TREATY RIGHTS AND PIGEON POACHING

Alienation of Maori Access to Kereru, 1864–1960

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Waitangi Tribunal Publication 2001

This report was commissioned by the Waitangi Tribunal for the
indigneous flora and fauna claim (Wai 262). It was completed in 1998.
Its publication was made possible through the financial assistance of Te Puni Kokiri.

A Waitangi Tribunal publication
ISBN 0-908810-55-5
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www.waitangi-tribunal.govt.nz
Produced by the Waitangi Tribunal
Published by the Waitangi Tribunal, Wellington, New Zealand
Printed by SecuraCopy, Wellington, New Zealand
Set in Adobe Minion and Cronos multiple master typefaces

Contents

Introduction vii

1 Legislation, 1864–95 1

2 Alienation, 1895–1922 15

3 Enforcement, 1922–60 41

I Closed Season Notices, 1901 61

II Maori Language Advertisements, 1956–59 63

III Direction Commissioning Research 65

Document Bank Contents 67

Bibliography 69

Abbreviations

AJHR	*Appendix to the Journals of the House of Representatives*
IA	Internal Affairs file series
NA	National Archives
NZPD	*New Zealand Parliamentary Debates*
p, pp	page, pages
pt	part
TNZI	*Transactions of the New Zealand Institute*
vol	volume

The Author

Tena koutou. My name is Jim Feldman. I am an American, of German and Russian Jewish descent. My family lives in Chicago, Illinois, and Slinger, Wisconsin. I have been in New Zealand for 15 months on a Fulbright scholarship. My formal training includes a bachelor of arts in history (honours) from Amherst College in Amherst, Massachusetts; a master of arts in history from Utah State University in Logan, Utah; and 10 months as a research associate to the FORST-funded Northland Project, at the Department of Geography, University of Auckland. All this work has been in the field of environmental history. I have worked with the Tribunal and completed this report on a semi-volunteer basis, as a part of my Fulbright grant. I was commissioned to carry out this report on 14 August 1997, I began research in September 1997, and I spent five months on the project.

Acknowledgements

The New Zealand–United States Educational Foundation (Fulbright) provided the funding for my stay in New Zealand and the flexibility to allow me to accept this commission. Jenny Gill runs a remarkable programme there. I have many members of the Waitangi Tribunal staff to thank as well, people who have offered both friendship and research assistance: Evaan Aramakutu, Paul Hamer, Janine Hayward, Grant Phillipson, Kate Riddell, Georgina Roberts, Matt Russell, and Ben White, just to single out a few. Everyone at the Tribunal offices, however, has helped make my short stay a wonderful one.

Introduction: A Bird of Many Names

The Wai 262, or indigenous flora and fauna, claim has raised a host of difficult questions. The claim involves conservation, intellectual property rights and traditional ecological knowledge, kaitiakitanga, tino rangatiratanga, and matauranga Maori. The conservation aspects of the claim are among the more straightforward concepts at issue, but are also the most currently and publicly contentious. Both inside and outside the Waitangi Tribunal process, Maori have demanded greater say in the management of New Zealand's natural resources. In the context of Wai 262, Maori have claimed that the Treaty of Waitangi guaranteed them the right to harvest kereru, and that the Crown has denied that right and violated the Treaty. This report discusses the history of the conflict over kereru.

Even with one of the species named in the Wai 262 claim extracted for closer study, the issue remains complex. To compile all of the evidence necessary to consider the issue of cultural harvest of kereru would require volumes. The necessary story begins long before Europeans arrived in New Zealand, when Maori cultivated a relationship with the kereru (also called the kuku or kukupa) based on its role as a food source and as a cultural treasure. Maori developed an extensive lore about kereru, and incorporated the bird into their myths and legends. They used the meat for food and the feathers for cloaks. In this report, however, I discuss none of these subjects. There are many more qualified than I to discuss the nature of traditional use of the kereru. I have avoided other issues for similar reasons, notably the ecological aspects of the history of kereru. I have not discussed, for example, the impact of land clearance or of the introduction of exotic species on the kereru population itself. These tasks remain for those trained in ecology.

This report discusses the history of Crown policy toward the kereru, and the conflict between this policy and Maori demands for access to the bird. The story begins in 1864, when Parliament passed the Wild Birds Protection Act – the first action of the Crown that dealt with the kereru or any other native bird. With the passage of the act, the Crown kicked off a controversy that continues today. The 1864 Act and other early legislation most likely had little effect on Maori hunting of kereru. But these laws provided the building blocks for a series of amendments and laws, rules and regulations that piled up over the next 60 years. By 1922, Maori could not legally kill the kereru. Throughout, Maori voiced their opposition to this process. They believed that the Treaty of Waitangi had guaranteed their

access to the bird, access that they considered a right. After 1922, Crown policy on kereru conservation varied little; the bird remained 'absolutely protected'.

This report has three chapters. Chapter 1, 'Legislation', covers the period from 1864 to 1895. During those years, Parliament passed a series of laws with varying names, but all classified as animals protection legislation. With those laws, Parliament created a structure for the management of wildlife in New Zealand. The early laws had little real effect on Maori, and little record exists of Maori opposition to the formation of the structure for managing game. By the 1890s, however, Maori felt that the animals protection legislation threatened their access to kereru and other birds, and they began a campaign of opposition that continues today.

Chapter 2, 'Alienation', details the next three decades, 1895 to 1922 – the years in which Maori lost their legal access to kereru. While the early animals protection laws focused on game management and imported birds, by the turn of the century conservation had become the driving force behind Crown policy on native birds. As the Government moved closer to a policy of absolute protection for all native birds, conflict with Maori over access rights to kereru heightened. With a number of amendments and policy decisions, the Government made it illegal to kill kereru. During this period, Maori increasingly clashed with the growing conservation movement. In an effort to preserve their access to kereru, Maori argued that the Treaty of Waitangi guaranteed their right to kill the bird. The Government did not agree with this interpretation, and continued to prohibit the taking of kereru.

In 1922, Parliament declared the kereru absolutely protected. Chapter 3, 'Enforcement', discusses attempts by the Crown to carry out the policy of absolute protection. Although the game laws provided a structure for bird conservation, the Government did not possess the resources to implement its policy. Lack of manpower and funding and a reliance on non-governmental sources crippled enforcement of absolute protection. Some arrests for the killing of kereru did occur, and the conflict between Maori and the Crown moved to the courts. In such cases, Maori continued to advance Treaty claims to kereru. In the second half of the twentieth century, the Crown initiated a more active conservation policy with a focus wider than mere enforcement. Conflict with Maori interests in the issue of kereru-taking continued, despite the new policy.

Several different sources inform this study. The records of the Parliamentary debates on animals protection legislation provide a continuous record of both Maori and European positions on the protection of kereru. Still, legislators often glossed over – or ignored – policies that today seem important. In such cases, the only evidence comes from the statutes themselves. Archival material is slim for the early years of game management. But after the 1890s, the records of the Colonial Secretary's office and the Department of Internal Affairs (the agencies that managed the game laws) provide a consistent record of the issues and concerns that developed over native bird protection. Evidence of Maori opposition to Crown policy comes from Maori members' speeches in Parliament and a lengthy correspondence between Maori and the Government, preserved at National Archives. The files of the Royal Forest and Bird Society provide the important perspective of the conservation lobby. Contemporary newspaper clippings, current scientific literature, and secondary materials round out the available source material. Secondary literature for this research is slim, because the field of environmental history has only recently developed in New Zealand. I have discussed ecological principles and Maori traditional use of kereru only as needed to explain Crown policy or Maori response to that policy.

A number of names and labels require definition. The subject of this study is a bird of many names: kereru, kuku, and kukupa to the Maori, bush pigeon, wood pigeon, New Zealand pigeon, or just plain pigeon to Europeans, *Carpophaga Novaezeelandiae* to the ecologists. When discussing Maori perspectives I have tended to use 'kereru', whereas when discussing the views of hunters and early conservationists I refer to pigeons – as those people did themselves. The labels applied to people require clarification, as well. Three groups emerged in the push-and-shove over protection of the kereru: sportsmen, conservationists, and Maori. 'Sportsmen' and acclimatisation societies generally argued for restricted hunting of pigeons, 'conservationists' for absolute protection, and Maori for continued access to kereru as a food source, especially on Maori land. While a range of opinions developed within in each of these groups, generalisations based on the consistent stands they took for or against protection of the kereru make the story more easily told.

The history of kereru conservation provides a good single-species case study. Many different groups regarded the kereru as a significant species, but each group in a different way. This disparity led to conflict, and this

conflict has left a record that can be traced today. Exploration of the changing Crown policy on kereru offers a chance to explore the history of conservation in New Zealand. And it provides some of the background required to resolve the social and ecological dilemmas presented by the flora and fauna claim.