

## Displacement, Conservation and Customary Use of Native Plants and Animals in New Zealand



IN A CONTROVERSIAL CASE in 1992 a defendant in the Kaitaia District Court admitted shooting a native pigeon — a species classified under the Wildlife Act 1953 as ‘absolutely protected’ — but explained that he had taken it as food to fulfil the dying wish of his kaumatua. The judge discharged him, commenting that ‘the issue of Maori rights versus modern conservationist values should be decided in a more appropriate forum than the court’.<sup>1</sup>

What were these ‘modern conservationist values’, and how did they come to be in opposition to Maori rights? The background may be traced in attitudes of the British colonists coming to New Zealand in the nineteenth century, and the ways in which these attitudes changed and were reflected in policy and practice concerning the native flora and fauna of the country into the twentieth century.

The British colonists arriving in New Zealand came armed with the expectation that all the native life — plants, animals and people alike — would inevitably be supplanted and displaced.<sup>2</sup> This expectation was based on ideas current in Britain at the time, and the reports of what had happened in other colonies. The colonists were convinced of the superiority of their race over native races in general, and believed also that European plants and animals were more vigorous and more advanced than the native species. For New Zealand in particular these views had the backing of scientific authorities such as Darwin, Hooker, Dieffenbach and Hochstetter.<sup>3</sup> Ideas concerning the native people on the one hand, and native plants and animals on the other were closely connected. The displacement and expected extinction of Maori was expressed in biological metaphors and ‘explained’ by analogy with the displacement and expected extinction of native plants and animals; conversely the displacement of the native plants and animals was ‘explained’ by analogy with that of the native Maori race. To the colonists such displacement was seen as inevitable, even as a law of nature.

There were some humanitarian qualms about the displacement and predicted extinction of the native people. Concern to protect Maori from the impacts of British settlement was one of the considerations that led to the British decision to annex New Zealand as a colony by way of the Treaty of Waitangi, ‘to establish a settled form of Civil Government with a view to avert the evil consequences which must result from the absence of necessary laws and institutions, alike to the Native population and to Her [Majesty’s] subjects’.<sup>4</sup>

There was less concern about the displacement and extinction of native plants and animals which occurred along with the progress of human colonization. As

a British scientist argued, it was part of a natural process and thus 'if we wield the sword of extermination as we advance, we have no reason to repine at the havoc committed'.<sup>5</sup> In New Zealand, scientific colonists such as W.T.L. Travers admitted that the impacts of human colonization, such as the cutting and burning of the native bush, helped in the displacement of the native plants and animals. But Travers felt sure that such displacement was both natural and inevitable: even 'if every human being were at once removed . . . the introduced would succeed in displacing the indigenous fauna and flora'.<sup>6</sup>

However, from the beginning of British colonization some did express regret at the displacement of certain native plants or animals at least, and suggested that efforts should be made to prolong their survival. The concern initially was utilitarian. In 1841 apprehension that the kauri forests would rapidly disappear led to suggestions from Britain that action should be taken to preserve some for a continuing supply of spars for the navy. Plans were briefly initiated to appoint a 'Conservator of Kowrie forests' to see to this.<sup>7</sup>

More far-reaching ideas began to be expressed in the 1870s, especially by T.H. Potts of Canterbury. He had begun with the general view of 'the feeble hold on life which appears to be shared by every living thing that is indigenous, whether animal or vegetable, when brought into contact with foreign influences', but now Potts began to criticize the notion that displacement was a 'natural sequence of Anglo-Saxon colonisation'.<sup>8</sup> Where Travers and others considered that human influences merely accelerated the natural process of displacement, Potts suggested that they were a direct cause. Drawing on the ideas of the American G.P. Marsh in *Man and Nature* (1864), Potts argued that native species in New Zealand were disappearing not by any law of nature, but as a consequence of human action.<sup>9</sup> His new proposals for 'conservation' of native forests to reduce waste and ensure a continuing timber supply were taken up by Julius Vogel, who introduced legislation in 1874 'to make provision . . . for subjecting some portion of the native forests to skilled management and proper control'.<sup>10</sup> This was what Potts and Vogel meant by conservation: official control and management for future use. As Vogel explained, 'in no case is natural bush, untended and unconserved, as valuable, commercially, as planted forest'.<sup>11</sup>

But the idea of conserving native forests to provide a continuing timber supply still ran against the general expectation of the displacement and extinction of native plants. Some opposed Vogel's plan on this basis, arguing that trying to conserve forests was hopeless, flying in the face of the 'mysterious law' of displacement.<sup>12</sup> And although the New Zealand Forests Act was passed and a Conservator of Forests appointed, the initiative lasted only as long as Vogel remained in power. Others did not share his and Potts's conviction that native forests could and should be conserved; the predominant view was still that in the progress of colonization all the native life would be swept aside.

Potts also advocated the preservation of native birds, and argued that refuges or sanctuaries should be set aside where the birds could be sheltered and protected from the impacts of colonization. He suggested several islands that might be reserved for this purpose.<sup>13</sup> This idea gained no immediate support, although there was some interest in Parliament in 'preventing the loss of birds which

were characteristic of the country'. Two in particular were mentioned: tui and kiwi.<sup>14</sup>

The protection of wild birds from undue slaughter was being argued in Britain at this time, and Potts actually addressed his first appeal for the preservation of New Zealand native birds to British readers. 'Help us to save our birds', he wrote in 1872; the colonists in New Zealand would pay little attention to the idea unless they heard it from 'Home'.<sup>15</sup> And indeed it was not until there were expressions of alarm from Britain about the fate of New Zealand's flightless native birds after predatory ferrets, stoats and weasels were introduced as the 'natural enemy' of the rabbit pest, that Potts's idea of setting aside island sanctuaries for native birds began to gain wider support. The argument was still that 'the birds of New Zealand seemed to have less power of resisting their various enemies' than British species did; therefore if the native birds were to be preserved from displacement and extinction they would require refuges cut off from these enemies and the other pressures of colonization.<sup>16</sup> The idea now gained sufficient support to persuade the government to reserve Resolution Island in 1891, Little Barrier Island in 1894 and part of Kapiti in 1897 'for the purposes of conserving the natural scenery . . . and providing a preserve for the fauna and flora of New Zealand'.<sup>17</sup>

By this time the colonists' expectation of displacement had in fact largely been borne out: with colonization New Zealand had become, in A.W. Crosby's term, a 'Neo-Europe', with predominantly European people growing European crops and raising European sheep and cattle on European grass.<sup>18</sup> Maori had been displaced from much of the land and marginalized; large areas of native fern-land and forest had been replaced by grass and sheep; the kauri forests were expected to be entirely cut out within another 20 years, and a number of native species of fish and birds were extinct or nearly so. British people, law and custom prevailed in New Zealand.

At the same time, however, the colonists' attitude toward the native life being displaced by colonization was shifting. The view was becoming accepted that native scenery and native plants and animals should be retained and preserved as the natural heritage of New Zealanders and characteristic of their country. There was much pride at the progress of colonization and the pioneering of a new nation, but now there was also a sentimental attachment to the native New Zealand that was being displaced in the process. These conflicting feelings were expressed by W.P. Reeves in his much-quoted poem 'The Passing of the Forest': *Is this the price we pay — The price for progress — beauty swept away?*<sup>19</sup> Certainly the new impulse to preserve some remnants of native bush scenery was not allowed to override the basic drive to colonize and develop. In 1907 the official Scenery Preservation Board was at pains to reassure colonists that, in carrying out its function of preserving samples of the 'beautiful natural scenery', no good agricultural or pastoral land would be locked up in unproductive reserves, for 'The needs of settlement are imperative'.<sup>20</sup>

Although many of the ideas of preservation or conservation were derived from American or British precedents, they gained particular acceptance in New Zealand by association with a developing national sentiment. Nature writer James

Drummond wrote in a new way about the native bush and the native birds, combining a sentimental feeling for a wild nature that for most colonists was now a distant prospect, with a patriotic pride in the special forms associated with their new country. Drummond still wrote of the native species as unable to compete with the tougher colonists, but now made a virtue of this by his metaphor of the natives as 'aristocrats of the Animal Kingdom, [who] had absolutely no chance against the shrewd, vulgar, hard-headed, cunning, practical, greedy, and ferocious invaders'. The tribulations of the native birds had 'endeared them to the hearts of New Zealanders'. Indeed, to a native-born New Zealander like Drummond the attachment was deeper and more visceral than that: 'The bell-bird's song is even more bewitching to a New Zealander than the lark's song is to an Englishman. The notes go straight to a New Zealander's heart. They send the blood tingling through his veins; childhood's days crowd in upon his memory, and there arise visions of stately trees, drooping ferns, mossy dells, and all the beauty of the New Zealand forest.'<sup>21</sup>

As the British colonists became settled New Zealanders they invested images of the native New Zealand scenery and the native bush and native birds with patriotic significance, and elevated particular native species as emblems or symbols of a New Zealand identity. New Zealand became variously characterized as the land of ferns, or of certain birds: the celebrated, but extinct moa, the tui, the kiwi.<sup>22</sup> The tui was a particular favourite — the 'best known and best beloved of New Zealand's birds'.<sup>23</sup> Schoolchildren in city playgrounds who never saw a tui sang of it as they planted a native tree for 'Arbor Day': *Bird of my native land, beau-tiful stranger/Perched in the kauri tree, free from all danger.*<sup>24</sup> Support for 'the lovable tui' as the national bird was still being expressed in 1939.<sup>25</sup> However, the name and image of the kiwi was better-known abroad (partly from its use as trademark for the internationally successful Australian 'Kiwi' brand boot-polish), and when New Zealand troops went overseas they became known as 'Kiwis'. The bird itself was hardly ever seen except stuffed in display cases but its image had been familiar since the 1870s from banknotes, postage stamps and trademarks. The kiwi became the popular choice as a symbol and emblem of New Zealand.<sup>26</sup>

The idea that native bush scenery and native birds should be preserved and protected was promoted by a succession of groups and organizations. In the 1890s the New Zealand Natives Associations expressed general support, and Scenery Preservation Associations and Beautifying Societies in many towns worked to preserve local 'beauty spots' of bush scenery.<sup>27</sup> In 1914 H.G. Ell formed a New Zealand Forest and Bird Protection Society, and in 1916 Alexander Bathgate and Sir James Wilson established the Forestry League which, in line with its motto of 'Preservation and Conservation', promoted preservation of native bush and better management of forests for continued timber production. In 1923 E.V. Sanderson organized the Native Bird Protection Society, which outlived the earlier groups, extended its scope and accordingly from 1935 took the name of Ell's group to become the Forest and Bird Protection Society.<sup>28</sup> It grew in membership and influence and by 1963 its cause was so well accepted that it gained royal patronage.



**Figure 1:** 'There is no greater menace to the animal-life of this country . . . than the so-called sporting proclivities of the white man . . . . These sporting proclivities of the Englishman are so excessive that when he wants to do anything of a special nature that will give him special pleasure he will say to his friend, "Let us go out and kill something." The attitude taken up by the Maori race in this country in that respect was totally different. The Maori never killed for sport; he killed for the pot'. Peter Buck, NZPD, 1910, 151, p.257 (courtesy of Tyree Studio Collection, Nelson Provincial Museum, 176893/3).

By this time native bush and birds were widely regarded as precious natural heritage to be protected and preserved from any further displacement or extinction — as the mass protests from 1960–1972 against proposals to raise Lake Manapouri made clear. This impetus for protection and preservation, or ‘conservation’ of nature, as it became known, was rather different from the conservation of forests promoted by Potts and Vogel in the 1870s and foresters since. In 1970 the Forest Service’s annual report complained at the way ‘conservation’ had been appropriated as a catchword. Foresters in New Zealand had used the term for a century to describe the management or ‘wise use’ of forests and other natural resources; a new generation of conservationists was now applying it to what the Forest Service referred to dismissively as ‘preservation by locking up’. The Forest Service stated its own position very succinctly in the title of a publicity pamphlet: *Forestry is Conservation*.<sup>29</sup>

The contest between conservation as wise use of natural resources, and conservation as protection and preservation of natural heritage eventually came to a head when environmental administration was reorganized in 1987. Legislation was introduced to establish a new Department of Conservation to ‘conserve, protect, and preserve the eco-systems that . . . give this country its unique character, which makes us proud to be New Zealanders’.<sup>30</sup> The legislation as first drafted incorporated a statutory definition of conservation drawn from the International Union for Conservation of Nature and Natural Resources. This definition was based on the idea of ‘resource conservation for sustainable development’, and sought to embrace ‘sustainable utilization’, or conservation in its older sense of management and wise use, as well as the newer concept of conservation as preservation and protection of nature as natural heritage. But this combination sounded too much like the Forest Service’s existing ‘multiple use’ approach to native forests (embracing production as well as protection) which conservation groups had long opposed. These groups lobbied hard to change the legislative definition to remove the possibility that native forests would continue to be logged in the name of conservation. They succeeded in having their definition incorporated into the Conservation Act of 1987, defining the philosophy of the new department as ‘preservation and protection of natural and historic resources’.<sup>31</sup>

The minister proclaimed the formation of the new Department of Conservation as marking a ‘coming of age in New Zealand society . . . an end to the colonial or pioneer mentality, which saw resources as being infinite and always available’.<sup>32</sup> A departmental official, writing a few years earlier, had also linked the rising importance of nature conservation with the shift from a colonial to a national identity:

Because of our brief history, non-Maori New Zealanders are deprived of an indigenous cultural heritage and a sense of historical links with the land. Until recently, it was possible to consider ourselves an outpost of Britain and, in effect, to borrow its history and cultural heritage. With our diminishing links with Britain, this no longer suffices, and younger people now feel no cultural identity with the other side of the world.

Maori culture and traditions can help to fill this gap, but with the scarcity of ancient man-made edifices, I believe our natural heritage of unique flora and fauna is also very important in providing visible symbols of the New Zealand identity.<sup>33</sup>

But if non-Maori New Zealanders regarded the native plants and animals as symbols of identity, what about Maori New Zealanders? In 1987 the Conservation Act did incorporate a section requiring that it 'shall be so interpreted and administered as to give effect to the principles of the Treaty of Waitangi'.<sup>34</sup> However, this was the first time such a requirement had been included in legislation in this area. Up until 1987 there had been no direct requirement to take any account of the Treaty of Waitangi or, with few exceptions, to take any account of specific Maori interests in the utilization, conservation or protection of plants or animals in New Zealand. By the Treaty of Waitangi in 1840 Maori had been deemed to have ceded sovereignty over New Zealand to the British Crown, and were in turn promised Crown protection and 'all the Rights and Privileges of British Subjects'. And by Article Two of the Treaty, Maori were also guaranteed 'the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties . . . so long as it is their wish and desire to retain the same'. But whatever the intention of the British Colonial Office and the British envoy in New Zealand in negotiating the Treaty, the colonists who followed did not take its undertakings seriously. Their assumption of native inferiority and their expectation of inevitable native displacement and extinction led easily to the conclusion that the Treaty had no continuing relevance and that Maori could not and would not continue in 'undisturbed possession' of lands and forests. As early as 1844 an ordinance of the Legislative Council ruled that the best course to try to avert extinction of Maori would be by placing them under paternal guardianship and 'assimilating as speedily as possible the habits and usages of the Native to those of the European population'.<sup>35</sup> The colonists were not all as humanitarian as this; when they began pressing for representative government in New Zealand some argued openly that Maori need not be included at all because 'there is no prospect of their becoming as a body sufficiently enlightened for the exercise of political privileges before the time of their extinction shall arrive'.<sup>36</sup> In 1859 F.D. Fenton used a similar argument, while asserting that Maori were incapable, without help, of becoming 'good citizens, and useful colonists'.<sup>37</sup> The colonists already regarded themselves as being the dominant, normal people of the land.

Maori at this time were, in fact, still in control of much of the country but British colonization was encroaching further and further on tribal lands and ways of life.<sup>38</sup> Part of the encroachment that alarmed Maori was the impact of colonization on their forests. While the colonists saw the 'bush' as an impediment to settlement and progress and were rapidly cutting, burning and clearing it away, Maori regarded the forest as one of their food-baskets, from which they drew their sustenance. They began expressing concern about retaining native forests even before conservationist colonists such as T.H. Potts raised the idea. In 1863 the King movement's newspaper *Te Hokioi* urged its Maori readers to 'cease setting fire to the forests lest the trees be consumed; lest there be no more trees for our descendants'.<sup>39</sup> As the settlers continued to cut and burn the

forests Maori took their concerns to the colonial authorities. In 1886 when a deputation led by Hori Ropiha of Ngati Kahungungu met the Native Minister the colonial press reported with some surprise that 'one of their chief complaints referred to the rapid extinction of the native forests, and as a consequence the disappearance of native birds'.<sup>40</sup>

Maori harvested these native birds for food, but this customary practice was encroached upon from another direction. The Animals Protection Acts passed by the colonial Parliament began classifying some of these same birds as 'native game', to be hunted for sport. The category of 'native game' began with native pigeon and ducks in 1865, and was extended later to include other birds of the types traditionally hunted in Britain.<sup>41</sup> The hunting of these 'native game' birds became regulated in the same way as that of the 'imported game' introduced by the colonists' acclimatization societies. Hunting was regulated according to British traditions of sport, with gun only (snares were regarded as a low poacher's trick, and were outlawed), and only in set seasons. In the early Animals Protection Acts some exclusions and special allowances were made to recognize that Maori customary harvesting of native birds would continue, but these allowances were gradually dropped and the regulatory framework tightened.

In Parliament the Maori members regularly protested at the tightening of the game laws, pointing out that 'unlike Europeans, we Maoris never kill birds for the pure sport of killing: we kill for food only'.<sup>42</sup> The native pigeon (kereru or kukupa) was particularly valued. And as Henare Kaihau, Member for Western Maori, explained in 1910, 'Maori people at the present day have no other sources of food-supply than eels, and birds, and fish, and so forth. They are under the impression that they still possess the right conferred by . . . the Treaty of Waitangi to kill and take, for the purpose of food, native game and fish'. He protested that the latest extension to the game laws encroached still further on this right and on Maori life and custom, but the Pakeha law-makers seemed to take no notice. Kaihau added despairingly that, after 15 years in Parliament, 'I have not seen one single measure passed for the benefit of the Maori people'.<sup>43</sup>

When the colonists' views on native species shifted towards conservation and protection, Maori customary use of forests and birds was encroached on even further. First, a new category began to be created of 'protected' native birds which were not permitted to be hunted or harvested at all. Some protection for the colonists' favourite, the tui, had been given earlier by placing it on the 'native game' list to control its hunting, and then not gazetting any open season for it. Then, beginning with white heron in 1888, progressively more native birds were placed on a 'protected' list. By 1907 the list extended to 28 birds, including all the sentimental favourites: bell-bird, fantail, huia, kiwi, tui.

The move to protect native species also involved a second, more direct form of encroachment. Reserves and sanctuaries for the preservation of native forests and birds were created by displacing Maori from islands and other locations which had been least affected by colonization, where the forests had not yet been destroyed, and the birds had not yet been displaced. Little Barrier Island, for instance, still had species of birds which had entirely disappeared from the rest of the country. When the idea of making it a reserve for the preservation of native birds and plants was raised, the Ngati Wai of Little Barrier Island

(Hauturu), who had protected the birds there for many years, offered to continue to act as guardians.<sup>44</sup> But the government rejected this and moved to compulsorily purchase the island from them. In Parliament the Member for Northern Maori, Hone Heke, protested vigorously, and gained some support from the Pakeha lawyer F.H.D. Bell, who pointed out that the Bill was taking away private property rights in a way which would not be done with European property-owners. But the Speaker, Sir Maurice O'Rorke, ruled that the Bill was quite in order, on the basis that the Crown had 'supreme authority in relation to land held by the Natives whenever it chooses to exercise it'. At the same time, 'The Crown, in assuming the sovereignty of New Zealand, undertook the guardianship and protection of the persons and properties of the Native inhabitants . . . and it cannot be supposed that the Ministers of the Crown, who are the guardians and trustees of the Natives, would see them wronged in the slightest degree'.<sup>45</sup>

Treaty guarantees of the rights and privileges of British subjects, and of undisturbed possession of lands, fisheries and forests, were thus not only set aside, but turned on their head. The Crown would take Maori lands and forests — and call it guardianship and protection. Heke's protests were ignored, the Bill was passed and Little Barrier Island compulsorily acquired. Those Ngati Wai who were still living on the island were removed with the help of the militia.<sup>46</sup> In order to preserve native birds and forests Maori would continue to be displaced.

In 1907 when one of the new preservationists in Parliament, Thomas Mackenzie, sought further protection for 'our beautiful native birds' he looked around for support. 'I appeal to the members of the Native race', he began. 'What is desired to enlist is the sympathy of the Natives of this country. They ought to unite with the Europeans in protecting that which is really so delightful and beautiful'.

Heke could not let this pass. It was Maori, not the colonists, who protected the birds, he retorted; it was the colonists who kept wanting to 'knock the bush down' which left the birds without shelter and needing protection. This was not at all what Mackenzie wanted to hear. 'I say that, notwithstanding the Treaty of Waitangi, we have reached that stage in this country that if the Natives will not assist in protecting that which is so beautiful, then the laws of the country will have to do so'.<sup>47</sup>

And this was the course followed. When the laws regulating the hunting and protection of native and imported animals were consolidated and rewritten as the Animals Protection and Game Act 1921–1922, the Pakeha preservationists managed to extend the list of birds scheduled as 'absolutely protected' to include nearly every species of native bird except those considered pests or undesirables — most shags (regarded as pests by trout fishermen), black-backed gull and kea (regarded as pests by sheep-farmers), wax-eye (regarded as pests by orchardists) and hawks (regarded as predators undeserving of protection) — and a reduced list of 'native game' birds for hunting.

Indeed the preservationists had even managed to have some birds previously listed as game species transferred to the 'absolutely protected' list: pukeko, paradise duck and native pigeon. The acclimatization societies representing duck-

shooters immediately lobbied successfully to have pukeko and paradise duck restored to the 'native game' category, but Maori did not have the same influence: native pigeon remained permanently protected. From this time any continuation of the customary Maori harvesting of native pigeon became regarded as illegal 'poaching' and Maori were regularly prosecuted for it.

In 1940 Sir Apirana Ngata wrote bitterly of the way the imposition of British law had stripped Maori of ownership and access to the 'rich food resources' of their forests, as 'the protective sentiment and aesthetic sense of the *pakeha* revolted against the destruction of native birds and plants, while conniving at the wholesale destruction of berry-bearing trees in the wake of the resistless advance of settlement!'<sup>48</sup>

Yet even Ngata could not make himself heard on this issue. The legislative controls over protection of some native species and the game hunting of others became progressively tighter through the twentieth century. Encroachment continued, almost to the point of exclusion.<sup>49</sup> The Wildlife Act 1953 arrogated further powers to the Crown, declaring that all protected wildlife (meaning wild land mammals, birds, reptiles, amphibians, and some specified insects and other invertebrates) was Crown property. Maori in some areas still retained rights to take titi or muttonbirds, but no provision was made for any other customary Maori use of native birds or even their feathers.

By the time of the passing of the Conservation Act in 1987 there had been some important changes. The Act embodied the philosophy of conservation as 'preservation and protection' of natural resources as propounded by Pakeha conservation groups, and the Wildlife Act's classification of which species of birds and other animals were to be given this preservation and protection, and which were not. But in line with the new importance being accorded the Treaty of Waitangi by this time, the Conservation Act was also to be 'interpreted and administered as to give effect to the principles of the Treaty'.

The tensions between the ruling philosophy of conservation and the requirement to give effect to the principles of the Treaty of Waitangi soon became apparent. Maori were raising the issue of the encroachment on their undisturbed possession of lands, fisheries and forests and their customary use of the plants and animals in them — most comprehensively in a claim lodged with the Waitangi Tribunal in 1991 relating to the 'protection, control, conservation, management, treatment, propagation, sale, dispersal, utilisation, and restriction on the use and transmission of the knowledge of New Zealand's indigenous flora and fauna and the genetic resource contained therein'.<sup>50</sup> The issue was raised also by a request from Chatham Islanders to take toroa, albatross chicks, as traditional ceremonial food for the Island's bicentenary celebrations in 1991, and by a succession of court cases over Maori 'poaching' of native pigeon. Conservation groups reacted by demanding no compromise on the legal protection of these native species.

As Conservation Department officials struggled to reconcile the requirements of conservation and Treaty principles, their advisory body, the New Zealand Conservation Authority, published a discussion paper 'to lead and focus public debate on issues touching upon the customary use by Maori of various native

species of both flora and fauna'.<sup>51</sup> The resulting submissions and reports revealed a sharp divergence in views on the issue. Pakeha generally were strongly opposed to any relaxation of the ruling policies of protection of native species to allow for Maori customary use or harvesting. Killing native birds, they argued, was 'unthinkable'. Maori, on the other hand, maintained that 'Iwi have never relinquished the right to a cultural take, it is only the pakeha laws that have made it unlawful', and that the 'Maori view and cultural needs have been suppressed and ignored' by the dominant Pakeha system and its European cultural norms. Maori resented being denied access to natural resources when groups such as plant nurserymen, commercial fishermen and game-bird hunters each had access to or control over their desired natural resources provided for and protected by legislation.<sup>52</sup>

A submission from Maori ecologists argued that there was 'a cultural bias against Maori', in that the classification of species as being suitable for exploitation, for sport, or for protection, was based on a 'European' cultural perspective and took no account of the different Maori perspective. They illustrated this by comparing the classification and treatment of the kereru or native pigeon with that of another native bird, the parera or grey duck. Maori had traditionally harvested both, with kereru in particular regarded as 'a prime food source of considerable cultural importance'. However, under the ruling Pakeha perspective, ducks could be hunted and eaten, but pigeons must not. But if, as Maori were told by Pakeha conservationists, the kereru could not be harvested because its numbers were declining and it needed protection in order to survive, then why was the parera, the grey duck, which was also declining and under severe pressure, still open to European-style duck-shooting for sport? And why were Maori not permitted a role in the guardianship, management and conservation of kereru in the same way that duck-shooters, through their own organizations (the acclimatization societies, now reconstituted as Fish and Game Councils), were given the guardianship, management and conservation of the grey duck? The ecologists concluded that Maori were denied rights of access to species culturally important to them, rights guaranteed to them under the Treaty of Waitangi, 'simply because they are a minority within a larger populace with different views on which species it is valid to harvest'.<sup>53</sup>

As these arguments make clear, the way different plants and animals are regarded is a matter of cultural customs and values. Whether ducks, pigeons, or other kinds of animals or plants are regarded as game to be hunted, delicacies to be eaten, natural heritage to be protected — or as valuable resources to be exploited, noxious weeds or pests to be controlled, loathsome creatures to be avoided, or cultural icons to be revered — these categorizations are cultural constructs. In New Zealand the particular categorizations of Pakeha became normative: the views of the native life brought by British colonists in the nineteenth century, and modified as colonists became Pakeha New Zealanders, became established and entrenched in legislation and official policy. Thus a native shag which competed for the angler's trout became a pest to be unceremoniously shot; a native duck became game to be hunted in season with all the rituals of the sport; while a native pigeon, after first being esteemed for

pigeon pie and as native game, then became regarded as natural heritage to be protected. The differing cultural views and customs of Maori were marginalized and, where they conflicted with the dominant Pakeha view, were suppressed by force of law. The arguments of the 1990s about the issue of Maori customary use of native plants and animals illustrate the extent to which Pakeha cultural views and values have been imposed, and the continuing Maori resistance to that imposition.

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*Onewhero*

## NOTES

- 1 *Waikato Times*, 4 December 1992, p.8. I thank Peter Gibbons for this reference.
- 2 'The ideas of displacement have been considered by many historians. For some recent expositions in the New Zealand context see Ross Galbreath, 'Colonisation, Science, and Conservation: The Development of Colonial Attitudes Toward the Native Life of New Zealand', PhD thesis, University of Waikato, 1989, pp.54–108; Paul Hamer, 'Nature and Natives: Transforming and Saving the Indigenous in New Zealand', MA thesis, Victoria University of Wellington, 1992, pp.250–6; Paul Star, 'From Acclimatisation to Preservation: Colonists and the Natural World in Southern New Zealand 1860–1894', PhD thesis, University of Otago, 1997, pp.115–23. See also Galbreath, 'Images of Colonisation: Native Rats and Dying Pillows', *Turnbull Library Record*, 26, 1–2 (1993), pp.33–42.
- 3 Charles Darwin, *The Origin of Species By Means of Natural Selection*, London, 1859, p.337; J.D. Hooker, *The Botany of the Antarctic Voyage of H.M. Discovery Ships Erebus and Terror . . . Part III. Flora Tasmaniae*, London, 1860, I, p.ciii; Hooker, 'Note on the replacement of species in the colonies and elsewhere', *Natural History Review* (new series) 4 (1864), pp.123–7; Ernest Dieffenbach, *Travels in New Zealand*, London, 1843, II, pp.14–15; Ferdinand von Hochstetter, *New Zealand*, Stuttgart, 1867, pp.141, 196–7, 220–1.
- 4 Treaty of Waitangi, preamble.
- 5 Charles Lyell *Principles of Geology*, London, 1830–1833, II, p.156.
- 6 W.T.L. Travers, 'On the changes effected in the natural features of a new country by the introduction of civilized races', *Transactions & Proceedings of the New Zealand Institute* (TPNZI), 2 (1870), p.312.
- 7 M.M. Roche, *Forest Policy in New Zealand: An Historical Geography 1840–1919*, Palmerston North, 1987, p.22. W.C. Symonds was appointed as Conservator, but drowned before he could take up the position.
- 8 T.H. Potts, 'On the Birds of New Zealand', TPNZI, 2 (1870), p.49.
- 9 T.H. Potts, *Out in the Open*, Christchurch, 1882, pp.233–6 ('From a paper read before the Philosophical Institute of Canterbury, Dec. 12, 1872'). On Potts's ideas see also Galbreath, 'Colonisation, Science, and Conservation', pp.181–200; and Paul Star, 'T.H. Potts and the Origins of Conservation in New Zealand (1850–1890)', MA thesis, University of Otago, 1991.
- 10 New Zealand Forests Act 1874, preamble.
- 11 *New Zealand Parliamentary Debates* (NZPD), 1874, 16, p.90.
- 12 NZPD, 1874, 16, p.351. See also Graeme Wynn, 'Conservation and Society in Late Nineteenth Century New Zealand', *New Zealand Journal of History*, 11, 2 (1977), pp.124–36.
- 13 T.H. Potts, 'Help us to save our birds', *Nature* (London), 2 May 1872, pp.5–6; Potts, 'National Domains', *New Zealand Country Journal*, 2, 4 (1878), pp.227–33.
- 14 NZPD, 1872, 13, p.204. This proposal by William Rolleston evidently led to the listing of tui as a 'native game' bird in 1873 to give it some measure of protection.
- 15 Potts, 'Help us to save our birds'. On the British moves for wild bird protection see Galbreath, 'Colonisation, Science, and Conservation', pp.194–6, 299–301.
- 16 *New Zealand Herald*, 19 Oct 1886, p.3, 'Auckland Institute'.
- 17 Kapiti Island Public Reserve Act 1897, preamble.
- 18 Alfred W. Crosby, *Ecological Imperialism: The Biological Expansion of Europe, 900–1900*, Cambridge, 1986.
- 19 W.P. Reeves, *New Zealand and Other Poems*, London, 1898, p.8.
- 20 *Appendices to the Journals of the House of Representatives* (AJHR), 1907, C-6, pp.1–2.
- 21 James Drummond, *Our Feathered Immigrants*, Wellington, 1907, p.1; Drummond, *Feathered Friends of the Bush* [Christchurch, 1907], pp.3, 18.
- 22 See such book titles as 'A New Zealander' [Sarah Elizabeth Hawdon], *New Zealanders and the Boer war, or, Soldiers from the Land of the Moa*, Christchurch, [1902?]; M. Wilson, *In the Land of the Tui*, London, 1894.
- 23 Sir Arthur P. Douglas, *The Dominion of New Zealand*, London, 1909, p.134.
- 24 Robin Hyde, *The Godwits Fly*, Auckland, 1970, p.32 — from her evocation of an Arbor Day ceremony at Berhampore primary school in Wellington in about 1918.
- 25 *New Zealand Centennial News* 6 (25 February 1939), p.7.

26 Keith Sinclair, *A Destiny Apart: New Zealand's Search for National Identity*, Wellington, 1986, pp.188–92; Richard Wolfe, *Kiwi: More Than A Bird*, Auckland, 1991.

27 Sinclair, *A Destiny Apart*, p.42; *Otago Daily Times*, 17 May 1899, p.3; L.E. Lockhead, 'Preserving the Brownies' Portion: A History of Voluntary Nature Conservation Organisations in New Zealand, 1888–1935', PhD thesis, Lincoln University, 1994.

28 Galbreath, *Working For Wildlife: A History of the New Zealand Wildlife Service*, Wellington, 1993, pp.13–15.

29 AJHR, 1970, C-3, pp.6–7; New Zealand Forest Service, *Forestry is Conservation*, Wellington, 1975.

30 NZPD, 1986, 479, p.7984.

31 Compare the definitions of 'conservation' in International Union for Conservation of Nature and Natural Resources, *World Conservation Strategy: Living Resource Conservation for Sustainable Development*, [Morges, 1980], p.[2]; Conservation Bill 1986, s.2; *Maruia: National Newsletter from the Native Forests Action Council*, 2, 3, 3 March 1987, p.1; Conservation Act 1987, s.2. For further background on the establishment of the Department of Conservation see Galbreath, *Working For Wildlife*, pp.214–17, 221–2.

32 NZPD, 1986, 476, p.6140.

33 Keith Garratt, 'A philosophy for nature conservation in New Zealand', *Landscape* (Wellington), 7 (1980), p.22.

34 Conservation Act 1987, s.4.

35 Native Trust Ordinance 1844, preamble. The ordinance did not gain confirmation from Britain and never came into effect.

36 *New Zealand Spectator*, 1 Feb 1851.

37 F.D. Fenton, *Observations on the State of the Aboriginal Inhabitants of New Zealand*, Auckland, 1859, p.31.

38 An image which appears in Maori writings of this time compares their situation to that of godwits whose sandbank is being engulfed by the rising tide — see *Te Hokioi*, 15 February 1863, column 2; Te Whatanui Tiwaeae and others to McLean, 13 May 1873, Maori Affairs (MA), 75/14, National Archives (NA), Wellington.

39 *Te Hokioi*, 15 February 1863, column 4, (as translated by the Native Secretary's Department in 1865), quoted by Keith Sinclair, *The Origins of the Maori Wars*, Wellington, 1957, p.5.

40 *New Zealand Herald*, 8 March 1886, p.5, 'Wellington News Notes. The Maoris and Native Minister'.

41 Bittern, stilt, 'curlew' (godwit) and quail were added to the schedule of 'native game' in 1867; dotterel and tui in 1873 (tui evidently as a way of giving it some protection); pukeko in 1907; plover, knot and turnstone in 1922.

42 NZPD, 1910, 151, p.264. See also NZPD, 1907, 142, pp.785–6.

43 NZPD, 1910, 151, pp.260–1.

44 H.F. Edgar memorandum, 14 December 1892, MA, 13/45, NA, Wellington. A fuller account of the complex and protracted process of purchase and reservation of Little Barrier Island is given by Galbreath, 'Colonisation, Science, and Conservation', pp.202–34, 246–53.

45 NZPD, 1894, 86, p.936.

46 Men of the Torpedo Corps of the Permanent Force were involved in the lengthy operation — see AJHR, 1896, C-1, p.105; AJHR, 1897, C-1, p.124.

47 NZPD, 1907, 142, p.790. Heke's scepticism was echoed later by Tame Parata: 'now, Sir, that this House has the question of the preservation of the Maori birds so much at heart I would suggest that it is you yourselves, who brought in the undesirable foreign birds, and the weasels, the ferrets, and stoats who are killing the native birds and exterminating them', NZPD, 1910, 151, p.265.

48 A.T. Ngata, 'Maori land settlement', in I.L.G. Sutherland, ed., *The Maori People Today: A General Survey*, Wellington, 1940, p.112.

49 Compare also Geoff Park, 'Effective Exclusion? An Exploratory Overview of Crown Actions and Maori Responses Concerning the Indigenous Flora and Fauna, 1912–1983'. This report, commissioned for the Indigenous Flora and Fauna and Cultural Property Claim to the Waitangi Tribunal (WAI 262), was not available to me at the time of writing.

50 WAI 262, Statement of Claim, quoted in New Zealand Conservation Authority, *Maori Customary Use of Native Birds, Plants and Other Traditional Materials: Interim Report and Discussion Paper*, Wellington, 1997, p.53. The claim is still proceeding toward hearing.

51 New Zealand Conservation Authority, *Discussion paper: Maori Customary Use of Native Birds, Plants and Other Traditional Materials*, Wellington, 1994, p.[iii].

52 B.L. Geden and P.S. Ryan, *Summary of Responses on Maori Customary Use of Native Birds, Plants and Other Traditional Materials*, Wellington, 1995.

53 Shane D. Wright, Graham Nugent and Hori G. Parata, 'Customary management of indigenous species: a Maori perspective', *NZ Journal of Ecology*, 19, 1 (1995), pp.83–6.