

CHAPTER 14. PETITIONS TO PARLIAMENT CONCERNING FLORA AND FAUNA

14.1 Introduction

This chapter presents the results of a brief survey of petitions Maori made to Parliament in the period 1840 to 1912 that made reference to indigenous flora and fauna, and that were reported on by the Native Affairs Committee. This exercise has been undertaken in an attempt to adduce some sense of how Maori viewed Crown actions in relation to indigenous flora and fauna in the period that is subject to this report. Petitions to Parliament were of course just one of a variety of ways in which Maori voiced opposition to Crown policies and actions in the period under review. Maori wrote large numbers of letters to Members of Parliament, Crown officials, and the editors of newspapers. Also deputations were often made to Parliamentarians and officials to voice concern or dissatisfaction with particular matters. The complete range of protests and incidents of Maori voicing concern or views on Crown policies and actions that are recorded in the thematic chapters above, are discussed in the following conclusion chapter.

The petitioning of Parliament was a major feature of Maori protest in New Zealand throughout the nineteenth century. In 1872 the Government established the Native Affairs Committee to deal with the large numbers of petitions that it was receiving from Maori. The committee included the four Maori Members of Parliament, and comprised members of both the Government and the Opposition. Petitions from Maori would be referred to the committee, who after deliberations, would make a recommendation to the Government as to whether or not action should be taken. Although petitions about major grievances such as the return of confiscated lands very rarely received favourable results, in smaller matters salutary outcomes were often achieved. It seems that a favourable decision by the committee, especially if taken up by the opposition in Parliament, could embarrass the Government and force it to take action, or find favour with a well-disposed Minister of Native Affairs.¹ But of course a recommendation that the Government take action was no guarantee that this would happen.

1. Alan Ward, *A Show of Justice: Racial Amalgamation in Nineteenth Century New Zealand*, Auckland, Auckland University Press/Oxford University Press, 1974, p 271

A summary of all petitions that went before the Native Affairs Committee was published in the Appendices to the Journals of the House of Representatives. For this chapter a research assistant went through all the summaries of petitions in the AJHRs for the years 1872 to 1912, and identified all the petitions that made reference to flora and fauna.² These results were then entered into a spreadsheet matrix for analysis. This has enabled the petitioners' broad areas of concern to be identified, and for petitions to be grouped according to these themes.

Inevitably such analyses have limitations and this exercise is no exception. Perhaps the major one is that we have only worked from the summaries of the petitions, and not the full texts. Although National Archives does hold the original texts of some petitions by Maori to Parliament, this record group is far from complete. Unfortunately time has not permitted us to locate and examine the originals of the petitions that still exist. An obvious problem with working from the summaries of the petitions is that very little detail as to their content is provided – usually only a couple of lines of text. This poses the possibility that references to flora and fauna were not recorded where the annotator considered that the primary concern of the petitioners was something else. It would seem likely that this could be the case with petitions about land that, for example, the petitioner considered they had been wrongfully deprived of. Obviously title to such land is the primary issue at stake, but a major concern of the petitioners could have been the fact that through being dispossessed of the land, they had lost access to its flora and fauna. Another possibility though is that although issues of access to flora and fauna were a concern, Maori did not identify these in petitions dealing with the ownership of particular lands. This nexus between land and access to flora and fauna is consonant with the theme that runs through this report that one of the major ways in which Maori lost access to flora and fauna was through land passing out of their ownership.

14.2 The results: an overview

Of the several thousand petitions from Maori to Parliament in the period 1840 to 1912, our research initially identified 101 that made reference to flora and fauna. Of these, six were recorded twice because of the way in which petitions were recorded in one year, but because of exigencies of

2. The research assistant was Vanessa Browne.

time, not considered and reported on until the following year. Ten of the 95 can be considered to be of only marginal relevance, being requests for such things as intervention to prevent the trespass of cattle upon Maori land, permission to dig gum upon Government land, and the provision of road access to Maori fishing reserves.³ These petitions are, however, generally included in the analysis in the following sections.

The first petition pertaining to flora and fauna, dated 1874, is recorded in the AJHR of 1876. Most petitions were reported on in the AJHRs for the years 1881 (7), 1886 (12), 1888 (5), 1891 (5), 1895 (5), and 1904 (5). Almost twice as many petitions were received in the 1880s than in any other decade in the period that is the subject of this report – 40 as compared to 7 in the 1870s, 24 in the 1890s, and 19 in the 1900s. Petitions concerning flora and fauna came from all parts of the country, though from the summaries in the AJHRs it is not possible to identify the origin of 33 of the petitions. Of the remainder, 20 are from the South Island; 6 from Northland; and 5 each from Hauraki, Wairarapa, Wanganui, and Taranaki; 4 from the Hawkes Bay; and the rest from throughout the country. The number of people who signed each petition also varied widely, from one or two to over 10,000 in one instance.

In analysing the material the first step taken was to note all the subjects that were raised in the petitions. The number of times each subject was mentioned in a petition was then recorded. The results of this exercise are presented in the table below. Petitions that deal with several things have been recorded in each subject field. For example, a petition about a lake fishery would be recorded as being about lakes and freshwater fisheries.

Subject		Subject	
Mahinga Kai reserves	8	Sub-surface rights ⁴	5
General Reserves – flora and fauna issues	9	National parks and sanctuaries	2
Timber and trees	19	Fishing – freshwater	10
Gum	4	Eels	9
Lakes	16	Fishing – sea	14
Lagoons	7	Fishing – general	8
Rivers	13	Birds	5
Foreshore	6	Native game	1

3. See for example, petition (no number) 1876, AJHR 1876, I-4, p 10; petition no.117 /1886, AJHR, 1886, I-3, p 15; petition no. 329/1910, AJHR, 1910, I-3, p 15

4. Although not a category of flora and fauna, references to sub-surface rights were noted in the analysis as they indicate the extent of the rights that at least some Maori perceived they held in land in their ownership.

As is apparent from this table, the most common subject of petitions were timber and trees, inland waterways (lakes, rivers and lagoons), and fisheries. Four petitions mentioned the Treaty of Waitangi (see below). As well as recording what were the explicit subjects of the petitions, the analysis also noted what petitions could be seen as an assertion of direct authority by the petitioners over indigenous flora and fauna. In total 22 of the petitions fell into this category. Examples are petitions where Maori asked to be free to mill trees upon their land as they wished without requiring a licence from the Crown, to not be subject to fisheries legislation and regulations, and for the Government to intervene to stop Pakeha taking wildlife upon their land.⁵ In the following section the petitions are discussed according to theme.

14.3 Analysis by theme

In this section the petitions are discussed in terms of some broad thematic groupings: inland waterways; fisheries; birds and animal protection legislation; forests; reserves; and protected areas. These categories are a mix of both flora and fauna habitats such as waterways, and actual biota such as birds and fish. Petitions about sub-surface rights – five of which were recorded in the analysis – are not discussed as they do not strictly relate to flora and fauna. They were simply noted in the analysis because they tend to show that Maori considered that they owned or had rights to minerals and other subterranean resources such as gravel as an incident of their land ownership.

14.3.1 Inland waterways

Parliament received more petitions relating to inland waterways than any other category – 36 in all.⁶ When considered alongside the petitions about general and freshwater fishing rights the huge importance of inland waterways to Maori in the nineteenth century becomes very apparent. Petitions relating to waterways are not strictly or necessarily concerned with flora and fauna. However, as they concern the habitat of indigenous species that were the basis of Maori fisheries, they are obviously of critical importance in terms of the biota they supported.

5. See for example, petition no.407/1885, AJHR, 1885, I-2, p 27; petition no.292/1892, AJHR, 1892, I-3, p 10; petition no. 163/1896, AJHR, 1896, I-3, p 8

6. For the purposes of this chapter, lagoons have been dealt with as inland waterways.

Lakes

Of the petitions analysed for this project, more were about lakes (16) than any of the other categories identified. Generally, the petitioners claimed that a particular lake was theirs and that they had been wrongly dispossessed of it. Five of the lake petitions were from Ngai Tahu in respect of lakes within the Kemp Purchase (the deed of which reserved to Ngai Tahu all their mahinga kai).⁷ Te Oti Pita Mutu and 25 others petitioned Parliament in 1879 and again in 1880 in respect of lakes in Canterbury. In 1879 they stated that lake-based fishing reserves granted to them by the Native Land Court were now useless because Europeans had drained the lakes and as a consequence destroyed the fisheries the lakes supported. The Native Affairs Committee recommended that the accretion that resulted from the drainage be vested in the Maori owners of the reserves as compensation for this loss.⁸ Te Oti Pita Mutu and (presumably the same) 25 others petitioned Parliament again the following year in respect of other lands reserved to them in Canterbury. They reiterated their complaint that the lakes upon these lands had been drained and the fisheries destroyed. The committee reported that due to it having insufficient time available to make the necessary investigations, it had no recommendation to make.⁹

In 1881 members of Ngai Tahu again petitioned Parliament about their lakes, this time in respect of Lake Ellesmere (Waihora). The petitioners claimed that the lake should have been excluded from the 1848 Kemp Purchase and that their eel fisheries in the lake were being destroyed as a consequence of the lake's margins being drained.¹⁰ Another petition of 1881 complained that an accretion resulting from the lowering of lake Ellesmere should accrue to Ngai Tahu.¹¹ Issues related to Lake Ellesmere came before the Native Affairs Committee again in 1904 as a consequence of members of Ngai Tahu petitioning Parliament asking that their fishing rights in the lake not be disturbed.¹² In the case of both the 1881 and 1904 petitions, the Native Affairs Committee made no recommendation.¹³

The issue of the ownership of the Wairarapa lakes – a hugely important eel fishery in the nineteenth century – was the subject of four petitions to Parliament between 1876 and 1912.¹⁴ In 1876 the Crown claimed it had acquired complete ownership of the lake by virtue of having purchased the interests of a handful of the lakes' owners. This led Manihera te Rangitakaiwaho 'and others' to petition Parliament complaining of the

7. For a brief discussion of the Kemp Purchase, see chapter 7 of this report.

8. Petition of Te Oti Pita Mutu and 25 others, petition no. 160/1879/2, AJHR, 1879/2, I-2, p 28

9. Petition of Te Oti Pita Mutu and 25 others, petition no. 183/1880, AJHR, 1880, I-2, p 31

10. Petition no. 324/1881, AJHR, 1881, I-2, p 26

11. Petition no. 125/1881, AJHR, 1881, I-3, p 22

12. Petition no.18 /1904, AJHR, 1904, I-3, p 24

13. Petition no. 324/1881, AJHR, 1881, I-2, p 26; Petition no.18 /1904, AJHR, 1904, I-3, p 24

14. For more detail on the contest for the ownership of the Wairarapa lakes, see chapter 13 of this report and Ben White, *Inland Waterways: Lakes*, Waitangi Tribunal Rangahaua Whanui Series (working paper: first release), March 1998

injustice of the purported purchase. The Native Affairs Committee recommended that all Maori claiming to have an interest in the lakes should have an opportunity to have their claims investigated by the Native Land Court.¹⁵ Subsequent to a royal commission on the question of the lakes' ownership that found they were the property of Maori, Piripi Te Maari petitioned Parliament in 1892 and 1893 asking that the owner's rights be protected, and that they be paid compensation for the losses they had sustained in relation to the lakes. Although making no recommendation in the case of the first petition, the committee ruled in favour of the second and recommended that the Crown should pay compensation to the lakes' owners.¹⁶ Te Maari again petitioned Parliament in 1895 asking that their grievances in connection with the lake be inquired into and that relief be granted. The Native Affairs Committee reiterated its earlier recommendations vis-à-vis the lake and expressed its regret that the Crown had not acted upon the recommendations of the royal commission.¹⁷

Another lake in respect of which Maori petitioned Parliament several times was Lake Whatuma in the Hawkes Bay. Parliament received petitions about this lake in 1894, 1896 and again in 1898. The issue appears to have been that when Maori sold the land surrounding the lake to the Crown, they did not consider that they were parting with the lake. The Crown, however, considered that it had acquired title to the lake – a position that was consistent with English common law. The former owners of the abutting land therefore sought to have the lake returned to them.¹⁸ Although making no recommendation on the 1894 and 1898 petitions, the Native Affairs Committee recommended that the 1896 petition be referred to the Government for consideration.¹⁹

Other petitions asked that the Maori ownership of Lake Horowhenua not be disturbed (1903),²⁰ that the 'Tokerau council' deal with the issue of the ownership of Lake Omapere (1904),²¹ that 'European fish' not be introduced into Lake Rotoaira (1905),²² that 'the order declaring Lake Tatawai a sanctuary be rescinded' (1909)²³, and that inquiry be made into the boundaries of Lake Waikaremoana (1912).²⁴ It is interesting to note that Omapere, Waikaremoana and Rotoaira would come before the Native Land Court in the twentieth century as Maori sought legal recognition of their ownership of the lakes in question.²⁵

In most of these petitions it is the ownership of the lakes that is the central focus. Often an issue was that although the owners considered

15. Petition of Manihera te Rangitakaiwaho and others, AJHR, 1876, I-4, p 17

16. Petition of Piripi Te Maari and 10 others, petition no. 244/1892, AJHR, 1892, I-3, p 3; Petition of Piripi Te Maari and 24 others, petition no. 444/1893, AJHR, 1893, I-3, p 21

17. Petition of Piripi Te Maari and 5 others, petition no. 180/1895, AJHR, 1895, I-3, p 19

18. Petition no. 399/1894, AJHR, 1895, I-3, p 7; petition no. 190/1896, AJHR, 1896, I-3, p 15; petition no.239/1898, AJHR, 1901, I-3, p 6

19. Petition no. 190/1896, AJHR, 1896, I-3, p 15

20. Petition no. 891/1903, AJHR, 1904, I-3, p 19

21. Petition no. 560/1904, AJHR, 1904, I-3, p 22

22. Petition no. 332/1905, AJHR, 1905, I-3, p 112

23. Petition no. 398/1909, AJHR, 1909, I-3, p 11

24. Petition no.185/1912, AJHR, 1913, I-3, p 10

25. See White

they had never ceded the lakes, the Crown had assumed ownership in accordance with principles of common law. In other instances where ownership remained in Maori hands, such as in the case of Horowhenua, the petitioners sought guarantees that their rights would not be interfered with. Another theme that emerges from many of these petitions related to the ownership of the lakes was the ability of Maori to control the fisheries that the lakes supported. Complaints of fisheries being destroyed through lake levels being lowered feature in many petitions.

Rivers

In total 13 petitions from Maori between 1840 and 1912 concerned rivers. Unlike the lakes petitions, only one in respect of rivers claimed that Maori had been denied the ownership of the waterway in question. The one instance was a 1904 petition that claimed the Ahuriri River mouth (and the Whakaroto lagoon) had been wrongfully taken from the petitioners.²⁶ But many of the petitions clearly revealed that Maori considered that they had authority over rivers. The four petitions in respect of the Whanganui River are examples of this. Two petitions were made to Parliament in 1887 – one complaining that steamers plying the river were destroying the river's fisheries and eel weirs; the other requesting that works to deepen the river cease as the petitioners had not agreed to them.²⁷ Authority over the river was again asserted in petitions in the 1890s. In 1893 petitioners complained about the passing of the Wanganui River Trust Act Amendment Act, and in 1895 a request was made by way of petition that the rights of Maori to the river not be interfered with.²⁸

As with the complaints about the deepening and navigation of the Whanganui River, most other river-related petitions were focused on the detrimental effects that commercial activities were having upon Maori fisheries and the rivers more generally. Importantly, though, these petitions are clear assertions of authority over the waterways in question. For instance, three petitions were received by Parliament – in 1883, 1885 and 1886 – that complained that timber floating was affecting the petitioners' ability to fish and navigate upon their local rivers (the Mangonui River in Northland and a general complaint regarding rivers in Hauraki).²⁹ And an 1884 petition complained of the erosion that the local road board's removal of gravel from an unnamed river had caused. Mining was an-

26. Petition no. 832/1903, AJHR, 1904, I-3, p 16

27. Petition no. 140/1887, AJHR, 1887, I-2, p 8; petition no. 501/1887, AJHR, 1888, I-3, p 5

28. Petition no. 493/1893, AJHR, 1893, I-3, p 17; petition no. 126/1895, AJHR, 1895, I-3, p 15

29. Petition no.335/1883, AJHR, 1883, I-2, p 12; petition no. 366/1885, AJHR, 1886, I-2, p 14; petition no. 156/1886, AJHR, 1886, I-3, p 14

other activity that Maori on the West Coast of the South Island and in Hauraki complained was having a deleterious effect upon their rivers.³⁰ Other petitions in connection with rivers were about fisheries. In 1897 Taranaki Maori petitioned Parliament asking that their ancestral fishing places on the Waitara River be reserved to them.³¹ And in 1899 Ngai Tahu requested that rivers in Canterbury be exempted from provisions banning taking whitebait by set net.³²

Of the 13 petitions about rivers, the Native Affairs Committee recommended that the Government of the day take action in respect of 10 of them.

Lagoons

Seven petitions were made to Parliament about lagoons. Of these all but one related to waterways in the South Island. Given that in all likelihood the motive that underpinned these petitions related to access to, or the preservation of fisheries, they show the huge reliance of Ngai Tahu on such resources subsequent to the Crown's failure to provide adequate reserves for them. Ngai Tahu petitioned Parliament twice in 1898 asking that the Wainono Lagoon not be placed under the control of the local drainage board as this would result in the destruction of their fisheries.³³ And in 1901 two further petitions from Ngai Tahu asked that the Taurutu and Totoroa Lagoons each be made a Native reserve.³⁴ Other petitions received relating to lagoons concerned the need for a road to be built to a fishing reserve, and the abovementioned one about the Ahuriri river mouth and Whakaroto lagoon.³⁵

30. Petition no. 316/1888, AJHR, 1888, I-3, p 19; petition no.102 /1913, AJHR, 1913, I-3, p 14

31. Petition no. 172/1897, AJHR, 1898, I-3, p 7

32. Petition no. 253/1899, AJHR, 1899, I-3, p 9

33. Petition no. 233/1898, AJHR, , I-3, p 19; Petition no. 234/1898, AJHR, , I-3, p 19

34. Petition no. 653/1901, AJHR, , I-3, p 21; Petition no. 654/1901, AJHR, , I-3, p 21

35. Petition no. 329/1910, AJHR, 1910, I-3, p 15; Petition no. 335/1910, AJHR, 1910, I-3, p 15; Petition no. 832/1903, AJHR, 1904, I-3, p 16

14.3.2 Fisheries

Very much related to the petitions to Parliament pertaining to inland waterways were the large number about fishing rights – 36 in total. Many of the waterways petitions detailed above also made specific reference to fisheries and are therefore included in this discussion of fishing rights. The petitions concerning fishing divide clearly into three sub-categories: general fishing rights (that is where petitions spoke about fishing rights without specifying freshwater or marine), freshwater fishing rights (including eels), and sea fishing rights. The four petitions that refer to the

Treaty of Waitangi as a source of rights are all in relation to fishing rights. Also of interest are the handful that articulate the desire that Maori rights to use fish (and other biota) not be attenuated by legislation.

General fishing rights

In 1880 the Mahurehure Tribe³⁶ petitioned Parliament asking that legislation be passed 'to protect them in their enjoyment of their fisheries and pipi beds.' The committee had no recommendation to make, being of the view that through the Native Land Court process, North Island Maori could have their fisheries reserved to them. However, it expressed doubt that the court's jurisdiction in this regard extended to the South Island, and this was noted as being a serious issue.³⁷ Te Oti Pitama and others petitioned Parliament in 1886 asking that 'no obstacles be placed in their way in obtaining fish, &c., from the sea, rivers and lakes, and birds and animals from the earth; which produce is their chief means of subsistence.' In response the Native Affairs Committee noted that since the petition was made, regulations had been issued under the Fisheries Conservation Act 1884, and that the regulations did not apply to Maori insofar as they were engaging in non-commercial fishing. The committee considered that this exemption 'seems to meet the case'.³⁸ Another petition asking that the fishing rights of Maori not be interfered with by legislation was made in 1892 by Wi Naihira and 61 others. The Native Affairs Committee recommended that it be referred to the Government.³⁹ Four years earlier Tipene Ruruku and five others had petitioned Parliament praying 'that their fisheries may be protected according to the Treaty of Waitangi'.⁴⁰ It is also interesting to note that although there was apparent opposition to legislation in relation to fishing rights, the Mahurehure tribe sought legislative protection of their rights.

Freshwater fishing rights

The majority of petitions about freshwater fishing rights have been detailed and discussed in the waterways section above, such as the Ngai Tahu petitions concerning their lakes; and the detrimental effects upon fisheries of such things as timber floating, river widening, gravel extraction, and swamp drainage. Several petitions also related to fishing re-

36. Most likely the Nga Puhi hapu Mahurehure.

37. Petition no. 21/1880, AJHR, 1880, I-3, p 3

38. Petition of Te Oti Pitama and others, petition no. 299/1885, AJHR, 1886, I2-, p 11

39. Petition of Wi Naihira and 61 others, Petition no. 292/1892, AJHR, 1892, I-3, p 10

40. Petition of Tipene Ruruku and five others, Petition no. 122/1888, AJHR, 1888, I-3, p 10

serves. These relate to such things as the failure of the Crown to make reserves that were promised at the time of purchases (such as the Crowns' alleged failure to grant reserves that McLean promised when he negotiated a purchase in 1849)⁴¹, or complaints that Pakeha had occupied a Maori fishing reserve (such as on the Kerikeri river in 1891)⁴². Other petitions asked that ancestral fishing places be returned to their original owners,⁴³ that a fishing reserve and turanga waka be returned to its original owners,⁴⁴ and that eel weirs be included in a Crown grant as was originally promised.⁴⁵

In terms of legislation affecting freshwater fisheries there was a request that fishing rights in Lake Ellesmere not be disturbed, that provisions banning the taking of whitebait by set net not apply to rivers in Canterbury (both noted above), and that prohibitions against fishing in the Patea River be removed (because the fisheries were an important source of sustenance).⁴⁶ These petitions suggest an antipathy towards fishing regulations and also point to the importance of freshwater fisheries to Maori economies in the mid to late nineteenth century. Concern for the preservation of traditional fisheries is evident in the petition noted above where Maori prayed that European fish not be introduced to Lake Rotoaira. Of the 18 petitions relating to freshwater fisheries, the Native Affairs Committee recommended action be taken in respect of ten of them.

Sea fisheries

Between 1879 and 1912 the Native Affairs Committee received 10 petitions that were primarily about sea fisheries. These petitions are a clear articulation of the fact that Maori considered that they had authority and proprietary rights over sea fishery resources and habitat. Of the four flora and fauna petitions that referred to the Treaty of Waitangi, three of them were in respect of sea fisheries. The fourth, discussed above, was about general fishing rights.

As with petitions about general and freshwater fishing rights, amongst the sea fisheries petitions there are calls for legislative protection of fisheries as well as complaints about laws and regulations that limited the rights of Maori to exploit their fisheries. An example of the latter is a petition of 1879 in which the signatories asserted that sea fisheries and pipi

41. Petition no. 111/1887, AJHR, 1888, I-3, p 24

42. Petition no. 384/1891, AJHR, I-3, p 26

43. Petition no. 172/1897, AJHR, 1898, I-3, p 7

44. Petition no. 267/1885, AJHR, 1885, I-2, p 24

45. Petition no. 358/1881, AJHR, 1881, I-2, p 24

46. Petition no. 340/1888, AJHR, 1888, I-3, p 19

belong to Maori and that Pakeha law only applies to land.⁴⁷ Two other petitions opposed to legislative intervention were one of 1890 in which Maori complained they were being prevented from exporting oysters to Australia, and another the following year asking that a law relating to the taking of flounder not be brought into force.⁴⁸ Although the Native Affairs Committee recommended action be taken in respect of the latter, it made no recommendation on the other two.

As well as the 1880 petition of the 'Mahurehure tribe' noted above that asked for legal protection to be afforded to their pipi and other fisheries, Parliament received a petition from Hauraki Maori in 1882 that asked for legislative protection of their rights. The petitioners complained that Australians were taking oysters and other shellfish at Te Kouma. The petitioners stated this was 'to the manifest injury of the Maori people, and with the effect of speedily ruining the fisheries'. The petitioners prayed that a law be enacted to give the exclusive right of fishing on foreshores to the adjacent land owners. The Native Affairs Committee recommended that the claims be investigated and that action be taken if they proved to be true.⁴⁹ A similar petition from Maori at Mangonui, Northland, dated 1884, complained of people trespassing upon their fisheries and asked that the oysters 'are entitled to be kept for themselves'. In this instance the committee recommended that the Government take action.⁵⁰ The desire for exclusive rights to fishery resources was the subject of another petition in 1887. It asked for certain foreshores and sandbanks (not specified in the AJHR summary) to be vested in the petitioners in accordance with the Treaty of Waitangi so that they could obtain food.⁵¹ And in 1904 Northern South Island Maori petitioned Parliament asking that Croixelles Harbour (in Tasman Bay) be made a fishing reserve.⁵² In both cases the Native Affairs Committee recommended that action be taken.

Two of the most remarkable petitions received by Parliament – perhaps ever – were those of Wiremu Katene and 11,976 others dated 1885 and 1886 respectively.⁵³ The petitioners complained of the destruction of their fisheries through the reclamations undertaken in building Auckland city, and in other places – places they state were guaranteed to them by the Treaty of Waitangi. The Native Affairs Committee observed that this issue was one that would continue to cause difficulties as settlement progressed, and that the Government should undertake a 'searching inquiry' with a view to having 'the rights of the Natives defined and secured

47. Petition no. 332/1879, AJHR, 1879/2, I-2, p 16

48. Petition no. 272/1890, AJHR, 1890, I-3, p 13; petition no. 447/1891, AJHR, 1891, I-3, p 17

49. Petition no. 393/1882, AJHR, 1882, I-2, p 27

50. Petition no. 55/1884, AJHR, 1884/2, I-2, p 16

51. Petition no. 12/1887, AJHR, 1887, I-2, p 1

52. Petition no. 881/1903, AJHR, 1904, I-3, p 15

53. It is not entirely clear from the AJHR whether the two petitions were both signed by 11,976 'others'; or whether that was the total from both. In 1886 the Native Affairs Committee published one report for petitions 278 (1885) and 91 (1886), with a single description for both that noted: 'Petition of Wiremu Katene and 11,976 Others:'

as far as possible.⁵⁴ The sheer volume of signatories suggests how big an issue the destruction of fisheries as a result of settlement had become by the 1880s.⁵⁵

Clearly many of these sea fisheries petitions were inextricably tied up with the issue of who had authority over the foreshore, and evidence a resistance on the part of Maori to the English common law assumption that the Crown owned all that was below mean high water springs. There were, however, two other petitions received by Parliament concerning authority over the foreshore that were not about fishing rights. In 1877 Maori from Gisborne protested about reclamations and the taking of stones from foreshore areas, and in 1891 Maori in Tauranga asked that mud banks in Tauranga Moana be adjudicated on without survey.⁵⁶ It is unclear from the AJHRs what the issues are in relation to the latter, but the former is clearly an assertion of Maori authority over the foreshore. Three other petitions asked that fishing reserves and grounds that the petitioners were wrongly dispossessed of be returned to the rightful owners.

14.3.3 Birds and animal protection legislation

Compared to fisheries, it is remarkable how virtually no Maori petitioned Parliament in relation to their rights to take birds or the animals protection legislation that since its inception had greatly attenuated the rights of Maori to take indigenous fauna. The only overt protest against such interventions was the above mentioned petition of Te Oti Pitama and others praying that ‘no obstacles be placed in their way in obtaining fish &c., from the sea, rivers and lakes, and birds and animals from the earth; which produce their chief means of subsistence.’⁵⁸ But although birds are specifically mentioned, the Native Affairs Committee report, discussed above, suggests that the petitioners were primarily concerned with fisheries regulations. As discussed in chapter 10 of this report, by the turn of the century many species of native bird were classified as ‘native game’. Although this generally did not mean Maori were prohibited from taking such species, hunting seasons were proscribed. The setting of these seasons was the subject of a petition to Parliament in 1905 by Taiaha Paurini and 137 others praying ‘that the Maoris may be allowed to fix the season for shooting Native game.’ The Native Affairs Committee recommended

54. Petition of Wiremu Katene and 11,976, petition no. 278/1885 and 91/1886, AJHR, 1886, I-2, pp 27–28

55. For a discussion of this petition and related issues see Robert McClean’s ‘Eastern Coromandel Foreshore, Fisheries and Coastal Issues Report’, April 1999 (Wai 686 record of documents, doc G2)

56. Petition of 1877, AJHR, I-3, p 48; petition no. 227/1891, AJHR, 1891, I-3, p 16

57. Petition no. 379/1895, AJHR, 1896, I-3, p 3; petition no. 464/1908, AJHR, 1908, I-3, p 18; petition no. 626/1908, AJHR, 1908, I-3, p 18

58. Petition of Te Oti Pitama and others, petition no. 299/1885, AJHR, 1886, I2, p 11

that the petition be referred to the Acclimatisation Laws Committee for consideration.⁵⁹ An issue here would seem to be that the Crown set the hunting seasons without regard to Maori knowledge and understandings of the bird resource. The petition does not suggest that the petitioners were necessarily opposed to the animals protection legislation per se. Another petition about bird hunting, dating from 1886, objected to Maori having to pay dog taxes on the grounds that dogs were useful for catching birds and rabbits for food. In this instance the Native Affairs Committee made no recommendation.⁶⁰

Four petitions to Parliament in the period 1840 to 1912 were about the rights of Maori to islands off the coast of mainland New Zealand that supported mutton bird populations. Generally the central issue appears not to have been rights to the birds themselves, but to the islands where they nested. For example an 1885 petition asked that a mutton bird island called Pieti be returned to its original owners.⁶¹ And in 1893 Murihiku Maori requested that a reserve be made for them on Stewart Island for the purposes of mutton birding.⁶² Another petition concerning mutton birding in Foveaux Strait asked that the petitioners be made the caretakers of Hotonui Island (near Stewart Island), and that they be granted the sole right to take mutton birds from there.⁶³ A somewhat different petition about mutton birds was received by Parliament in 1905 in which the petitioners asked that duty be imposed on imported mutton birds.⁶⁴ This suggests that there was a commercial aspect to mutton birding in New Zealand at that time, and that at least some Maori saw the Crown as having some obligations to protect that industry. The Native Affairs Committee recommended action be taken in the case of all four of these mutton birding petitions.

14.3.4 Timber, trees and forest products

Between 1840 and 1912, Parliament received 18 petitions from Maori that either in whole or part related to forestry, trees, timber or gum. Of these 19, three petitions concerned the effects that timber floating was having on the Mangonui River and in Hauraki, and have been discussed above.⁶⁵ A further eight were about disputes in relation to payments for timber that Maori had sold or that had been taken in the process of Government activities such as surveying or road building.⁶⁶ In these cases the petition-

59. Petition of Taiaha Paurini, petition no. 362/1905, AJHR, 1905, I-3, p 11

60. Petition no. 315/1886, AJHR, 1886, I-2, p 26

61. Petition no. 374/1885, AJHR, 1885, I-2, p 23

62. Petition no. 129/1892, AJHR, 1893, I-3, p 6

63. Petition no. 358/1895, AJHR, 1895, I-3, p 21

64. Petition no. 233/1905, AJHR, 1905, I-3, p 9

65. Petition no. 335/1883, AJHR, 1883, I-2, p 12; Petition no. 366/1885, AJHR, 1886, I-2, p 14; Petition no. 156/1886, AJHR, 1886, I-3, p 14

66. The seven petitions are: petition of Natanahira Hurupa and 69 others 1876, AJHR, 1876, I-4, p 10; petition no. 250/1881, AJHR, 1881, I-2, p 20; petition no. 293/1881, AJHR, 1881, I-2, p 22; petition no. 298/1882, AJHR, 1882, I-2, p 16; petition no. 70/1883, AJHR, 1883, I-2, p 5; petition no. 411/1886, AJHR, 1886, I-2, p 35; petition no. 535/1901, AJHR, 1901, I-3, p 20; petition no. 268/1902, AJHR, 1902, I-3, p 5

ers were either claiming that the payments received were inadequate, that they never received payment and should have, or that they should be compensated for losses sustained in relation to timber leases. In all of these cases the petitions can be seen as assertions from the petitioners that they held ownership rights over the trees in question. This is clearly evident, for example, in the 1886 petition of Keepa Tuhukumutea and others. They state that they want to be paid for land taken for a road, and that 'all timber and stones taken off their land must be paid for.'⁶⁷ Of these eight petitions the Native Affairs Committee recommended that the Government investigate four of them, but that no action be taken in the case of the rest.

Two petitions that were reported on by the Native Affairs Committee in 1881 were about rights to trees on land that the petitioners claimed to have been wrongfully dispossessed of. Hori Ropiha and five others complained that the Rakaiatai and Te Ohu blocks were theirs, and asked that those lands along with the timber upon them be returned to them. The Native Affairs Committee reported that the Government had acquired the interests of six of the ten owners, and that having done so, had 'stopped the plunder of timber that had been going on'. This suggests that the aggrieved owners wanted the timber returned to them so that they were free to exploit as they wished. But given the paucity of detail in the Native Affairs Committee report, it is hard to conclude anything with any certainty.⁶⁸ In the 1888 petition of Renata Te Whauwhau and 55 others, it was claimed that their land at Katikati had been sold by Ngati Tamatera. They asked 'that the sale should not be legalized', and that 'the trees upon the land should be protected from both Maori and Europeans.'⁶⁹ Again the evidence presented in the AJHR is sketchy and it is hard to say whether the petitioners wanted the trees in question protected so that they could mill them in the future, or whether they wanted to have them preserved for other reasons.

But in the case of two other petitions it is clear that it is the inability of the petitioners to sell trees upon their land that is their grievance against the Government of the day. In 1884 the Ngati Wai owners of Hauturu (Little Barrier Island) petitioned Parliament complaining that the Government was preventing them from selling timber from the island. In response the Native Affairs Committee made no recommendation.⁷⁰ This matter would appear to have been related to the Crown's acquisition of

67. Petition no. 411/1886, AJHR, 1886, I-2, p 35

68. Petition of Hori Ropiha and 5 others, petition no. 60/1881, AJHR, 1881, I-2, p 28

69. Renata Te Whauwhau and 55 others, petition no. 248/1881, AJHR, 1881, I-2, p 19

70. Petition no. 438/1884, AJHR, 1885, I-2, p 8

Hauturu for the purposes of a wildlife sanctuary. The history of this is discussed above in chapter 11 of this report.⁷¹ In 1896 Ropata Ngatiwai and two others petitioned Parliament asking that they be allowed to sell kauri timber upon their land at Wairahi to the Kauri Timber Company. The Native Affairs Committee recommended that the petition be referred to the Government for favourable consideration.⁷² In this case it is unclear what was preventing the petitioners from selling the timber.

As well as petitioning Parliament in relation to rights to trees, Maori also did so to try and secure rights to dig kauri gum. Between 1840 and 1912 Parliament received four such petitions – one in 1885 and three in 1886. Three appear to be requests to dig gum on Crown land, and the fourth a request that a block of confiscated land be returned to the petitioners so that they could extract gum from it. The Native Affairs Committee recommended action be taken in the case of the three 1886 petitions, but had insufficient time to undertake an investigation in relation to the 1885 petition.⁷³

14.3.5 Reserves

A number of petitions to Parliament relating to flora and fauna were concerned with reserves made (or not) at the time of Crown purchases. The analysis of petitions undertaken for this project has identified 15 that are about such reserves, most of which have been discussed in the previous sections in relation to the other themes. Such an example is the 1887 petition in which it is alleged that the Crown failed to grant reserves containing eel fisheries that McLean had promised when he negotiated a purchase in 1849.⁷⁴ And as well as the two petitions of Ngai Tahu detailed above complaining of the Crown's failure to reserve to them their mahinga kai as promised when they sold Canterbury and Westland in 1848,⁷⁵ there is an 1874 petition concerning the general failure of the Crown to fulfill its promises made at the time of the other Ngai Tahu purchases.⁷⁶ Another group of petitions relating to fishing reserves are recorded above in the discussion of fishing rights.⁷⁷

Somewhat anomalous is the 1884 petition of Tamati Tarawhata and ten others asking that 'they may have authority over their reserves, and also over common lands.' On account of the petition being very vague the Native Affairs Committee made no recommendation.⁷⁸ It is interesting to

71. The section of chapter 11 that deals with Hauturu is based upon Ralph Johnson's 'Report on the Crown Acquisition of Hauturu (Little Barrier Island)', Report commissioned by the Waitangi Tribunal, 1999 (Wai 567 record of documents, doc A1)

72. Petition of Ropata Ngatiwai and two others, petition no. 163/1896, AJHR, 1896, I-3, p 8

73. Petition no. 215/1885, AJHR, 1885, I-2, p 28; Petition no. 419/1886, AJHR, 1886, I-2, p 10; Petition no. 117/1886, AJHR, 1886, I-2, p 15; Petition no. 99/1886, AJHR, 1886, I-2, p 30

74. Petition no. 111/1887, AJHR, 1888, I-3, p 24

75. Petition of Te Oti Pita Mutu and 25 others, petition no. 160/1879, AJHR, 1879/2, I-2, p 28; petition no. 324/1881, AJHR, 1881, I-2, p 26

76. 'A petition from the Natives assembled at Kaiapoi (Middle Island), on the 25th March, 1874', AJHR, 1876, G-7, p 1

77. Petition no. 267/1885, AJHR, 1885, I-2, p 24; Petition no. 379/1895, AJHR, 1896, I-3, p 3; Petition no. 881/1903, AJHR, 1904, I-, p 15; Petition no. 384/1891, AJHR, I-3, p 26; Petition no. 129/1892, AJHR, 1893, I-3, p 6; Petition no. 653/1901, AJHR, I-3, p 21; Petition no. 654/1901, AJHR, I-3, p 21

78. Tamati Tarawhata and 10 others, petition no.34/1884, AJHR, 1884/2, I-2, p 7

speculate whether the petitioners were thinking about authority over the flora and fauna on their reserves and 'common lands'. However, as was the case with the Native Affairs Committee, the evidence available is too scant to be able to conclude anything in this regard.

14.3.6 National parks and protected areas

Two petitions were made to Parliament that can be considered to be about protected areas. But unfortunately the very limited information included in the AJHRs on these petitions make it impossible to say very much about the issues involved. In 1894 Kingi Te Herekeikei petitioned Parliament praying that the Tongariro National Park Bill not be passed into law. The Native Affairs Committee stated in its report that they had no recommendation to make as the Bill had already been passed.⁷⁹ This legislation established Tongariro National Park. The genesis of the park lay in the gifting of Ruapehu and adjacent lands to the Crown by Horonuku Te Heuheu Tukino of Ngati Tuwharetoa (see chapter 11 of this report). This petition suggests that not all Maori in the region supported the establishment of the national park.

A second petition that possibly relates to protected areas is that of Tieke Koonā and 28 others of Henley asking that 'the order declaring Lake Tatawai a sanctuary be rescinded'. This petition is recorded above in the section on waterways. The Native Affairs Committee referred it to the Government for inquiry.⁸⁰ Unfortunately no further information than that is provided in the AJHR summary of this petition, and it is not possible to say what kind of sanctuary the lake may have been. It would seem likely though that it was a wildlife sanctuary of some description.

14.4 Conclusion

This chapter has presented a summary and brief analysis of all petitions from Maori to Parliament in the period 1840 to 1912 that to some degree relate to indigenous flora and fauna. Although perfunctory, the analysis does reveal some interesting trends and themes that run through these petitions. Firstly though, comment must be made on the quantity of petitions from Maori that deal with flora and fauna. In total 95 such peti-

79. Petition of Kingi Te Herekeikei, petition no. 653/1894, AJHR, 1895, I-3, p 2

80. Petition of Tieke Koonā and 28 others of Henley, petition no. 398/1909, AJHR, 1909, I-3, p 11

tions were found in the Native Affairs Committee reports in the AJHRs. Although a significant number, when it is considered how many petitions were referred to the Native Affairs Committee each year – up to a couple of hundred for some years – the total relating to flora and fauna is relatively small. In the 38 years from the inception of the Native Affairs Committee in 1872 until 1912 – the end of the period that is the subject of this report – Parliament received an average of only 2.5 petitions a year that concerned flora and fauna from Maori. It would be imprudent, however, to conclude anything about Maori views of Crown actions affecting flora and fauna from this relatively low figure. Equally it would be pure speculation to suggest why the figure is so low when Maori were petitioning Parliament so prolifically about other matters, most especially land. I would reiterate, however, the observation made in the introduction that in petitioning Parliament about land, Maori may well have been partly motivated or concerned about their loss of access to flora and fauna. But as it was the ownership of this land that was the key determinant in this loss of access, that became the focus of the petitions.

Irrespective of the relatively small number of petitions received about indigenous flora and fauna, some interesting themes do emerge from the analysis undertaken in this chapter. A large number of the petitions can be seen as definite statements that the petitioners considered themselves to have authority over the flora and fauna or habitat in question. This was particularly apparent in relation to lakes, the foreshore, and fisheries. And although only referred to in four petitions, the Treaty of Waitangi was clearly seen in at least these cases as a source of rights pertaining to the flora and fauna the petitioners were concerned with – in each of the four petitions, fisheries and the foreshore. One of these petitions from 1888 asked that the petitioners' fisheries be protected in accordance with the Treaty. This suggests that these Maori possibly had a sense that the Treaty, more than just confirming their proprietary rights, obliged the Crown to protect these resources and Maori rights to them.⁸¹

Very much related to the idea of Maori having authority over flora and fauna, is the principle that many Maori wanted to use indigenous flora and fauna in accordance with their own preferences and objected to Government regulations and legislation that fettered their use rights. Petitions examined in this chapter that articulate this relate to flora and fauna habitats such as waterways, the foreshore, and forests. But the most overt

81. Petition no.122/1888, AJHR, 1888, I-3, p 10

statement of this desire to be free to use flora and fauna as Maori wished was contained in the 1886 petition of Te Oti Pitama and others asking that 'no obstacles be placed in their way in obtaining fish, &c., from the sea, rivers and lakes, and birds and animals from the earth; which produce is their chief means of subsistence.'⁸² Several other petitions articulated a similar position in relation to fisheries.

In stark contrast to this position though were a handful of petitions that called for legislative intervention in relation to flora and fauna. Examples are cases where Maori wanted their fishing rights protected by legislation (or legislative mechanisms), the exclusive rights to use particular fish and bird resources vested in them, and certain areas made fishing reserves. These examples suggest some Maori saw legislation as a means to have their rights protected. Maori also complained in petitions about the degradation of the environment caused by such activities as timber floating, reclamation of the foreshore, gravel extraction, and mining. In all these cases it was the impact these activities were having upon resources such as fisheries that Maori used that was the issue for the petitioners.

In the petitions examined there is clear evidence of Maori challenging certain precepts of English common law that the Crown sought to impose as a corollary of its sovereignty. Instances of this recounted above include: that title to a lake or river pass with the title of contiguous lands; that the foreshore is by prerogative right part of the Crown's demesne; and that generally there is a public right of fishing and navigation in waterways and the foreshore. The petitions recounted above that asserted these rights in respect of particular places were, or should be, exclusively confined to Maori, could be seen as being indirect challenges to the extent and way in which the Crown defined its sovereignty in New Zealand.

82. Petition of Te Oti Pitama and others, petition no. 299/1885, AJHR, 1886, I2-, p 11