, 7 July 1893, NZPD, 1893, vol 79, p 309. The ownership of the land under negotiation was not identified
36. Thom, p 97, 101-102
37. Harris, p 67
38. Cowan, p 30; John Te H Grace, *Tuwharetoa: The History of the Maori People of the Taupo District*, Wellington, Reed, 1959, pp 458-502
39. Roche, p 105

scribing its attractions from his and others' personal experience. Members from South Island electorates wanted similar reservations there while Richard Taylor from Christchurch wanted readily available access to the park for working people. He requested cheap railway travel and free entry.[40]

With the status of so much land already subsumed into the park still undetermined, most of the questions raised in the debates on the Bill by Maori Members of Parliament concerned these lands. As an overarching contention, Hoani Taipua of Western Maori believed that the Bill should be referred to the Native Affairs Committee as the proper place to discuss issues of title and possible compensation to Maori owners. However, James Carroll, MP for Eastern Maori and Minister Without Portfolio representing the Native Race, pointed out that it was to go to the Waste Lands Committee.[41] Perhaps it was thought the latter Committee would expedite discussion, as it is clear from subsequent debate that McKenzie wanted the Bill to pass without further lengthy delays.[42] McKenzie may also have implied that the Bill dealt only with Crown Lands.[43] When Eparaima Kapa of Northern Maori again raised the possibility of a referral to the Native Affairs Committee in the next session three weeks later, he was supported by George Richardson of Mataura and William Kelly of East Coast.[44]

The Bill's translation into Maori was an issue possibly raised by Taipua since he said he spoke 'under the disadvantage of not having seen the measure before the House'. Whether he meant in Maori or that he had not seen it at all, is unclear.[45] A Maori translation was certainly brought up by William Rolleston of Halswell. After the Bill returned from the Waste Lands Committee (with amendments that will be discussed shortly), Rolleston asked whether the Bill and its amendment, 'which probably amounted to confiscation', had been translated into Maori. The Speaker agreed that the amendments were considerable and should be translated, if the Native members had not seen them. [46] From the next session, fifteen months later, it is not possible to tell whether the amendments were translated or not. Translation of Bills into Maori appears to have been contentious since H.V.Taiaroa complained of the omission in the Legislative Council during debate on the Kapiti Island Bill[47], and it was to prove a crucial issue for the 1906 Scenery Preservation Amendment Act.

While Kapa praised Tuwharetoa and Te Heuheu's generosity in giving the land, he and other Maori who spoke wanted to ensure that all Maori,

40. J McKenzie, A Newman, T MacKenzie, R Taylor, 7 July 1893, NZPD, 1893, vol 79, pp 309-312
41. H Taipua, J Carroll, 7 July 1893, NZPD, 1893, vol 79, pp 310-311
42. J McKenzie, 28 July 1893, NZPD, 1893, vol 80, pp 321-322
43. See E Kapa, 28 July 1893, NZPD, 1893, vol 80, p 321
44. E Kapa, W Kelly, G Richardson, 28 July 1893, NZPD, 1893, vol 80, pp 320-321
45. Taipua, 7 July 1893, NZPD, 1893, vol 79, p 310
46. W Rolleston, Speaker, 28 July 1893, NZPD, 1893, vol 80, p 321
47. H Taiaroa, 21 December 1897, NZPD, 1897, vol 100, p 927

who had land interests in the area under consideration for the park, were treated equitably in the negotiation and compensation process. In the first session of the second reading Taipua wanted to know whether the claims of owners had been extinguished and the cost. McKenzie, in reply, said that the land referred to as Crown Land had cost £2,500 and that, so far as he knew, there was no legal claim, nor any claims in connection with the land, nor legal leases although some 'of the Natives might have given the people permission to run stock there'.[48] From the context it is not clear what McKenzie meant by 'claims in connection with the land'. While this may have been true of Crown lands already purchased, a large area of Maori land remained within the park boundary, one-seventh of the total. In the next sitting Taipua and Kapa both referred to these owners. It was proposed, Kapa said, to extend the radius to three miles and within that was a quantity of Maori land which the Maori owners had never parted with. He hoped the Government would take especial care that no wrong was done to these Maori.[49]

During the Waste Lands Committee hearing on the Bill, a substantial change for Maori was made. Rolleston explained the change as 'an entirely new departure'. Whereas the previous Bill had allowed the Governor to proclaim the park only when all the land within its boundaries was ceded by its Maori owners, the amendment permitted the park to be proclaimed even if there were some Maori interests still unacquired by the Crown. If Maori and the Governor could not reach an agreement on monetary compensation for those interests, the Governor could have compensation ascertained under the Public Works Act. McKenzie explained this clause was necessary because the Government was not going to be 'blackmailed by a few individuals' in the way that had occurred in Rotorua. In New Zealand's interests 'the land should be set apart at once.' He 'was assured the Natives were getting full value for all the interest they had in the land, and, that being the case, he could not see that any injury or wrong could be done to them.'[50]

The following year, Hone Heke, the Member for Northern Maori, again referred to the Government's obtaining areas of Maori land 'by force'. He believed that the Maori people involved should be able to make a bargain with the Native or Lands Minister, and that they 'were willing to dispose of them for a certain price.' Heke 'did not believe in taking Native land at a valuation, especially if the Natives did not agree to such valuation. Legislation of this nature was entirely inconsistent with the Treaty of

48. Kapa, 28 July 1893, p 321, Taipua, McKenzie, 7 July 1893, NZPD, 1893, vol 79, pp 310, 312
49. Taipua, Kapa, 28 July 1893, NZPD, 1893, vol 80, pp 320-321
50. Rolleston, McKenzie, 28 July 1893, NZPD, 1893, vol 80, pp 320,322

Waitangi.'[51] Whether the land was obtained 'by force' and the amount of compensation paid to those Maori owners before the park was gazetted in 1907 has not been conclusively established. But it may be that Tureiti Te Heuheu Tukino, who had succeeded as paramount chief on his father's death in 1888, was involved in procuring agreements from all those with interests in the park area. In the final reading, McKenzie acknowledged 'the valuable assistance' he had received from the chief, (whom, surprisingly, he called 'the grandson of the original grantee') in getting 'all opposition from the Natives removed.'[52] But Heke's words of a few days before suggest otherwise. With Tongariro National Park, the Government's desire to implement Te Heuheu Tukino's gift without further delay in negotiations seemingly allowed them to repudiate the rights of a minority of interested Maori.

## 11.8 Egmont

The genesis of Egmont National Park began in 1875 when the Superintendent of Taranaki Province issued an order reserving all forest and mountain land within a five-mile radius of Egmont's summit. This was principally for meteorological reasons as it was then thought that natural forests could help maintain rainfall levels. The local newspaper approved the reservation for aesthetic reasons as well. This reservation was extended to a six-mile radius in 1881 so that an area of 29,292 hectares was made forest reserve. It became the core of Mount Egmont National Park, gazetted in 1900, which also included 2,400 hectares of the Kaitake Range. The only speaker on the Egmont National Park Bill was W.C.Walker of Canterbury in the Legislative Council. He believed the forest would 'be one of the great features of the country for all time'. No Maori MPs spoke.[53]

## 11.9 Island Bird Sanctuaries

During the 1890s, as an aspect of Pakeha preservation of indigenous New Zealand, the Crown proclaimed six islands as reserves for flora and fauna. Of these three were particularly for 'native fauna' of which birds were the paramount species; Resolution in Fiordland proclaimed in 1891, Little

51. H Heke, 11 October 1894, NZPD, 1894, vol 86, p 679
52. J McKenzie, 15 October 1894, NZPD, 1894, vol 86, p 788
53. Harris, pp 37-39; John Cobb, *The Story of Egmont National Park*, Egmont National Park, Department of Conservation, [nd], p 109; W Walker, 18 October 1900, NZPD, 1900, vol 115, p 410

Barrier in Auckland's Hauraki Gulf in 1894, and Kapiti in Cook Strait in 1897.[54] They were reserved under the 1892 Land Act and administered by the Department of Lands although, in 1904, Resolution and Little Barrier were transferred to the Department of Tourist and Health Resorts.[55] Between 1897 and 1904 the management of Little Barrier was overseen by the Auckland Institute.[56]

This section examines Crown involvement with Hauturu/Little Barrier, issues surrounding its establishment as a bird sanctuary, and how these affected its Maori owners. It gives an indication of Maori views of such protected areas and contrasts the effects for Maori on Little Barrier with those on Kapiti. The source for much of the information on Little Barrier is Ralph Johnson's 'Report on the Crown Acquisition of Hauturu (Little Barrier Island)'. Although Johnson's study also covers in detail Native Land Court hearings to determine title to the island, this section concentrates on issues surrounding the sale of Little Barrier by Ngati Wai, who were eventually judged the owners, and the Crown.

Crown involvement with Little Barrier began in 1844 when the Ngapuhi chief, Pomare, attempted to sell the island to Crown Agent, J.R.Clendon. About this time Ngati Wai allegedly requested the Government not to buy the island but 'to look after their place' and were apparently assured that the Government would do so.[57] In 1878 Rahui Te Kiri and her husband Rini (or Kiri)[58] Tenetahi, who lived at both Little Barrier and Omaha opposite the island on the mainland, and who were to be leading activists in sale issues, submitted an application to the Native Land Court on behalf of the Ngahue hapu of Ngati Wai for the investigation of title to Little Barrier. Competing applications followed so that, between 1878 and 1886, six court hearings were held with different decisions. Ultimately in 1886 the Court found in favour of Ngati Wai, with Te Kiri and Tenetahi among the 14 listed owners. At this hearing Ngati Wai was represented by F.D.Fenton, a former Chief Judge of the Native Land Court.[59] Fenton had been the judge at an earlier hearing in May 1881 and, prior to this hearing, had alerted Crown officials to the opportunity for making a claim to the island.[60] Fenton's further involvement with Little Barrier as a bird sanctuary will be discussed later.

During the May 1881 hearing the Commissioner of Lands, D.A.Tole, formally requested the court to make Little Barrier inalienable, except to the Crown, as the island was thought to be useful for military purposes.[61] At a rehearing in June 1881 Tole repeated the Government's request

54. M M Roche, 'The Origins and Evolution of Scenic Reserves', MA thesis, University of Canterbury, 1979, p 59

55. 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, 1993, p 12

56. Ralph Johnson, 'Report on the Crown Acquisition of Hauturu (Little Barrier Island)', Report commissioned by the Waitangi Tribunal, 1999, p 56

57. Johnson, p 2 (citing Te Hemara Tauhia, 4 February 1884, Kaipara Minute Book 04, p 189 and Wiremu Turipona, 12 May 1881, Kaipara Minute Book 03, p 418)

58. Rini in Johnson, p 21, Kiri in Galbreath, *Buller*, p 302, Chap 17, Footnote 3

59. Johnson, pp 2, 4-19

60. Johnson, p 6

61. Johnson, p 6

which the court granted. A month later the Government gazetted its intention to purchase Little Barrier under Sections 3 and 4 of the 1877 Native Land Purchase Act, and the 1878 Amendment Act. These Acts applied irrespective of whether the land had passed through the Native Land Court or not. They prevented other parties from intervening until such time as Crown negotiations were completed or until the Government published a separate notification that it was no longer interested in the land.[62] The 1881 notification was one of the founding events in the history of the island's acquisition by the Crown. It was constantly referred to but its legality was sometimes questioned, even by public servants, until the Government's intention was reinforced by another *Gazette* notice in 1892.[63]

Despite initially wanting to retain the island, most Ngati Wai owners indicated a desire to sell throughout the 1880s and 1890s. In 1882, three of the five then listed owners, but not Te Kiri and Tenetahi, offered to sell their shares at £700 each or, if each of the five was paid £700, a total price of £3500. The previous year the Native Land Purchase Department had considered £2500 a suitable total figure but increased this to £2700 in discussions with a rival claimant in 1885.[64]

In 1886, after the final hearing when a further nine people were found to be owners (making a total of 14 owners), Ngati Wai again indicated a willingness to sell, this time for £4000. Another condition was that Te Kiri and Tenetahi, who were described as 'the present occupants', should retain their houses and buildings and 100 acres on the island. According to Johnson, Government officials noted that the 1885 offer had been £2700. The officials were also reluctant to commit to a purchase until the rehearing deadline had elapsed.[65]

In 1888 various owners again sought a sale, or payment in kind, for their shares, Tenetahi suggesting a price of £4000 for all 14 interests. But in the depression years of the 1880s the Government lacked the necessary funds.[66] By 1890-91, however, Ngati Wai and the Government were negotiating again, the iwi reducing its price to £3700 and the Government raising its offer to £3000. In 1891 A.J.Cadman, the Native Affairs Minister, forced the issue by notifying Ngati Wai that the offer would expire in October that year. Consequently, Tenetahi and two other owners signed a deed to transfer ownership of Little Barrier to the Crown. The deed specified a price of £3000 which would be paid to Tenetahi and then distributed by him equally among all 14 owners, but only after all the owners

62. Johnson, pp 9-10 (citing 'Notification of the Payment of money on, and Entry into Negotiations for, the Purchase of Native Lands in the North Island', *New Zealand Gazette*, 28 July 1881, no 61, p 961)
63. Johnson, p 35 (citing *New Zealand Gazette*, 3 November 1892, no 87, p 1461)
64. Johnson, p 11 (citing Paratene Te Manu to Te Paraihe (Bryce), 4 November 1882 and Native Office Paper 8 September 1882, MA 13/45, part 7, NA Wellington, and Johnson, p 17)
65. Johnson, p 23 (citing Charles Cave to Secretary Native Affairs, 25 October 1886, MA 13/45, part 6)
66. Johnson, pp 24-25

had signed the deed of transfer. The money was to be paid to Tenetahi because he had paid for the Land Court adjudications and this amount was to be reimbursed to him before his distribution to the others.[67]

Ngati Wai subsequently returned to the Land Court to have it determine the owners' relative interests. But before all could agree, Cadman withdrew the Government's offer claiming that the period for which the offer was open had expired.[68] But Cadman had secretly instructed the purchasing officer to take no more signatures since he wanted to spend his departmental allocation on land for settlement, not reserves.[69] Legally, then, the offer remained open under the Native Land Court Act, preventing Ngati Wai from considering offers from others. But the Government proceeded to again gazette its intention to purchase the island, this time under the 1892 Native Land Purchases Act.[70] And, contrary to its 1891 agreement that it would pay out only when all Ngati Wai owners had signed the deed of transfer, between 1892 and 1893 it purchased the interests of all but Te Kiri and her daughter. Despite knowing that Tenetahi considered that the individual purchases invalidated the 1891 agreement, and despite advice that those three signatures might need to be reconfirmed, the Government continued to insist that it had purchased his interest by virtue of the 1891 deed, despite its conditions never having been met.[71]

In 1880 the bird collector, Andreas Reischek, described Little Barrier as a 'precipitous and overgrown [island] with luxurious bush consisting principally of giant kauri trees…while below the dark green arches of manuka and nikau palms, and the tender soft green veil of broad ferntree fronds, were richly contrasted'.[72] The island's geography and vegetation help explain why, by the late nineteenth century, it had become so valuable environmentally to different sections of the Pakeha community and to its Maori owners, especially Tenetahi and Te Kiri. Its ruggedness had prevented earlier wholesale kauri logging although Te Kiri's father had allowed some felling and Tenetahi and others had sold timber in the 1880s.[73] But there was still much kauri when demand again increased and prices rose in the 1890s.[74]

In March 1892 (while the Government was purchasing the individual interests), Tenetahi signed an agreement with a timber merchant, S.Welton Browne, for the sale of all the kauri on Little Barrier over five years. Although Johnson does not note the total amount paid, Tenetahi received £100 on signing and had earlier purchased a scow to transport

67. Johnson, pp 26-27, 38
68. Johnson, p 28
69. Galbreath, *Buller*, p 182 (citing Telegram, Cadman to Edgar, 3 October 1891, Cadman to Tole, 13 November 1891, MA 13/45, NA Wellington)
70. Johnson, pp 30,35
71. Johnson, pp 33-35, 42
72. quoted by Thom, p 200
73. Johnson, pp 7, 29, 31
74. Johnson, pp 33,38, *Atlas*, p 49

the timber to Auckland. One of his prime motivations was to pay outstanding legal fees such as those owed to Fenton. Larger-scale logging then commenced in a stop-start way as the Government made firmer efforts to purchase the island and served an injunction to stop felling in November 1892.[75] Through a lawyer, R.Laishley, Tenetahi and Welton Browne questioned the legality of the Crown's actions and threatened court action. Both petitioned Parliament separately in 1893. Tenetahi sought the separation of his and his family's interest in Little Barrier from those of the other owners whose shares had been purchased, to enable him to continue milling and to live on the island. As an alternative, he sought adequate compensation for all interests. The Native Affairs Committee concluded that the Government should attempt to acquire Tenetahi's interest but if it could not negotiate a reasonable price, the island should be partitioned. Another lawyer, J.A.Tole, on the Government's behalf, attempted to conclude the negotiations but reported that Tenetahi had refused its offer of £3000 and had threatened to introduce bees to the island to destroy the birds. Tole, while admitting this may have been a threat to raise the price for the remaining shares, suggested the shares be taken compulsorily under the Public Works Act with compensation paid at the same rate as had been paid for the other shares.[76]

By this time, the Crown was very anxious to acquire Little Barrier to prevent kauri felling for conservation reasons, rather than acquisition for military purposes. Little Barrier was to be an island sanctuary for indigenous fauna and flora. This idea had been floated occasionally in past decades by scientists, naturalists, and politicians. The botanist Thomas Kirk claimed that he and F.W.Hutton, the geologist and biologist, advocated it in 1868. Fenton, apparently, also suggested it at a meeting of the Auckland Institute in 1875, a reason perhaps for his informing the Commissioner of Lands in 1881, as noted earlier. Potts had called for island domains in 1878 mentioning Resolution and the islands off the North Island's east coast though he did not single out Little Barrier. Lobbying by New Zealand Institute members strengthened throughout the 1880s and 1890s as indigenous birds were increasingly seen to be under threat on mainland New Zealand from habitat destruction and introduced predators.[77] In 1886 Thomas Cheeseman, botanist, scenery preservationist and President of the Auckland Institute and Museum, lobbied the Premier, Robert Stout, asking that the Government take steps to acquire the freehold. The island, Cheeseman wrote, 'is noted for the number of indig-

75. Johnson, pp 26, 29, 31-35, 37-39

76. Johnson, pp 36-37, 40-43, (citing Tenetahi, petition number 161, 18[9]3, and R M Honston, 8 August 1893, Native Affairs Committee Report on Petition of Tenetahi, Petition number 161, both in MA 13/45 part 2)

77. Johnson, p 23 (citing Paul Monin, 'The Islands Lying Between Slipper Island in the South-east, Great Barrier Island in the North and Tiritiri-Matangi in the North-west', report commissioned by the Waitangi Tribunal, December 1996 (Wai 406 record of documents, doc C7)), pp 63,81; Lochhead, p 79 (citing W M Hamilton, 'The Little Barrier Island.Hauturu', *D.S.I.R.Bulletin* 54, Wellington, Government Printer, 1937)

enous birds found on it, and many species, such as the Bell-bird, Stitch-bird, Saddle-back, which are quite extinct on the mainland, are still comparatively plentiful on it.' Stout noted on the letter, 'I think something should be done in this direction.'[78] Cheeseman's lobbying resulted from Reischek's speech to the Institute on Little Barrier's birds on the night of the Ngati Wai decision. Fenton, in the audience, again suggested that the island be purchased by the Government to preserve the birds and as an endowment for the Institute.[79] Islands, especially those which remained forested, were seen to offer the only possibility of sanctuary.[80]

In 1891 further impetus for Little Barrier becoming a sanctuary came from the scientific lobby again and vice-regal sources. Delegates to the Christchurch meeting of the Australasian Association for the Advancement of Science endorsed a proposal from Professor A.P.W.Thomas that a recommendation be sent to John McKenzie, the Minister of Lands in the new Liberal Government, that Resolution and Little Barrier Islands be reserved from destruction. Since it was then unoccupied Crown land since it had been purchased from Ngai Tahu in the Murihiku purchase, McKenzie followed up on Resolution. The Governor, Lord Onslow, signed the proclamation in August 1891.[81]

Onslow shared these interests in conservation and science. Earlier that year, in connection with the naming of his New Zealand-born son Huia, Onslow had asked Walter Buller, New Zealand's most prominent scientist and ornithologist, to prepare a memorandum explaining Onslow's conservationist choice of name. Although not a conservationist then, Buller expanded this request to present a case for the preservation of New Zealand birds on island reserves, and to obtain legal protection for the huia. The Government had already decided to make Resolution Island a sanctuary but added the huia to the list of birds protected by the 1880 Animals Protection Act. Onslow signed the proclamation giving effect to this (on which Huia also made his mark), on 23 February 1892, the day before his term as Governor ended.[82] With Onslow's departure, his private secretary, Hugh Boscawen, joined the Lands Department in Auckland, visiting Little Barrier in 1893 and writing a report that became part of the conservationist lobbying.[83]

Legislation was no protection and the huia is thought to have vanished in the next decade.[84] Nor was the vice-regal connection. Huia Onslow (Huia was actually his fourth name) was born in 1890, the fiftieth jubilee year of the signing of the Treaty. Newspapers hoped that a distinctively

78. Johnson, p 24 (citing T F Cheeseman to R Stout, 16 December 1886, MA 13/45, part 5, NA Wellington)
79. Galbreath, *Buller*, p 165
80. Lochhead, pp 78-79
81. Galbreath, *Buller*, pp 176-177
82. Galbreath, *Buller*, pp 176-184
83. Johnson, p 41; Chris Maclean, *Kapiti*, Wellington, Whitcombe Press with Historical Branch, Department of Internal Affairs, p 177
84. Galbreath, *Buller*, pp 250-251

New Zealand, meaning a Maori, name would be given the child. It was Buller who suggested the name Huia and, according to reports, the people of Ngati Huia welcomed the naming at a ceremony on their marae at Otaki.[85] It can be seen as ironic, therefore, that the symbolism of a Maori name and its connection with a desired bird facing extinction should be connected with a celebration of nationhood while at the same time Maori, like Te Kiri and Tenetahi, were in the process of being evicted from their land.

In 1892 these conservationist and nationalist pressures were one reason for increased Government interest in Little Barrier. Others were Tenetahi's actions in felling kauri and his and Te Kiri's refusal to accept the Government's offer for his interests. It sent an observer, Henry Wright, to report on the situation. Wright calculated the amount of standing kauri and its value as £5000. Although these figures were disputed, it is clear that the price to be gained from timber was considerably more than what the Government was offering sellers since it was still in the process of acquiring the Ngati Wai interests.[86] Wright was briefly appointed a ranger on Little Barrier in late 1892 but he was replaced by Charles Robinson, a protégé of Buller's, in early 1893. Robinson was instructed to stop Maori from taking timber but not to prevent gum-digging nor Maori shooting kereru or kaka. Robinson was dismissed after Tenetahi had stated in a sworn statement that he had seen two protected stitchbirds in Robinson's tent.[87] Before Wright was appointed, a suggestion had been made within the Native Affairs Department that Tenetahi be employed on Little Barrier as a custodian, but the Auckland Commissioner of Lands rejected this for several reasons. He believed that no Maori should live on the island after it was acquired as they might sell protected birds, or might allow other Maori onto the island who could bring dogs and cats.[88]

Eventually the Government introduced special legislation to allow the compulsory acquisition of Little Barrier because Tenetahi, Te Kiri and her daughter refused to sell their interests. The Little Barrier Island Purchase Bill was debated in October 1894 and became law a day after the Tongariro National Park Act was passed.[89] Heke spoke strongly against it. Several Pakeha MPs and Legislative Councillors were uneasy about the meaning in its Preamble and its provisions. Heke opposed it for several interconnected reasons. It took away the interests of Tenetahi, Te Kiri and her daughter without their agreement to the compensation offer, and the

85. Galbreath, *Buller*, p 180
86. Johnson, p 33 (citing Henry Wright, 'New Zealand Native Birds: Report of Henry Wright Upon Hauturu', 17 October 1892, LS BAAZ 1109, 1664C, NA Auckland)
87. Galbreath, p 216 (citing Kiri Tenetahi, 9 December 1895 To11901/197, NA Wellington)
88. Johnson, pp 39-40
89. The Little Barrier Island Purchase Act, 1894, *Statutes of New Zealand*, 1894, p 628

Government should have informed them of the Bill before it was introduced so late into the present sitting of Parliament. He therefore thought the Bill should be held over. As he had with Tongariro, Heke believed 'the Natives would come to some reasonable agreement with the Government if they would only be content to meet the Natives fairly in respect of their interests.'[90] In a long speech the next day Heke explained the history of the sale negotiations. He considered that Tenetahi had been deceived over the 1891 sale agreement with the Government and that therefore 'the Bill was inconsistent with the Treaty of Waitangi'. Since this was so, Heke argued, the Governor, who had power under Instructions of 1892, should not give his assent to the Bill but forward it for the direct assent of Her Majesty Queen Victoria. Heke also argued that the Bill was a private Bill but the Speaker ruled that private Bills did not apply to Native lands or Native persons. The Speaker reiterated this point in debate on the Kapiti Island Public Reserve Bill three years later.[91] Heke's point was that, since the Bill dealt with private rights, it should be submitted for determination to a tribunal authorised by Parliament, as was the case with Pakeha private rights. Francis Bell of Wellington supported Heke to the extent of arguing that Standing Orders should be amended to give Maori the same protection in respect of their land, property and money as other subjects of her Majesty.[92]

This point also exercised several members of the Legislative Council. Robert Pharazyn of Wellington argued that it was clear from the Preamble that the Bill interfered with private property rights and, even if it was Native land, Natives and Europeans had the same rights under the 1865 Native Rights Act. Therefore it was a private Bill. William Downie Stewart of Otago maintained that the appropriation was 'directly contrary to all principles of legislation, and was also contrary to the spirit of the Treaty of Waitangi'. It seemed extraordinary to him that Maori should be compelled to give up their land at a compensation to be fixed not by any outside tribunal, but by some Government official acting in the interests of the colony. But the Legislative Council Speaker also declined to rule that it was a private Bill. As it had been considered by the Native Affairs Committee, he was bound to assume that the statement in the Preamble, that the Bill was designed to carry out the 1891 agreement between Ngati Wai and the Crown, was correct.[93]

While politics between state-interventionist Liberals and politicians who championed individual rights may have prompted some of these

90. H Heke, 18 October 1894, NZPD, 1894, vol 86, p 893
91. Mr Speaker, 20 December 1897, NZPD, 1897, vol 100, p 915
92. H Heke, Mr Speaker, F Bell, 19 October 1894, NZPD, 1894, vol 86, pp 936-937
93. R Pharazyn, W Downie Stewart, 20 October 1894, NZPD, 1894, vol 86, pp 973-974

points, Heke, Pharazyn and Downie Stewart nevertheless identified a problem with the Bill. The Preamble, which states the intention of the Act, contains references both to the 1891 agreement and to the private rights of Te Kiri and her daughter Ngapeka who had not signed the agreement or sold their interests. In stating that 'according to Native custom and usages they are bound by the terms of the [1891] document', it annuls their private rights.[94] It was a convenient format to smooth the transition between Government will and action. Other Parliamentarians saw no difficulty with the Bill's provisions. Seddon and Robert Thompson of Marsden argued for the need to resist blackmail on the part of those behind the Maori owners; presumably referring to the logging contractor Welton Browne.[95] Others, like Walter Mantell of Wellington, approved the Bill on the assurances from the Government that Tenetahi would be properly reimbursed.[96]

In June 1895 the Government issued a Notice of Removal ordering all residents to leave Little Barrier before the end of July that year. Both Te Kiri and Tenetahi continued to protest in various ways. Tenetahi, in a Letter to the Editor of the *New Zealand Herald* in 1895, invoked Article Two of the Treaty in defence of his right to retain ownership of his lands as long as he wanted to. Possibly Te Kiri was more activist, as the Government learned from the caretaker, Robinson, in April 1895 that Te Kiri had for the second time attempted to set fire to areas of bush.[97] But in January 1896 a bailiff and soldiers took formal possession of the island and removed the remaining inhabitants including Tenetahi and his family. During 1896 Tenetahi and others continued to return to tend their stock left on the island, causing the Lands Department to auction the remaining animals. The animals were finally removed in October that year. Tenetahi continued his protests and claims for reimbursement of expenses at least until 1910 when he again petitioned Parliament. The Native Affairs Committee recommended his petition for 'favourable consideration', urging the Government to settle on a fair and equitable basis. Whether this occurred, and whether Tenetahi, Te Kiri or her daughter ever collected their shares of the payment deposited with the Public Trust, is unknown.[98]

The compulsory acquisition of Little Barrier from Ngati Wai and their eviction contrasts with events at Kapiti Island and for some of its Maori owners, the Parata-Matenga-Webber family of Ngati Toa. The information in this section comes from Chris Maclean's book, *Kapiti*.[99] Although it is unclear if Buller was the initiator, he promoted the idea of Kapiti as a

94. Little Barrier Act, *Statutes*, Preamble
95. R Seddon, R Thompson, 18 October 1894, NZPD, 1894, vol 86, p 894
96, W Mantell, 22 October 1894, NZPD, 1894, vol 86, p 1024
97. Johnson, p 50 (citing Robinson to Commissioner of Crown Lands, 30 March 1895, BAAZ 1109/151B)
98. Johnson, pp 47-58
99. Chris Maclean, *Kapiti*, Wellington, The Whitcombe Press, 1999

bird sanctuary in 1895 in a speech to the Wellington Philosophical Society. During the speech he announced that the Minister of Lands had decided to acquire the freehold of Kapiti. By April 1897 most of Kapiti was either leased from its Ngati Toa owners or owned by Europeans, principally experienced lawyers and landowners like Harry Field and his brother W.H. (Willie) Field, the latter following the former as the Member of Parliament for Otaki. Willie Field had acquired much land in the Waikanae area on the mainland opposite Kapiti after loans that he had made to Maori with their land as security, had defaulted. Seemingly the Fields were not deterred by Government interest in acquiring Kapiti, even by compulsion. A mortgage in the name of Isobel, Willie Field's wife, in late 1897 was the catalyst for the Kapiti Island Public Reserve Bill. The mortgage was over land on Kapiti owned by a Maori. Maclean suggests that Field expected to acquire this area on Kapiti in much the same way as he had his Waikanae land.[100]

**Group of hunters Kapiti Island, 1890s. Photographer unknown.**
**Photograph courtesy of the Alexander Turnbull Library (1/2-002799)**

The Bill on Kapiti was drafted by Seddon and introduced into Parliament in December. A number of Kapiti's Maori owners petitioned Parliament and spoke to their petition when the Bill was considered by the Native Affairs Committee. They declared they would never consent to the Bill since it had been their land since their ancestors came from Kawhia.

100. Maclean, pp 178- 182

Even though Seddon was not swayed by these arguments, he agreed to an amended Bill. This prevented any private dealing in Kapiti land for a year, required those Europeans who owned or leased land on Kapiti to forfeit it in return for compensation, and allowed for the Government and Maori to negotiate . Maclean suggests that this overnight compromise on the Bill may have been arranged by Wiremu Parata who, with his brother Hemi Matenga, were Ngati Toa with interests in Kapiti. Parata had been MP for Western Maori between 1871 and 1876. The Kapiti Island Public Reserves Act, 1897 was subsequently passed through all its stages in just a few days.[101]

When the Government acquired ownership of most of the island, the Maori owners who sold their interests received about 12 shillings and 6 pence per acre while Pakeha received about £3 5s per acre, or five times as much.[102] For Pakeha, the value of land was determined by an tribunal consisting of an assessor appointed by each side - the landowner and the Government - and the process was presided over by a magistrate or Supreme Court judge. For Maori, the Native Land Court assessed the compensation amount.

By 1904, there were 1400 acres remaining as Maori land on Kapiti owned by the Parata-Matenga-Webber family. When the Department of Tourist and Health Resorts gained control of Resolution and Little Barrier, it also sought control of Kapiti and expressed the view that the 1400 acres should be acquired under the 1903 Scenery Preservation Act. To counter these Government plans, Matenga built a house on Kapiti in which his niece, Utauta Parata and her husband Hona Webber lived while working the family sheep farm.[103] Despite legislative attempts by the Lands Department during the next decade or so, the northern end of Kapiti remains Maori land to this day. The main reason for this was the constant lobbying of MPs by Utauta.[104]

The different outcomes for Ngati Wai and Ngati Toa on Little Barrier and Kapiti respectively are instructive. The Parata family was involved in Government whereas the Te Kiri and Tenetahi families were not. Much of Kapiti was in grass as a farm while Little Barrier was virtually pristine forest. While Kapiti had potential as a sanctuary for endangered birds if they were introduced, Little Barrier was in effect already a sanctuary. Ngati Wai's felling of kauri to make a living and threats to birds as a pro-

101. Maclean, pp 181-187
102. Maclean, p 190
103. Maclean, pp 193-199
104. Maclean, p 200

test were unacceptable to a Government exhorted to preservation by a vocal, scientific, conservation grouping. And ultimately the Crown was not disposed to call in bailiffs and soldiers to evict Ngati Toa from Kapiti as it had done with Ngati Wai on Little Barrier.

## 11.10 Maori and Bird Sanctuaries

Maori were not necessarily opposed to bird sanctuaries. In 1896 Ropata Wahawaha wrote to the Government, relaying decisions from a hui he had attended on the East Coast to discuss exemptions to the imminent closed season for catching kereru. As well as outlining areas for exemption, Wahawaha proposed reserves for birds. The birds were not to be absolutely protected but partially protected, as in medieval game sanctuaries, and in the way that Maori were requesting of Animals Protection legislation.[105] The Government did initiate action to set aside some of the areas outlined by Wahawaha as native game sanctuaries. Maps were drawn, the House of Representatives discussed the plans and the Legislative Council passed a resolution in favour but no sanctuary for native game on the East Coast was gazetted.[106]

During the 1898 Parliamentary Waste Lands Committee hearing on the petition for a national Park in the Ronga and Opouri valleys, views of local Maori were presented by a Maori clergyman, the Reverend Bennet. They supported the idea of a national park there because shooting would not be allowed in it. They welcomed this as necessary to protect the breeding grounds of birds.[107]

In 1900 the Protection of Animals Act Amendment Bill of that Year was introduced by James Carroll as Colonial Secretary. Carroll originally included a clause that prohibited the introduction of any animal, deemed to be a threat to indigenous birds, to any off-shore island. The intention was to prepare for a time when the birds were so scarce that more island sanctuaries would be required. The clause was subsequently omitted from the Act.[108] These Maori initiatives show that the proposers were not opposed to bird sanctuaries as such. They appear to have seen sanctuaries as a means of bird conservation to provide a traditional seasonal harvest.

105. See Chap 10
106. James W Feldman, 'Treaty Rights and Pigeon Poaching: Alienation of Maori Access to Kereru, 1864-1960', A Report Commissioned by the Waitangi Tribunal, Wai 262, January 1998, pp 28-29 (citing Ropata Wahawaha to the Hon the Mr Seddon, 11 April 1[8]96, and maps in IA 1 1898/2874, NA and NZPD, 1898, vol 104, pp 415,434)
107. Lochhead, p 173 (citing AJHR, 1898, I-5B, p 28)
108. WTD, 1900 Protection of Animals Act Amendment Act, Commentary

## 11.11 Scenery Preservation Legislation

Between 1903 and 1910 several pieces of legislation on scenic preservation were passed by the Government, reflecting the increasing Pakeha interest in indigenous New Zealand. These were the 1903 Scenery Preservation Act, the 1906 Scenery Preservation Amendment Act, the 1908 Scenery Preservation Act and the 1910 Scenery Preservation Amendment Act. Between 1901 and 1909 all functions relating to major natural attractions came under the Department of Tourist and Health Resorts, and after 1909 the Lands and Survey Department.[109] This section outlines the salient clauses of these Acts, for which the information again comes from the Waitangi Tribunal's Flora and Fauna Legislation Database 1840-1912 (WTD). It also explains the motivations for the legislation, and its likely consequences for Maori, as posited in the Parliamentary debates.

The 1903 Act established a Commission, of up to five members, to inspect, investigate and recommend to the Governor for proclamation any Crown, private or Native land considered worthy of scenic, thermal or historical preservation. Land could be taken under the 1894 Public Works Act and, in the case of Native land, the compensation ascertained and paid to the Public Trustee for investment on the owners' behalf. These lands could be fenced and conserved and were to be inalienable. The 1903 Act provided for the establishment of local boards to manage them. Financial penalties could be imposed on those who unlawfully cut timber, lit fires, or damaged the reserves.[110] In introducing the debate on the Bill, Seddon told the House that the Government was setting aside £25,000 for four years to fund their acquisition.[111]

The 1906 Scenery Preservation Amendment Act replaced the Commission with a Board comprising the Surveyor-General, the General Manager of the Tourist and Health Resorts Department, and the Commissioner of Crown Lands in the district of the designated reserve. The Board could appoint a Secretary and Inspectors. But for Maori the most significant parts of the Act were those which were amended or deleted when the Bill was before Parliament. Firstly, the meaning of 'private land' was defined as land owned by any person other than a Maori. This change was hugely significant since it was eventually determined that this meant Maori land could not legally be taken for scenic reserves. During the debate Tame Parata of Southern Maori picked up on this point, whilst congratulating the Minister for deferring when the Bill would become operational until the following year. But Robert McNab of Mataura re-

109. McCaskill, *Scenic Reserves*, pp 4,6

110. WTD, Scenery Preservation Act, 1903, ss 2, 3, 4, 5, 8, 9

111. R Seddon, 22 October 1903, NZPD, 1903, vol 126, p 704

plied that the taking of Native lands would be unaffected by the Act.[112] This conclusion proved wrong and had to be corrected by legislation in 1910 which will be discussed in further detail shortly. In the debate on the 1910 Scenery Preservation Amendment Bill, William Herries of Bay of Plenty alluded to the Taheke case in which the Supreme Court held that land had been wrongly taken under the Public Works Act.[113] As it is beyond the brief of this report, further research is required to establish the details of this case. The Parliamentary mistake appears to have been partly corrected, from the preservationist viewpoint, the following year when the 1907 Native Land Claims Adjustment and Laws Amendment Act was passed which enabled Maori reserve land to be taken for scenic purposes.[114]

The 1906 Amendment Bill contained other clauses relevant to Maori. It allowed the Governor to permit Maori owners of what was to become scenic reserve but was formerly Maori reserve land to hunt birds and, where it contained urupa, to continue to bury their dead. It also authorised the Governor to appoint a Maori to the Scenery Preservation Board of the district in which was situated the particular area for reservation. The Bill was amended to exclude the clauses which related to Maori land from the Act because, if they had remained, a Maori translation would have been necessary. Presumably to avoid delay or expense, Parliament made a costly mistake. Consequently the above clauses were also omitted from the Act.[115]

The 1908 Scenery Preservation Act as a consolidating act, replacing the 1903 Act and the 1906 Amending Act.[116]

The 1910 Scenery Preservation Amendment Act was significant legislation for Maori since it corrected the 'mistake' which Parliament had made with the 1906 legislation. Section 10 provided for all Native land or other land taken for the purpose of scenery preservation prior to the passing of the 1910 Act under the Public Works Acts of 1908, 1905 and 1894, to be deemed to have been validly taken. The Act was partly helpful to Maori since it restored provisions for Maori which had been deleted from the 1906 Amendment Bill. The Governor could thereby grant Maori the right to take or kill birds, not protected by Animals Protection legislation, from scenic reserves which were formerly Maori land at the time of their taking, and to bury their dead in reserves that contained urupa. And it allowed the Under Secretary of the Native Affairs Department to replace the General Manager of the Tourist and Health Resorts Depart-

112. WTD, Scenery Preservation Amendment Act, 1906, ss 3,3; T Parata, R McNab, 24 October 1906, NZPD, 1906, vol 138, pp 596,597
113. W Herries, 21 November 1910, NZPD, 1910, vol 153, p 838
114. Cathy Marr, 'Crown-Maori Relations in Te Tau Ihu: Foreshores, Inland Waterways and Associated Mahinga Kai', Treaty of Waitangi Research Unit, 1999, p 152
115. WTD, Commentary of 1906 Scenery Preservation Amendment Act
116. Scenery Preservation Act, 1908. ss 1-17

ment on the Scenery Preservation Board. The Act prohibited the discharge of firearms and the hunting of game and native game on reserves. It provided for scenic reserves to be replanted or alienated if the reserve was no longer considered suitable for scenic purposes.[117]

But its principal object was Section 10; to validate the taking of Maori land under both the Scenery Preservation Acts and the three Public Works Acts. In moving the second reading in the House of Representatives, Thomas Mackenzie glossed over this point. The Act, he said, was to secure 'certain beauty-spots' and to give the Government 'certain powers which it was believed they possessed under previous Acts of Parliament.'[118] But the Act's intention was made clear by John Findlay, Attorney General, in the Legislative Council when he said 'its principal object was to provide power to acquire Native lands'. He explained that the 1903 legislation had originally conferred this power but it was taken away by the 1906 Act, 'owing to the fact that the provisions of the amending Act relating to Native land were not translated into Maori when the Bill was being considered in the House.' Pressure of time then led to the omission of the relevant clause. Findlay recounted how it had been thought that section 14 of the Public Works Acts of 1905 and 1908 gave sufficient power but Crown Law officers advised that new statutory powers were necessary.[119]

Before further analysis of the legislation, this paragraph summarises information on the numbers and size of scenic reserves in claimant areas. By 1912, the Government had spent £43,012 of the £100,000 set aside for scenic reserves. This money had been used for purchase, compensation, survey, fencing and Board expenses. It had secured 159,808 acres as reserves.[120] Much of this was Maori land although more research is needed to determine exact amounts. In the 1970s and 1980s L.W.McCaskill compiled regional lists of scenic reserves by land districts which include their classification, size and date of reservation, and descriptions of their flora and fauna although he does not say whether they were formerly Maori land. The Hawke's Bay survey shows that between 1899 and 1911, five scenic reserves were declared which, in 1978 totalled about 93 hectares. In the Nelson land district, between 1895 and 1912, 21 scenic reserves were declared totalling approximately 42,797 hectares in 1975. In North Auckland, between 1904 and 1912, nine scenic reserves were declared totalling about 1750 hectares in 1981.[121] As Cathy Marr has concluded for Maori of the Nelson-Marlborough region (Te Tau Ihu), scenic reserves could have considerable impact. This, of course, is true throughout New Zealand.

117. Scenery Preservation Amendment Act, 1910, ss 10, 7, 4, 7, 8
118. T Mackenzie, 21 November 1910, NZPD, 1910, vol 153, p 837
119. J Findlay, 23 November 1910, NZPD, 1910, vol 153, p 890
120. McCaskill, *History*, p 7
121. L W McCaskill, *Scenic Reserves of Hawke's Bay*, Wellington, Department of Lands and Survey, 1978; L W McCaskill, *Scenic Reserves of Nelson*, Wellington, Department of Lands and Survey, 1975; L W McCaskill, *Scenic Reserves of North Auckland.Book One: North of Whangarei and Dargaville*, Wellington, Department of Lands and Survey, 1981

Because most accessible land useful for farming and timber, had been cleared, Maori reserve land was often all that remained in original forest cover and was therefore worth preserving for scenic purposes. Their declaration as scenic reserves abrogated Maori control, even though the 1910 Amendment Act provided for Maori to hunt birds on what was formerly Maori reserve. No evidence of Maori being so permitted has come to light.[122]

Debates during the passing of the legislation reveal that Pakeha MPs wanted legislation for scenery preservation for a number of reasons. Most of these were elaborated upon by Seddon during debate on the second reading of the 1903 Act. Remaining beauty and historical spots were the heritage of the people, he said. Even if the value of the land was not great, they had enormous value for future generations when the population would take a greater interest in New Zealand history. Overseas visitors were impressed by the grandeur and beauty of New Zealand scenery. He claimed the great bulk of the people of the colony wanted the legislation which had been brought up in Parliament from time to time. The Press was urging it. Seddon also wanted to keep scenic and thermal areas out of the hands of private individuals so that everyone could gain the benefits of pleasure and health.[123]

William Massey of Franklin believed there were a number of old pa and old battle sites which should be preserved as well as the thermal districts of the North Island and lake districts of the South Island. He saw New Zealand's natural scenery as one of our finest assets. Field, the aforementioned Member for Otaki, linked indigenous scenery preservation, animal protection and tourism by stating that numbers of overseas visitors fished for trout in the Waikanae River. Other members mentioned areas in their electorates which were worth preserving. McNab noted that, since politicians had dealt with various private committees and had 'given them a *quasi*-official status', these amenities committees in different parts of the country would be willing to look after the reserves. William Jennings of Egmont mentioned the good work of Taranaki Scenery Preservation Society.[124] All these reasons – aesthetic, nationalistic, heritage, tourism – were Pakeha motivations for indigenous preservation and had been articulated by the scenery preservation societies from the late 1880s.

Most Pakeha MPs who spoke expressed no concern at the Crown's taking Maori land for scenic purposes. Indeed, in the 1903 debate, Archibald

122. Marr, pp 152, 162
123. R Seddon, 22 October 1903, NZPD, 1903, vol 126, p 704
124. W Massey, W H Field, F Mander, R McNab, W Jennings, 22 October 1903, NZPD, 1903, vol 126, pp 704-713

Willis of Wanganui congratulated the previous Premier, John Ballance, on securing a mile of Native land on each side of the Whanganui River as scenic reserve.[125]

Willis then raised the point that Maori were destroying areas considered scenic by Pakeha. He hoped the Whanganui River areas would soon be in the possession of the State to prevent further scenic destruction for which he blamed Maori. 'On two or three occasions – not lately, I am glad to say - great damage was done on the slopes of the river, and representation had to be made to the Natives on the subject, with the result that destruction of the kind has to a large extent been stopped. But we never know when the same kind of thing will occur again.'[126] Seven years later in the debate on the 1910 Act, the Whanganui River scenery was again raised when Mackenzie deplored further destruction there which, he said, was the cause of the 1910 Amendment Act.[127] Findlay believed, 'that some of the most attractive scenery in the Dominion existed on Native land – was, in fact, Native land – and it was desirable that power should be given to the State to obtain for the people of the Dominion for all time these beauty-spots.'[128]

While it is beyond the scope of this report to ascertain all the reasons why Maori destroyed areas considered scenic by Pakeha, in 1906 Ngata offered a reason in the workings of the 1903 Commission. Many Maori, he said, and particularly those of the Hot Lakes District, were greatly dissatisfied. The Commissioners often held their meetings hundreds of miles from the lands proposed to be taken. They made their recommendations and reservations without viewing the areas, guided by interested people but without consulting Maori. As a result, Ngata said, 'a great many spots that should have been reserved had been deliberately destroyed by the Natives as a sort of protest against the methods of the Scenery Preservation Commissioners.' Ngata suggested that Maori should be approached 'in a proper way', as Europeans were, for consent. Legislative policy should be explained and consent requested, as 'from time immemorial [Maori] had been accustomed to give it in a meeting in his own way.'[129]

The only Pakeha speaker to discuss Maori interests was William Herries of Bay of Plenty. In a somewhat ambiguous statement he said of the 1906 Act, that had the original clauses been carried, 'it would have caused almost a revolution amongst the Natives. The definition of "Native land" and of "Maori" was extended far beyond the original definition, and

125. A Willis, 22 October 1903, NZPD, 1903, vol 126, p 710
126. ibid
127. T Mackenzie, 21 November 1910, NZPD, 1910, pp 837-838
128. J Findlay, 23 November 1910, NZPD, 1910, vol 153, p 890
129. A Ngata, 24 October 1906, NZPD, 1906, vol 138, p 596

would cover lands held by Europeans.'[130] Did Herries mean that Maori would have violently objected to Maori land leased to Europeans, from which they derived an income, being taken for scenic reserves? Did he object to Maori land leased to Europeans being taken? Was his use of the word revolution an exaggeration? Although it may have been, Maori appear to have shown anger about the Whanganui River reserves, as has been related. Herries also objected to the general validation clauses of the 1910 Amendment Act because they were retrospective and could have a detrimental effect. In some cases, he said, Maori may have been unaware that land was taken for scenery preservation purposes and therefore would have no opportunity to object or claim compensation.[131]

Maori MPs offered a different perspective on scenery preservation legislation. Of the four Maori speakers in the 1903, 1906 and 1910 debates, Heke in the 1903 debate and Apirana Ngata of Eastern Maori in 1906 generally endorsed the object and sentiment of scenery and historic places preservation. But Heke also stirred the waters of debate with a nomination for the preservation of a contemporary historical event known today as the Dog Tax War. After a dispute with the Speaker about its relevance, Heke suggested that the 1898 Government troop suppression of Maori, in which Heke mediated to prevent bloodshed, should be so recognised.[132] However, Ngata and Heke criticised the ways that scenic preservation legislation was applied to Maori lands. One of their main criticisms concerned acquisition arrangements.

In 1903 Heke objected to the Government's method of acquiring Maori land for scenic reserves through the use of the Public Works Act under which the value of compensation for Maori land was assessed by the Native Land Court. He believed that Maori and Pakeha land should be assessed by the same tribunal, consisting of an assessor appointed by each side and presided over by a magistrate or Supreme Court judge.[133] Although Heke did not say so, the implication of his remarks is that Maori land was assessed at, and compensated for, at a lower rate than that of Pakeha, something he would have known from the Kapiti Island assessments and possibly others. On Kapiti, Pakeha owners received five times as much as Maori owners.[134] In the 1906 debate, Ngata confirmed Maori knowledge of injustice in the compensation system. Maori, Ngata said, had found from experience that there was a great deal of difference in the minds of those who settled the amount to be paid for Maori land. 'There was, to say the least of it, an unconscious bias in the minds of the

130. W Herries, 24 October 1906, NZPD, 1906, vol 138, p 596
131. W Herries, 21 November 1910, NZPD, 1910, p 838
132. H Heke, 22 October 1903, NZPD, 1903, vol 126, p 710. For details of the 1898 'Dog Tax War', see James Belich, *Making Peoples. A History of the New Zealanders from Polynesian Settlement to the End of the Nineteenth Century*, Auckland, Allen Lane. The Penguin Press, 1996, p 268
133. Heke, 22 October 1903, NZPD, vol 126, p 710
134. See above

[Native Land] Court, which caused a distinction to be set up between the value of land owned and occupied by Maoris and that of Europeans' land.' Possibly this occurred, he continued, because Maori made less noise and attracted less attention than Europeans about the taking of land, so that compensation paid for Maori land had been underestimated. If Maori, he said, 'got true compensation for their lands according to surface value and with due regard to sentimental value, and if they were properly approached…there would [not] be any opposition on their part.' Parata endorsed Ngata's argument in 1906, as did Wiremu Pere in the Legislative Council in 1910.[135]

Another point of Maori criticism was the dual standard in Crown policy. Heke pointed out the irony of scenery preservation legislation and acquisition at the same as the Auckland Land Board was selling Northland kauri forests. 'It is a grand sight to see these huge trees towering above all the other native bush, but when you go into the bush itself, then it is that the grandeur of this noble tree appeals to you in all its majesty.' He suggested that 50 or 100 acres in each county should be preserved. Totara forests, too, had 'a beauty just as grand as other scenery' so that they too should be considered for preservation.[136] These comments preceded Leonard Cockayne's call, published in 1908, for a national park in Waipoua kauri forest.[137] So, while Heke and Ngata did not disapprove of scenery protection, they were highly critical of double standards exhibited by Pakeha, the methods used by the Commission, Boards and scenery preservationists to acquire reserves, and the inequitable compensation Maori received for their increasingly-valued scenic lands.

## 11.12 Conclusion

The movement to gain preservation of indigenous scenery, flora and fauna gathered strength in New Zealand from the late 1800s. It comprised regional groups of leading Pakeha figures in public life, business, and science who were part of the Western Romantic movement that revered wilderness areas. They were imbued with 'new world' nationalism and ascribed to the idea that such lands should be in public ownership. While the scenic preservation groups lacked the statutory role of the acclimatisation societies, they comprised influential men. Apart from suburban amenities like public parks, they concentrated on acquiring areas of

135. A Ngata, T Parata, 24 October 1906, NZPD, 1906, vol 138, p 596; W Pere, 23 November 1910, NZPD, 1910, vol 153, p 891

136. H Heke, 22 October 1903, NZPD, 1903, vol 126, p 710

137. Michael Roche, *History of New Zealand Forestry*, Wellington, New Zealand Forestry Corporation Ltd in association with GP Books, 1990, p 405 (citing AJHR, 1908, C-14)

mountain, riverine, coastal, and forest scenery, and island sanctuaries for the purpose of protecting indigenous birds. Such areas were permanently reserved under various pieces of legislation in an ad hoc way, but between 1903 and 1910 a body of Scenery Preservation legislation established official procedures for Crown acquisition.

The 1903 Scenery Preservation Act established a commission of up to five members to inspect, investigate and recommend to the Governor for proclamation any Crown, private or Native land considered worthy of scenic, thermal or historical preservation. The Government set up a fund of £100,000 to be spent over four years for the acquisition and maintenance of these sites. In 1906, the Scenery Preservation Amendment Act replaced the commission with a board of three senior public servants and inadvertently removed the Crown's power to acquire Native land for scenery preservation by compulsion under the Public Works Acts. While a consolidating Act was passed in 1908, it was not until the 1910 Scenery Preservation Amendment Act that the Crown regained the power to acquire Native land for scenery preservation and validated past acquisitions.

Until 1912, the Government had spent approximately £43,000 of the £100,000 it had allotted for scenic reserves. Lists of scenic reserves, compiled in the 1970s and 1980s, show that approximately 44,000 thousand hectares were gazetted as scenic reserves in the provinces of claimants to 1912, although the amount of Maori land taken is not detailed. Although the 1910 Act prohibited the use of firearms and hunting of game and native game on scenic reserves, Maori access to birds was probably reduced more in theory than practice. As with discussion on animals protection legislation in Chapter Ten, remoteness of location and few rangers meant that there were no prosecutions. The same would be likely to be true of scenic reserves.

By the 1890s much of the desirable mainland scenic areas and islands suitable for sanctuaries were owned by Maori since most accessible lands had been cleared for settler farms. From the Parliamentary debates outlined above, Maori MPs did not disapprove of scenery preservation or of bird sanctuaries per se but held other reasons, also, for land reserves. In gifting the three peaks to form the core of New Zealand's first national park, Tongariro, Horonuku Te Heuheu Tukino wanted to prevent the fragmentation of tribal homelands of immeasurable spiritual and cultural value. In fighting to retain their lands on Kapiti, the Parata-

Matenga-Webber whanau were preserving links to their ancestors, and the spirit and vision which had motivated the move from Kawhia. The objectives of Heuheu Tukino and Ngati Tuwharetoa converged coincidentally with Romantic and preservationist motivations of the scenery preservationists. As we see today, Kapiti also accommodates both objectives although perhaps less comfortably. The initial gift of Tongariro was a Tuwharetoa initiative, but Maori owning other areas coveted by preservationists had much less agency. And, indeed, it seems that a minority of Tuwharetoa did not agree to the final settlement price for their lands that made up the rest of the park. When negotiations broke down, as with Tenetahi and Te Kiri of Ngati Wai over Little Barrier Island, the Government had the power under various Public Works Acts to compulsorily take the lands, adjudicate, and pay compensation.

The process of compensation for Maori appears to have been less just than it was for Pakeha. For Pakeha, the value of land was determined by a tribunal consisting of an assessor appointed by both the landowner and the Government, presided over by a magistrate or Supreme Court judge. For Maori, the Native Land Court alone assessed the compensation amount. Ngata provides generalised examples of the Native Land Court's bias towards lower compensation for Maori but the Kapiti assessments are specific proof that Maori owners were not treated equitably with Pakeha over the compulsory acquisition of lands for scenic reserves and bird sanctuaries.