

1. LEGISLATION, 1864–95

Today's conflict over management of the kereru and other native birds has deep roots. Many of the issues currently contentious first arose over a hundred years ago. Europeans started passing laws to manage native birds in the 1860s. For the rest of the nineteenth century, Parliament constantly amended and adjusted this early legislation. These early laws did not affect Maori access to kereru. In the early twentieth century, however, Government officials used the game management framework established between 1864 and 1895 to gradually erode Maori rights of access. This chapter traces the development of game management during those years, particularly how the game laws applied to kereru.

The first Europeans to arrive in Aotearoa invariably commented upon the strange and unfamiliar birds that they found in the new land. Early observers of the New Zealand bush recorded with wonder the abundance and incredible docility of the bizarre birds. The wood pigeon, with its large numbers, tame habits, and tasty, easily acquired meat, received particular attention. One early travel writer described the bird to readers at home in England: 'Wood pigeons are found in abundance every where – much larger, fatter, and more beautiful in plumage than our English pigeons. The flesh is delicious . . . These birds are easily shot, for they are so tame as to allow you to approach within a few yards.'¹ Edward Jerningham Wakefield, also writing to an English audience and trying to draw settlers to far-off New Zealand, described the easy pickings in 1845:

On the boughs of a small grove of trees, beneath which we lit our fire and disposed our beds and provisions, the pigeons settled in great numbers towards sunset. We had only to fire as quickly as the fowling-pieces were loaded by the natives, hardly stirring from one position, the death of one bird not disturbing the equanimity of his companions on the same branch.

The wood pigeon served as an important staple in the diet of the early European settler.²

The wood pigeon provided Europeans with more than a source of food – they also shot the bird for sport. Pigeons, however, were not good game

¹ Richard Hodgskin junior, *A Narrative of Eight Months' Sojourn in New Zealand, with a Description of the Habits, Customs, and Character of the Islanders; the Climate, Soil, and Productions of the Country, Including Timber for Ship-Building; with a Brief Account of Birds, Fishes, etc, etc, in a Series of Letters*, Coleraine, England, SHart, 1841, p28 (DB, pp 1–2)

² Edward Jerningham Wakefield, *Adventure in New Zealand, from 1839 to 1844, with Some Account of the Beginning of the British Colonization of the Islands*, Christchurch, Whitcombe and Tombs Ltd, 1908, pp 42–43; Carolyn King, *Immigrant Killers: Introduced Predators and the Conservation of Birds in New Zealand*, Auckland, Oxford University Press, 1984, p 77

birds. Walter Buller, New Zealand's preeminent ornithologist, described the nature of hunting the birds for sport in 1873:

Owing to the loud beating of its wings in its laboured flight it is readily found, even in the thickest part of the bush, and being naturally a stupid bird it is very easily shot; so that in a favourable locality it is not an unusual thing for a sportsman single-handed to bag fifty or more in the course of the morning.

Hunting for sport played an important role in colonial New Zealand. Many settlers sought to establish an egalitarian society, and access to sport hunting provided an important counterpoint to the highly restrictive game laws of England. But most of the birds indigenous to the islands proved unfit quarry for European sporting interests, the kereru providing a rare target from among the indigenous birds.³

Early settlers tried to correct this dearth of suitable game species by introducing a host of animals for sporting purposes, such as red deer, wapiti, partridge, and quail. As hunting grew in popularity, European settlers organised themselves into societies dedicated to establishing the sport in New Zealand – acclimatisation societies. Beginning in the early 1860s, settlers formed these groups all over the colony. Acclimatisation societies actually served a number of functions in colonial New Zealand, all based around the introduction of new species of plants and animals. In addition to importing game animals, they also sponsored the introduction of species for economic reasons, such as possums, which were brought in to support a fur industry. Sentimentality provided another important motive – the societies introduced many species to make New Zealand more like England. As they organised the importation of game species, the societies also established licence fees and open and closed hunting seasons for the various animals. RMMcDowall, in *Gamekeepers for the Nation*, offers a comprehensive – if perhaps overly apologetic – history of the acclimatisation movement.⁴ The fish and game councils – bureaucratic descendants of the acclimatisation societies – funded McDowall's research.

The acclimatisation societies factor heavily in the history of kereru conservation in New Zealand. As settlers formed the societies, Parliament passed laws to regulate both the continued importation of new species and the management of animals already liberated. Between 1861 and 1875, Parliament passed nine different laws dealing with the liberation and protection of animals. The societies provided the bureaucratic framework for

³ Quote from Walter Lawry Buller, *A History of the Birds of New Zealand*, London, John Van Voorst, 1873, p 159 (DB pp 3–7); RMMcDowall, *Gamekeepers for the Nation: The Story of New Zealand's Acclimatisation Societies, 1861–1990*, Christchurch, Canterbury University Press, 1994, p 293

⁴ McDowall

these activities. Sportsmen and legislators viewed the kereru as native game, and brought the native bird into the framework established to manage introduced animals such as deer, pheasant, and quail. New Zealand's first attempts at wildlife conservation sprang from these early laws. This chapter will examine the developing game laws as they applied to the conservation of kereru.⁵

The first game laws applied only to introduced species. In 1861, Parliament passed the Protection of Certain Animals Act, prescribing hunting seasons for a number of birds and other animals. An amending Act the following year twiddled with the seasons and introduced the first licensing laws – for catching imported birds and releasing them in new parts of the colony.⁶

Government involvement quickly spread beyond the regulations for introduced birds. Yet another law followed in 1864, but this one applied to native birds as well. The Wild Birds Protection Act 1864 prescribed a set hunting season for kereru and native ducks – they could be shot only from April to July. The Act, however, applied only in areas specifically proclaimed by the Governor. Little in the historical record indicates the motivations behind the inclusion of these first native birds; the laws are not mentioned in the parliamentary debates or in the papers of the Colonial Secretary's office (which administered the Act).⁷ Legislators viewed these birds as fit for sport hunting; their country of origin made little difference in the move to regulate the rapidly growing acclimatisation movement. They intended the closed season to protect the kereru from over-hunting, in the same way that similar mechanisms protected introduced birds like pheasant and quail.⁸

A series of laws passed over the next several years modified this first 'protection' of pigeons. An 1865 Act moved the pigeon and wild duck season one month later into the year. It also prohibited the use of snares and traps in taking any of the birds, native or introduced, protected by the law: 'None of the animals or birds which are the subject of this Act shall be poisoned trapped or taken by means of traps nets springes or by other means than hunting or shooting at any time'. This stipulation had obvious implications for Maori, whose traditional method of taking kereru involved snares. Yet another version of the Act, the Protection of Certain Animals Act Amendment Act 1866, placed even more restrictions on the kereru by classifying the bird as 'game' for the purposes of the law. The Act also extended the licensing system, requiring permits to be purchased before any

5 For a broader picture, see Evaan Aramakutu, 'Colonists and Colonials: Animals Protection Legislation in New Zealand, 1861–1910', MA thesis, Massey University, 1998.

6 The Protection of Certain Animals Act 1861; the Birds Protection Act 1862

7 See NZPD, 1864–66, and the papers of the Colonial Secretary's office at National Archives, Wellington.

8 The Wild Birds Protection Act 1864

of the birds listed as 'game' – including the kereru – could be killed. The first licence cost a hefty £5. In addition to broadening the licence scheme, the 1866 amendment Act established a mechanism for enforcing the game laws. The Act provided for a fine of up to £20 for shooting game without a licence. It also gave the Government power to appoint rangers to enforce the Act. Fines and penalties collected from violators contributed to the cost of ranging, and also went into the coffers of the acclimatisation societies in the districts concerned.

The status of the kereru changed once again in 1867. The Government drafted its most extensive game law yet, the Protection of Animals Act 1867. The new law distinguished between 'game' and 'native game' – kereru, paradise ducks, stilts, and several other indigenous birds falling into the latter category. In schedule v to the Protection of Animals Act 1867, wild ducks of any species, teals, bitterns, black stilt plovers, pied stilt plovers, curlews, wild geese, quail, and wood pigeons were classified as native game.

One of the significant differences between the two categories involved property rights. The importation of game animals cost money, and the acclimatisation societies desired a return on their investment. The Protection of Animals Act 1867 declared introduced animals property, and vested that property in the acclimatisation societies. This justified the distribution of licence royalties to the people who paid for the introduction of costly game animals. Native game required no licence – after all, no one had invested in the indigenous birds. The law had required a licence to shoot kereru for only one year – after the 1866 legislation. The Act set an important precedent by establishing Government-granted property rights to wildlife.⁹

The 1867 Act provided the framework that governed game management and wildlife conservation for almost 90 years. The Act offered statutory recognition of the acclimatisation societies, guaranteeing them a steady source of income. Although the early game laws dealt only briefly with the kereru and other native game, later attempts at the protection of indigenous birds developed from this initial framework. The historian Ross Gallbreath explained the significance of the 1867 legislation:

The subsequent development of fish and game administration in New Zealand was by modification and adjustment to the basic arrangement by which acclimatisation societies of licenced sportsmen (and some

⁹ The Animals Protection Act 1867; NZPD, 1867, vol 1, pp 1229–1231

women) exercised local control, under the administrative oversight and, increasingly, with the technical advice of Government departments.¹⁰

Gallbreath's *Working for Wildlife* presents an excellent history of wildlife conservation in New Zealand, although he focuses primarily on the second half of the twentieth century.

The discussions in Parliament over the Animals Protection Act 1867 provide the first clue as to how these early game laws affected Maori. Major Harry Atkinson, a member of the House of Representatives, objected strongly to the 1867 Bill. He observed that the proposed Bill pushed New Zealand game laws closer to the restrictive English model. As part of his general opposition, Atkinson raised questions about the impact of the game laws on Maori: 'Any Maori in any part of the country, who at any time snared a pigeon, was liable to a fine of not less than £2, and not more than £20. Was the House going to endorse such a provision as that?' Atkinson had similar concerns over the implications of the prohibition on trapping or snaring birds: 'In some parts of the country the Natives lived on wild ducks, which were invariably taken by snares. To prohibit it would only give rise to much difficulty.' Atkinson suggested that the Bill at least be translated into Maori, to avoid simple ignorance leading to the violation of the law.¹¹

The ensuing discussion over these concerns revealed that the Government had no plans to enforce the game laws in native districts. Under the 1865 and 1866 legislation, the set seasons for native game came into effect only in areas specifically proclaimed by the Governor. During 1867, for example, the 1866 game laws applied only to Auckland, Hawke's Bay, Canterbury, and Otago. The 1867 Act, however, reversed the presumption of the law, declaring that the restrictions stood unless the Governor exempted certain areas. Still, in discussion over the 1867 Act, legislators clarified that the law would not apply to native districts. And the Governor posted a notice in the 1868 *Gazette* exempting the Tauranga, Maketu, and Opotiki districts (referred to as native districts) from the workings of the Act. An 1868 letter to the Governor's office, complaining about the game laws, explained that: 'we are deprived of the privilege of shooting on even our own land whilst the Natives *do* shoot at pleasure' (emphasis in original). Such observations, in addition to the exclusions posted in the 1868 *Gazette*, corroborate the policy of allowing Maori access to kereru and other native birds named in the Act.¹²

10 Ross Gallbreath, *Working for Wildlife: A History of the New Zealand Wildlife Service*, Wellington, Bridget Williams Books Ltd and the Historical Branch, Department of Internal Affairs, 1993, p 114

11 NZPD, 1867, vol 1, pp 1230, 1231

12 Ibid, p 1297; 'Proclamation Declaring Protection of Certain Animals Act Amendment Act in Force,' *New Zealand Gazette*, 1867, pp 37, 115, 199, 253; illegible to Sir George F Bowen, 15 June 1868, IA1 1868/1686, NA Wellington (DB, pp 8–9)

Little primary or secondary evidence exists to interpret the intent, effect, and implementation of these early game laws. Records of Maori response to the laws are virtually non-existent. Maori were not then represented in Parliament, so no record of Maori commentary exists in the debates. The texts of the laws themselves, as well as the occasional interchange from the parliamentary debates, provide clues. Until the 1880s, however, these clues are few and far between.

Even though the 1867 Act had consolidated the earlier legislation, Parliament modified the law in 1868 – again with significant ramifications for kereru. Section 9 of the Protection of Animals Act Amendment Act 1868 removed the wood pigeon from the schedule of native game. Anyone could kill kereru, at any time and by whatever means they chose, without purchasing a licence. The debates from the 1868 session of Parliament offer no hint about the motives for the change. However, an 1868 petition to the Governor pointed out that ‘Wild-Fowl Pigeons & other indigenous birds are more than plentiful here,’ and asked for exemption from the restrictions on shooting. This and similar correspondence undoubtedly contributed to the removal of pigeons from the list of native game.¹³

The kereru stayed off the schedule until 1872, when another amendment to the legislation again classified kereru as ‘native game.’ With the kereru back on the native game list, hunting seasons once again determined the time of year that hunters could kill the bird. Until 1868, legislation set the season. The 1868 law, however, gave the Governor the power to declare the season for native game. In the 1880s and 1890s, the setting of the kereru season became a contentious issue between Maori and Europeans.¹⁴

Many of the amendments to the game laws developed out of pressure from the acclimatisation societies. In the 1870s, a number of amendments modified the system of game management, but none of these changes dealt directly with kereru. The 1873 legislation reinforced the ban on snaring game, but with its distinction between native and imported birds, this clause did not apply to kereru. Table 1 details the important clauses of the animals protection legislation that dealt with kereru and other native game birds.¹⁵

In 1879, representatives at Paora Tuhaere’s Maori Parliament at Orakei offered the first recorded commentary by Maori on the game laws. On 4 March 1879, over 300 representatives gathered to discuss Treaty issues and the relationship between Maori and the Crown. A number of representatives expressed displeasure with the game laws, and with the restrictions

¹³ The Protection of Certain Animals Act Amendment Act 1868; illegible to Sir George F Bowen, 15 June 1868 (DB, pp 8–9)

¹⁴ The Protection of Animals Act Amendment Act 1868; the Protection of Animals Act 1872

¹⁵ The Protection of Animals Act 1873

1864—Wild Birds Protection Act 1864

Season on kereru: April–July
Cannot sell kereru during closed season
Seasons only apply in areas specified by the Governor

1865—Protection of Certain Animals Act 1865

Season on kereru: May–August
Seasons only apply in specified areas
Cannot kill birds by non-shooting methods

1866—Protection of Certain Animals Act Amendment Act 1866

Kereru classified 'game'
Licence required to shoot game
Season on game: May–August
Act only applies in specified areas

1867—Protection of Animals Act 1867*

Kereru classified as 'native game'
Season on native game: April–July
Governor may exempt certain areas
Restriction on trapping and snaring native game lifted

1868—Protection of Animals Act Amendment Act 1868

Kereru removed from native game schedule
No restrictions on taking kereru

1872—Protection of Animals Act 1872

Kereru classified as native game
Hunting only in season
Native game season set by Governor
Governor may declare districts affected by the Act

1873—Protection of Animals Act 1873*

Kereru classified as native game
Native game season set by Governor
Season not to exceed four consecutive months
Superintendent may exempt certain provinces

1880—Animals Protection Act 1880*

Kereru classified as native game
Season for native game set by notification
Season not to exceed four consecutive months
Governor may exempt certain districts

1881—Animals Protection Act Amendment Act 1881

Governor may extend, limit, or modify native game season

1889—Animals Protection Act Amendment Act 1889

Provisions to restrict market sale of game and native game

* Repealed earlier Acts

Table 1: Status of the kereru, 1864–95

on kereru in particular. Arama Karaka Haututu supported the new restrictions on pigeon hunting, but he thought the laws should not apply to Maori:

There has been a law passed to prohibit the shooting of pigeons, and I approve of it. It is quite right to prevent persons from shooting on the

land of other people; but I think that the Maoris should be allowed to shoot over their own lands without being compelled to pay licences.

Haututu offered an argument that Maori would make repeatedly over the next 50 years and more – that the laws dealing with the protection of native birds should not apply on Maori land. Many of the delegates thought that the law required them to purchase licences to shoot pigeons – a misunderstanding on their part, since pigeon hunters had needed a licence only in 1866. Eramiha Paikea offered another complaint about the growing Crown management of the kereru. ‘The food for the pigeons is being destroyed by pakeha,’ Paikea explained, ‘and now these birds subsist upon our cultivations.’ Maori were to employ this argument many times over the ensuing years.¹⁶

Not all the representatives at the Maori Parliament opposed the game laws, however. Te Rewiti responded to some of the comments: ‘you say that you ought to be allowed to shoot pigeons on your own land, but I tell you that you must allow the pigeon to breed – you must not kill them during the breeding season.’ Te Rewiti alone of the representatives at the Parliament spoke in favor of the licensing and regulatory system employed by the Crown.¹⁷

After nine days of discussion, the Parliament issued a set of resolutions. Interestingly, only six of the 11 resolutions were translated into English when the proceedings of the conference were tabled in the House of Representatives. The first six resolutions – the translated ones – pronounced the loyalty of the delegates to the Crown and reaffirmed their support for the Treaty of Waitangi. The remaining resolutions dealt with the rangatiratanga of iwi Maori and their mana over natural resources. Resolution 11 insisted on the mana of iwi Maori over a number of native birds, including the kereru: ‘Ma tenei runanga e whakamana ko nga peihana, kukupa tui me tahi atu, ki nga iwi Maori ano te mana, kua te raihana ki nga takiwa Maori.’ (A loose translation of this is: ‘[It is for] this runanga may have the power (authority) over pheasants, pigeons, tui and other birds, iwi Maori also have that authority, but not the licences to the district Maori.’)¹⁸ The Maori Parliament provided the first outlet for Maori to express their thoughts on the tightening game laws. The resolution passed by the members demonstrated a clear concern with their loss of mana over the kereru and other indigenous birds.¹⁹

¹⁶ ‘Paora Tuhaere’s Parliament at Orakei’, AJHR, 1879, sess 2, c-8, pp 26, 28; Claudia Orange, *The Treaty of Waitangi*, Wellington, Bridget Williams Books, 1987, p 192

¹⁷ Paora Tuhaere’s Parliament at Orakei, p 30

¹⁸ *Ibid*, p 30. The last clause of the resolution probably refers to the complaint voiced by several speakers at the hui about the Crown requiring a licence to shoot native game, even for Maori on Maori land. This translation was done in house at the Waitangi Tribunal; I invite the claimants to provide an additional translation and interpretation of this resolution.

¹⁹ David V Williams, ‘Matauranga Maori and Taonga: The Nature and Extent of Treaty Rights held by Iwi and Hapu in Indigenous Flora and Fauna, Cultural Heritage Objects, Valued Traditional Knowledge’, report commissioned by the Waitangi Tribunal, January 1997 (Wai 262 ROD, doc A15), pp 128–130

No evidence exists of a response by the Crown to the resolutions regarding kereru passed by the Maori Parliament. In the next several years, though, a number of amendments to the Animals Protection Act 1880 continued to modify the game laws. An 1881 amendment provided for the destruction of game and native game that depredated crops. Other amendments altered the role of the Governor in setting seasons, banned the sale of native game without a licence, and strengthened the powers of the rangers, among other changes. If nothing else, the continual modification of the animals protection Acts served to confuse both the members of the House of Representatives and the general public. ‘The people did not really know the position on which the law relating to the subject stood,’ pointed out Sir John Cracroft Wilson of Heathcoate in 1873. Between 1861 and 1895, Parliament passed 15 versions of the Protection of Animals Act.²⁰

During the early years of animals protection legislation, most of the debates focused on sporting issues. In the last two decades of the nineteenth century, however, new concerns emerged that began to direct the course of game management in New Zealand. When Europeans first arrived in Aotearoa, they brought with them a consumptive, exploitive view of nature. Settlers battling to make a home in the New Zealand wilderness had little motive for conservation. The occasional lonely voice lamented the destruction of the native bush and the dwindling numbers of native birds, but most settlers assumed such results to be inevitable. By the end of the nineteenth century, however, a growing number of people set out to preserve New Zealand’s bush and birds. These sentiments materialised into scenery preservation movements and led to the establishment of Tongariro National Park in 1894 and Egmont National Park just a few years later.²¹ At the same time, many New Zealanders expressed concerns over disappearing native birds like the tui and the kiwi. In the 1890s, the Crown set aside a number of islands as scenic reserves and bird sanctuaries: Resolution Island in 1891, Little Barrier Island in 1894, and Kapiti Island in 1897. The way the Crown acquired some of these ‘reserves’ is, of course, the subject of controversy today.²²

Debates in Parliament and the development of animals protection legislation mirrored these national sentiments. What started solely as game management slowly shifted towards bird preservation, and members of Parliament increasingly split their attention between the hunting of imported birds and the protection of indigenous ones. In 1872, William

20 NZPD, 1873, vol 14, p 183; the Animals Protection Act 1880; the Animals Protection Act Amendment Act 1881; the Animals Protection Act Amendment Act 1884; the Animals Protection Act 1880 Amendment Act 1886; the Animals Protection Act Amendment Act 1889

21 The creation of Tongariro National Park owed more to Ngati Tuwharetoa chief Tukino Te Heuheu than to the nascent conservation movement. In 1887, Te Heuheu gifted the summits of Tongariro, Ngaruhoe, and Ruapehu to the colony because he was worried about the division and desecration of tapu lands: David Thom, *Parks for People*, Auckland, Landsowne Press, 1987, pp 91–97.

22 Geoff Park has provided an excellent discussion of these issues in *Nga Uruora (The Groves of Life): Ecology and History in a New Zealand Landscape*, Wellington, Victoria University Press, 1996; Geoff Park, ‘Changing Human Perceptions of the Natural Environment’, in *Research Directions for Conservation Science?*, Bruce McFadden and Phillip Simpson (comps), Wellington, Department of Conservation, 1990, p 67

Rolleston of Avon made one of the first comments on native bird protection when he reported:

One saw bundles of tuis hanging up for sale in shops, and heard of people dining off kiwis, which seemed to him to be a gross abuse of the present privilege to kill birds, and he would like to see some clause introduced into the bill which would have the effect of preventing the loss of birds which were characteristic of the country.

The Government began to take steps towards the preservation of native birds. In 1885, for example, it listed the kotuku (white heron) and the kamana (crested grebe) as 'native game' – and immediately stipulated that the birds could not be taken or killed anywhere in the colony. As concerns with native bird protection became more widespread, the legislators began to explore methods of incorporating the new ideas into the Animals Protection Act 1880. The 1886 amendments to the Act gave the Governor the right to protect any native bird – one of the first steps toward preservation.²³

Parliament amended the Act yet again in 1889, this time with the intention of clamping down on market hunting. Some people sought to make a living by shooting game and native game, killing the birds in the thousands. Thomas McKenzie explained the problem:

There were a number of lazy men, who would do no hard work, but who, when the season came in, went to the haunts of the native birds and shot them down with swivel guns. He had seen sacks of native game sent to market in different parts of the colony, and he knew also that numbers of these birds were destroyed which were never used for food at all.

The 1889 amendment included a number of provisions geared at stopping this practice, such as banning the use of certain types of guns, requiring a licence to shoot native game, and requiring that game could be sold only at certain times of the year. With this amendment, legislators stated that if the birds were to be shot at all, it should be for sport and not for profit.²⁴

When the animals protection Acts functioned primarily as game laws, the conflict between Maori and European uses of the kereru remained manageable. Both groups, after all, wanted to kill the bird, although they did argue over the location and season of pigeon shooting. But conservationists had a different idea altogether about the role of native birds in the

²³ NZPD, 1872, vol 13; p 204; the Animals Protection Act 1880 Amendment Act 1886

²⁴ NZPD, 1889, vol 65, p 478; the Animals Protection Act Amendment Act 1889

growing New Zealand society. As conservation became a motive for animal protection, Maori access to kereru and other native birds came under threat and Maori representatives began to speak out against the restrictions on their access to the kereru.

In the late 1880s, the Maori members of Parliament remarked upon the game Bills as they moved through the legislative process. Their commentary provided the first real insight into the issues and concerns shared by Maori about the management of Aotearoa's bird life, and especially the kereru. In 1888 and 1889, Maori representatives made several long speeches on the issue. These speeches recorded Maori opinion on the emerging Crown policy for managing pigeons as native game.

Maori representatives at Parliament echoed the speakers at the 1879 hui at Orakei. They believed that the game laws should not apply to Maori. Tame Parata, representing the southern Maori district, explained to his colleagues in the 1888 session of Parliament that Maori could take care of their own birds, and do it better than the Europeans:

[Parata] did not think the provisions of this Bill should extend to birds found on land the property of Maoris, who should have a right to do as they liked with birds found on their property. The Maoris were very careful with regard to their birds, and it was only at certain seasons of the year that they were allowed to be taken. There were three kinds of birds that were of importance to Maoris – the tui, the kaka, and the pigeon. . . . [Maori] were much more careful in their endeavours to preserve these birds than were Europeans. They did not slaughter these birds mercilessly at all times of the year, and only cease when the birds were all exterminated. Perhaps stringent measures would be brought into force over all these Native lands, and the result would probably be that the Natives would be found committing breaches of the law unknowingly.²⁵

Parata's last comment speaks to the general confusion over the constantly changing game laws, in Maori communities as well as in European ones. The following year, Hirini Taiwhanga, representing the northern Maori district, reinforced Parata's comments. He, too, thought that the game laws should not apply on Maori land:

the time had come he hoped, when the Maoris would no longer be treated like babies. They were getting gray-bearded now. Why should they be treated like babies? They could look after their own game. They

²⁵ NZPD, 1888, vol 61, p 373

had fifteen or sixteen millions of acres of land in their own right. Why could they not have charge of the game-laws on that land?

Taiwhanga added an explanation of Maori conservation in an attempt to convince his colleagues of the ability of Maori to manage their own birds:

In their forefather's days they had good game-laws, which were quite sufficient to protect the game, for they shot a man if he shot the game that was under the Maori *rahui*, or Maori landmark. Let the Natives look after their own game . . .

Many times over the next several years, Maori members explained the concept of *rahui* to the other members of the House of Representatives.²⁶

The issue of setting specific seasons for hunting kereru received particular attention from the Maori members. In the years before the game laws, Maori had observed strict seasons for taking kereru. The season depended primarily on the condition of the birds. Maori preferred their kereru when the birds had grown fat on miro berries, usually in July, August, or September. European game seasons, however, did not take this traditional timing into account. Their season depended more on sport than it did on the condition of the birds. Tame Parata explained the contradiction in 1889:

the close seasons provided by the [Animals Protection Act 1880] differed entirely from the seasons adopted by the Natives in former times. The Natives always commenced to kill pigeons in the month of September, but the Europeans exposed these birds for sale during May and June. The Natives never killed their native game unless they were in season – unless they were in good condition. . . . He objected to the Bill because he did not think the exact seasons were named, and the honourable gentleman who had introduced it had evidently not taken the Natives into his confidence: he had not consulted them as to the best months to be proclaimed as the closed season.

As with the explanation of *rahui*, the Maori members explained and re-explained the differences in the seasons in an effort to underscore their opposition to the animals protection Acts.²⁷

When explanations of the Maori conservation ethic failed to give the Maori members leverage in Parliament, they tried another tactic. Rather

²⁶ NZPD, 1889, vol 65, p 482
²⁷ *Ibid*, p 477

than discuss how well Maori looked after their birds, the members instead highlighted the Europeans' poor record of bird protection. Hoani Taipua, the representative from the western Maori district, pointed out that 'It was the Europeans that had to be looked after'. Taipua explained that the rats introduced by Europeans killed the native birds, as did the poisons laid to kill similarly imported rabbits. 'Another cause of the destruction of the birds was the willful waste of the forests of the country: hundreds of thousands of acres were destroyed annually,' complained Taipua. As the game laws tightened in the last decade of the nineteenth century, Maori representatives made this argument with increasing frequency. They could not understand why the Europeans talked of passing legislation to protect the birds while they continued to chop down the bush at such a rapid rate.²⁸

European members of Parliament usually talked around the observations of their Maori colleagues, rarely addressing their concerns directly. Nevertheless, some of the European members sympathised with the arguments made by Tame Parata and his supporters. Many representatives recognised the devastation of native birds caused by rabbit poisoning and the predatory habits of stoats and ferrets. Richard Monk, a representative from Waitemata, blamed Norway rats for the destruction of New Zealand's avifauna. He likened the game laws to the Maori rahui, and explained the concept to his European colleagues in 1889. If they did nothing else, his comments demonstrated an awareness of the Maori interest in the conservation of indigenous birds like the kereru. Thomas Duncan, a representative from Waitaki, disapproved of the tightening game laws and stated his opposition on the ground that (among other things) the Bill deprived 'the Natives of the use of [native game] by interfering in this way'.²⁹

Not all members of Parliament sympathised with the Maori position, however. George Albert Marchant, from Taranaki, resented that Maori were given access to many native birds, while sportsmen were not. 'The manner in which our game-laws worked was unequal and oppressive,' explained Marchant in 1889:

The shooting of tuis by Europeans was absolutely prohibited, but the Maoris shot thousands and tens of thousands of them and nobody interfered with them. The close season was not absolute for the Natives, and the whole thing worked badly.

²⁸ Ibid, p 482

²⁹ Ibid, pp 475, 480

No statutory provisions included different regulations for Maori and European. Marchant's comments demonstrated one of the important realities of early pigeon protection. Whatever the provisions for seasons and licences, the Government could not enforce its policy in some areas – notably Maori districts. In fact, little evidence exists to suggest that Government officials even tried. Questions of enforcement will be discussed in chapter 3.³⁰

The parliamentary debates over the protection of the kereru echoed the concerns of the rest of the colony. By the 1890s, several observers had reported the increasing scarcity of the bird. In 1877, R Gillie reported to the New Zealand Institute that, in the heavily populated Otago region:

[the] beautiful New Zealand pigeon (*Carpophaga novae zealandiae*) is a bird which we must all regret has almost passed away. It is rare, indeed, to see it anywhere even in places which used to be its favourite haunt. . . . No settlers [in the old days] need ever want for a rich supper and the poor pigeons were slaughtered somewhat indiscriminately.³¹

In 1885, German naturalist A Reischek commented that this 'pretty bird is getting scarcer every year'. Observations such as these, but more especially those about tui and kiwi, motivated the early conservationists.³²

By 1895, game management in New Zealand had developed into a sticky and complex controversy. Entrenched sporting interests tried to preserve the continuation of their sport and their 'right' to hunt both native and introduced birds. The nascent conservation movement had begun to lobby for increased protection of native birds. As the conservationists gained sway in Parliament, the access to kereru of both Maori and sporting interests came under threat. Maori members of Parliament responded with a number of arguments for continued access to kereru. They talked of traditional hunting seasons, the Maori conservation ethic, and the dangers of bush clearing and destruction of birds by introduced species. For the first three decades of animals protection legislation – from 1864 to 1894 – Maori access to kereru and other native birds remained relatively intact. This changed in 1895.

³⁰ Ibid, p 477

³¹ R Gillie, 'Notes on Some Changes in the Fauna of Otago', TNZI, 1877, vol 10, p 316

³² A Reischek, 'Observations on the Habits of New Zealand Native Birds: Their Usefulness or Destructiveness to the Country', TNZI, 1885, vol 18, p 103