

# HARRY KENRICK: THE FIRST WARDEN OF THE TE AROHA MINING DISTRICT

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THE UNIVERSITY OF  
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*Te Whare Wānanga o Waikato*

## HARRY KENRICK: THE FIRST WARDEN OF THE TE AROHA MINING DISTRICT

**Abstract:** *Because of his improvident father, Harry Kenrick left England for the Victorian goldfields before moving to the South Island of New Zealand. In 1865, he settled in the West Coast to begin a lifetime career of working for the government. In addition to his official duties, he was involved in mining and assisted to develop the district, becoming involved in disputes that foreshadowed his experiences at Thames.*

*Appointed as resident magistrate for Poverty Bay in 1877, his work was praised, as it had been on the West Coast, but two years later he was abruptly moved to Thames to become both magistrate and warden after the forced resignation of his predecessor, William Fraser. The latter's career is examined, as is how his clique hated Kenrick for replacing him; but most residents welcomed a man whose decisions were seen as fair and just. Fraser retained support amongst many in the community, becoming mayor and then a member of parliament, but continued to snipe at Kenrick, supported by a small number of malcontents, who made his life difficult.*

*In his determination to make his subordinates perform their duties satisfactorily, Kenrick provoked conflict with Hugh McIlhorne, Inspector of Miners' Rights, and James Monteith McLaren, Inspector of Mines. They were supported by two prominent Thames residents, Louis Ehrenfried, a brewer and local government politician, and George Nathaniel Brassey, a solicitor, who spent years trying to undermine Kenrick for their own personal advantage. In 1880 and 1885, two petitions to remove him failed miserably, as his reputation both locally and with the government and its officials had risen steadily.*

*Kenrick improved mining regulations and enforced them fairly, as even some who lost cases accepted. At Te Aroha, after some initial criticisms he became popular because of his efforts to be fair to all who came before him in court and his assistance both to mining and to the development of the district. His efforts to assist Maori made him popular with them as well, and when he died, prematurely, he was deeply mourned by both Maori and Pakeha.*

### INTRODUCTION

As both mining warden and resident magistrate, Harry Kenrick was one of the most important officials in Hauraki. As would be expected, despite his attempts to be fair to all parties not all his decisions would please everyone, but in his case the partisans of his predecessor made his life unnecessarily stressful. That after his premature death he was widely mourned was a tribute both to his success and to his personality.

### HIS LIFE BEFORE BEING POSTED TO THAMES

Harry Kenrick was born in or about 1834 (civil registration did not start until 1837), in Southwark, Surrey, to Richard Kyffyn Kenrick, of Nant-y-clwyd Hall (otherwise Nantelwyd or Nant Clwyd), in the vale of Nangollen, Denbighshire, North Wales, and Mary Robinson Bromley, of Deptford, in Kent.<sup>1</sup> He was reputedly ‘well-educated’.<sup>2</sup> His father experienced considerable financial difficulties, ‘owing to gambling debts and extravagance’, and bailiffs were ‘frequent visitors sometimes received with firearms, or again with friendly chaff, when a stream, the boundary between two counties, protected the object of their search’. Subsequently, he fled Wales to live in a series of English hotels.<sup>3</sup> Family tradition believes that he lost £100,000 by betting on a losing horse in the Derby,<sup>4</sup> a belief supported by his being committed to a debtor’s prison in London in 1830, six years after inheriting his father’s estate, with debts amounting to £113,000.<sup>5</sup> Five years later he was committed to prison again for miscellaneous debts of £16,266 5s 4d, and was not discharged as a bankrupt and released from prison until 1843.<sup>6</sup> While he was in the debtors’ prison, according to a contemporary scandal sheet he (with the assistance of

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<sup>1</sup> <http://www.greywall.demon.co.uk/genealogy/woore.html>; Death Certificate of Harry Kenrick, 31 July 1886, 1886/3468, BDM; family tree devised by Robert Harry Kenrick Christie, n.d., Malcolm Christie Collection; *Grey River Argus*, 9 December 1871, p. 2; *Te Aroha News*, 21 March 1932, p. 5.

<sup>2</sup> D.N. Hawkins, *Beyond the Waimakariri: A regional history* (Christchurch, 1957), p. 178.

<sup>3</sup> Recorded on family tree devised by Robert Harry Kenrick Christie, n.d., Malcolm Christie Collection.

<sup>4</sup> David Bowman to Philip Hart, 24 August 2017, email.

<sup>5</sup> *The Times*, 17 May 1843, p. 8; extracts provided by David Bowman.

<sup>6</sup> Queen’s Bench Prison, Southwark, London, Census of England, 1841, ancestry.co.uk; *London Gazette*, 25 April 1843, p. 1384; Margaret Blount to Philip Hart, 7 October 2011, email; David Bowman to Philip Hart, 8 November 2011, 24 August 2017, emails.

another ‘outrageous villain’, fleeced ‘hundreds and hundreds of uninitiated young men’.<sup>7</sup> As for his private life, he had ‘exercised more discretion in his amour with the turnkey’s daughter’.<sup>8</sup>

In 1842, his father sold Nant-y-clwyd Hall (raising £57,000 to meet some of his debts), and in September 1852 the family arrived in Melbourne, Australia, on the ‘Thomas Lowrie’ and went straight to the Bendigo diggings.<sup>9</sup> It seems that Kenrick’s mother returned to London in January 1853 and that her husband returned in July 1855. That their marriage was in tatters was revealed, by 1857, by Richard successfully suing a man for committing ‘criminal conversation’, meaning adultery, with his wife. Richard would die, three years later, of cirrhosis of the liver; in reaction to his behaviour, the next two generations avoided strong drink.<sup>10</sup> Kenrick lived his life in deliberate contrast to his father’s in every way.

Kenrick had ‘some success’ as a gold miner in Victoria, and his ‘eventful’ life there ‘included participation in the Eureka Stockade affair’.<sup>11</sup> His descendants believed he was a friend of Peter Lalor, the main leader of the rebellious miners,<sup>12</sup> meaning that he supported those fighting the government. ‘After varied experiences in the pursuit of the precious metal for about three years, he resolved upon leaving Australia and returned to England’,<sup>13</sup> presumably with his parents, for his father would prosecute his wife for adultery in 1857 and die in London in 1860, where his mother remarried six years later.<sup>14</sup>

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<sup>7</sup> ‘The Queen’s Bench Prison’, *The New Satirist*, 21 November 1841, p. 4; extract provided by David Bowman.

<sup>8</sup> ‘The Queen’s Prison’, *The New Satirist*, 3 July 1842, p. 215; extract provided by David Bowman.

<sup>9</sup> <http://www.greywall.demon.co.uk/genealogy/woore.html>; Hawkins, p. 178; ‘Unassisted Shipping’, Victoria Index, Public Record Office, Victoria, information provided in Robert Ashley to , 18 June 2005, email; Margaret Blount to Philip Hart, 22 May 2008, email; David Bowman to Philip Hart, 24 August 2017, email.

<sup>10</sup> David Bowman to Philip Hart, 24 August 2017, email.

<sup>11</sup> *Thames Advertiser*, 2 August 1886, p. 2; Hawkins, p. 178.

<sup>12</sup> Evelyn Walker to Mollie Christie, November 1990, Malcolm Christie Papers.

<sup>13</sup> *Te Aroha News*, 21 August 1886, Supplement, p. 3.

<sup>14</sup> <http://www.greywall.demon.co.uk/genealogy/woore.html>; Mary Blount to Philip Hart, 5 October 2011, 7 October 2011, emails; *Reynolds Newspaper*, 8 February 1857, cited in <http://www.wbcollyer.org/>.

After two years in England, Kenrick arrived on the 'Westminster' in Canterbury, New Zealand, in January 1858, and immediately enquired, with other passengers, about milling timber at Rangiora.<sup>15</sup> With one partner, he acquired the Rangiora sawmill in 1859, and with another partner moved it to Oxford to be the first sawmill working the Harewood Forest (later East Oxford) from April 1860 onwards.<sup>16</sup> They had already purchased 390 acres of bush.<sup>17</sup> His partner handled the office work, Kenrick the mill; all the cutting rights to the Harewood Forest were in his name.<sup>18</sup>

In 1891, one of the first mill workers recalled working in Kenrick's mill:

When I arrived in Oxford the first mill was getting ready to start. The wages were 7/- a day, which we sometimes got, but the price of necessities was 50 per cent above present rates. I have a keen recollection of a venerable and respected resident bringing us our weekly supply of mutton in a dray drawn by 'Whiskey,' a bullock who has long since gone the way of all beef. We paid for the mutton 7d a pound. Bread you could either bake or go without, while other stores had to be procured either from Rangiora or from West Oxford, where there was a sort of store where the prices were double what they are now, and the quality worse.<sup>19</sup>

According to an obituary, 'in the end the speculation turned out unprofitable'.<sup>20</sup> Their selling unseasoned timber for telegraph poles made officials 'loath to deal with them again'.<sup>21</sup> In March 1863 Kenrick ended his partnership,<sup>22</sup> and transferred his interest to a brother (another Richard Kyffen Kenrick),<sup>23</sup> a carter who had arrived from Australia in 1862 and had been transporting logs for him; 'a racing and gambling man', Richard went

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<sup>15</sup> Death Certificate of Harry Kenrick, 31 July 1886, 1886/3468, BDM; D.N. Hawkins, *Rangiora: The passing years and people in a Canterbury country town* (Rangiora, 1983), p. 91.

<sup>16</sup> Advertisement, *Lyttleton Times*, 18 April 1869, p. 5; Hawkins, *Rangiora*, p. 97; Hawkins, *Beyond the Waimakariri*, pp. 41, 160, 178.

<sup>17</sup> Lancelot Watson, *The Story of Oxford 1852-1932* (Christchurch, 1932), p. 16.

<sup>18</sup> Oliver A. Gillespie, *Oxford: The first hundred years* (Christchurch, 1977), pp. 58-61.

<sup>19</sup> Watson, p. 110.

<sup>20</sup> *Te Aroha News*, 21 August 1886, Supplement, p. 3.

<sup>21</sup> Hawkins, *Beyond the Waimakariri*, p. 183.

<sup>22</sup> Advertisement, *Press*, 28 March 1863, p. 5.

<sup>23</sup> <http://www.greywall.demon.co.uk/genealogy/woore.html>.

bankrupt, forcing the sale of the mill in 1865.<sup>24</sup> Three years later, Richard was chosen as the local poundkeeper.<sup>25</sup> When a shipping agent at Castlepoint in 1880, he became bankrupt again, owing £4,758 14s 5d; his assets were a life insurance policy and furniture valued at £10, both mortgaged to a creditor.<sup>26</sup> Richard Kyffin-Kenrick, as his surname was recorded, would die in Auckland in 1898.<sup>27</sup> A younger brother, Orlando, who left London in October 1858 to work in this sawmill, later served in the New Zealand land wars before becoming a captain of cargo boats on the Murray River in Australia.<sup>28</sup>

Kenrick erected the first timber house, previous habitations being 'of a primitive and varied character', mostly constructed out of 'sods or slabs, and with a thatched roof, the windows being sometimes made with calico'.<sup>29</sup> The first settlement at Oxford was, briefly, called Kenricktown.<sup>30</sup> In 1860 and 1861, to assist transport to and from his mill Kenrick improved roads in the Harewood and Oxford districts.<sup>31</sup> To transport his timber, with others but 'at his own cost' he established a ferry across the Waimakariri River in 1861.<sup>32</sup> He was becoming involved in community affairs, in February 1862

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<sup>24</sup> Hawkins, *Beyond the Waimakariri*, p. 180; Gillespie, pp. 61-62.

<sup>25</sup> Watson, p. 34.

<sup>26</sup> Bankruptcy File, AAOM W3843, 17885, 99/1255, ANZ-W.

<sup>27</sup> Death Notice, *Auckland Weekly News*, 11 November 1898, p. 1.

<sup>28</sup> 'Pioneer Days', *Grey River Argus*, 11 June 1914, p. 8; *Wellington Independent*, 31 December 1863, p. 3; *New Zealand Spectator and Cook's Strait Guardian*, 5 March 1864, p. 3; *Hawera and Normanby Star*, 15 November 1924, p. 16; David Bowman to Philip Hart, 6 October 2011, email; Samuel Clyde McCulloch, 'History by the Truckload: The Vagaries of Research in Australia', *Albion: A Quarterly Journal Concerned with British Studies*, vol. 7 no. 4 (Winter, 1975), p. 345.

<sup>29</sup> Watson, p. 19.

<sup>30</sup> Hawkins, *Beyond the Waimakariri*, pp. 181, 187.

<sup>31</sup> Dobson to Provincial Secretary, 1 June 1860; Harry Kenrick and Henry Bacon Quin to Provincial Secretary, 6 July 1860; Harry Kenrick to Provincial Engineer, 1 October 1860, Inwards Correspondence to Provincial Secretary, Department of Lands and Survey, CAAR 19936, CH 287, CP 22/ICPS, 405/1860, 429/1860, 599/1860; Harry Kenrick and Quin to Provincial Secretary, 5 July 1861, Inwards Correspondence to Provincial Secretary, Department of Lands and Survey, CAAR 19936, CP 24/ICPS, 1392/1861, ANZ-C.

<sup>32</sup> Hawkins, *Beyond the Waimakariri*, pp. 183, 261-262.

being treasurer of the Oxford Church and School Building Fund.<sup>33</sup> Some afterwards an unexplained conflict with the owner of an accommodation house was settled by his sending a letter to newspapers to refute ‘a calumny which I believe to be widely spread’. The letter, from Charles White, stated: ‘I am perfectly satisfied that you have acted in a perfectly straightforward manner in regard to all transactions between us; nor have I ever given authority to any report against your character’.<sup>34</sup>

Kenrick returned to Melbourne in March 1862 to marry Sarah Adelaide Morgan, who preferred to be known as Adelaide, who had been born in Wales in 1829.<sup>35</sup> It is not known when or where they met; a family tradition has it that she ‘went to Australia to marry and when she arrived she was told that her fiancé had died of some fever and so it was arranged that she marry Harry’.<sup>36</sup> An alternative version was that when she came to Australia ‘she was engaged to a relative of Lord Nelson, but they missed each other’, for reasons unspecified, so Kenrick ‘took her home and married her. She was a sister of Emma Morgan’, who married Kenrick’s brother.<sup>37</sup> They would have eleven children, one of who died aged only eight months.<sup>38</sup>

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<sup>33</sup> Advertisement, *Lyttleton Times*, 22 February 1862, p. 6.

<sup>34</sup> Advertisement, *Press*, 7 June 1862, p. 8; advertisement, *Lyttleton Times*, 11 June 1862, p. 5; Gillespie, p. 61.

<sup>35</sup> Marriage Certificate of Harry Kenrick, 10 March 1862, 286/1862, Victorian BDM; Death Certificates of Harry Kenrick, 31 July 1886, 1886/3468; Adelaide Kenrick, 19 September 1903, 1903/4809, BDM; Marriage Notice, *Lyttleton Times*, 12 April 1862, p. 2.

<sup>36</sup> Margaret Blount to Philip Hart, 22 May 2008, email.

<sup>37</sup> Evelyn Walker to Mollie Christie, November 1990, Malcolm Christie Collection.

<sup>38</sup> Birth Certificates of Henry Godfrey Loder Kenrick, 1 June 1863, 1863/20305; George William Kyffen Kenrick, 1 June 1863, 1863/20308; Caroline Aidie Kenrick, 12 December 1864, 1864/15837; Lillian Laura Kenrick, 22 November 1866, 1867/26298; Laura Adelaide Kenrick, 1867/26298; Arthur Tom Kenrick, 16 December 1867, 1867/26316; Florence Mabel Kenrick, 1869/23784; Rose Meta Kenrick, 1873/40190; Francis Lionel Kenrick, 1875/13769, BDM. For some reason there were no birth certificates for Ethel Mina, born 1870, or Mabel Annie Edith, born 1872: Malcolm Christie to Philip Hart, 23 July 2016, email; Marriage Certificates of Ethel Mina Kenrick, 1896/3246; Mabel Annie Edith Kenrick, 10 January 1901, 1901/5666, BDM; *New Zealand Herald*, 11 January 1901, p. 6; Death Certificate of Florence Mabel Kenrick, 1869/8453, BDM.

In 1863 his offer to bridge the river near Oxford was accepted and tolls were granted to him for five years, but it was not constructed.<sup>39</sup> Also in that year, he sued a man for the value of two pigs shot after trespassing on the latter's land, but lost his case after admitting that he may have given the impression of having given permission to shoot them.<sup>40</sup>

In December 1863, Kenrick accepted the appointment as the first registrar of births, deaths, and marriages for the Oxford district.<sup>41</sup> In January 1864, he was elected to the first Oxford Road Board and became its first chairman, its first meeting being held in his house, but six weeks later he 'objected to certain proposed public works and resigned'.<sup>42</sup> Before his resignation he had helped to measure up the earthworks for culverts on the main road.<sup>43</sup> In March he was appointed registrar of births deaths and marriages for the Oxford district.<sup>44</sup> Then in February 1865, he successfully sought employment with the provincial government on the West Coast and was appointed to the civil service the following month, settling in Greymouth as clerk of the magistrate's court.<sup>45</sup> Two unmarried sisters accompanied him, and his brother Tom became first his deputy as registrar of births deaths and marriages and then warden's clerk at Greymouth.<sup>46</sup> Working as a temporary overseer for the warden in November, in the

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<sup>39</sup> Harry Kenrick to Provincial Secretary, 4 August 1863, Inwards Correspondence to Provincial Secretary, Department of Lands and Survey, CAAR 19936, CP 41/ICPS, 209A/1863, ANZ-C; Hawkins, *Beyond the Waimakariri*, p. 264.

<sup>40</sup> *Press*, Magistrate's Court, 28 August 1863, p. 2, Supreme Court, 3 September 1863, p. 3.

<sup>41</sup> Harry Kenrick to Provincial Secretary, 22 December 1863, Inwards Correspondence to Provincial Secretary, Lands and Survey Department, CAAR 19936, CH 287, CP 47/ICPS, 1214A/1863, ANZ-C; *New Zealand Gazette*, 24 February 1864, p. 77; Gillespie, p. 61.

<sup>42</sup> *Lyttleton Times*, advertisement, 16 February 1864, p. 6, 24 March 1864, p. 4; Hawkins, *Beyond the Waimakariri*, p. 382; Gillespie, pp. 123, 125; Watson, p. 28.

<sup>43</sup> Watson, p. 28.

<sup>44</sup> *Lyttleton Times*, 8 March 1864, p. 4.

<sup>45</sup> Harry Kenrick to Provincial Secretary, 24 February 1865, Inwards Correspondence to Provincial Secretary, Department of Lands and Survey, CAAR 19936, CH 287, CP 64/ICPS, 253/1865, ANZ-C; advertisement, *West Coast Times*, 13 April 1866 p. 3; *Grey River Argus*, 22 January 1867, p. 2; *New Zealand Gazette*, 28 May 1872, p. 320.

<sup>46</sup> *Grey River Argus*, 9 November 1869, p. 2, 9 December 1871, p. 2, 21 February 1873, p. 2; *New Zealand Gazette*, 28 May 1872, p. 320.

following year he renewed his application to be appointed warden,<sup>47</sup> again unsuccessfully. In January 1867, he was appointed registrar of births, deaths, and marriages for the district of River Grey and Greymouth.<sup>48</sup> Later that month, in reporting that he would become resident magistrate at Brighton, the *Grey River Argus*, whilst congratulating the Nelson Province ‘in having secured the services of a gentleman of Mr Kenrick’s abilities, we are sure his departure will be regretted by all whom business or social intercourse have brought in contact’ with him. He had ‘always taken a lively interest in the progress of the town and district; and the community, in losing him, will have difficulty in replacing him’.<sup>49</sup> When the general government, without consulting the provincial government, appointed another man as magistrate, the newspaper thought Kenrick ‘has certainly reasons for considering himself trifled with’, having been offered the post, but was glad he was ‘not now likely to leave the district’.<sup>50</sup> In March he was appointed the district court clerk in addition to clerk of the magistrate’s court.<sup>51</sup>

In addition to his official posts, he also owned, but did not operate, the Post Office Hotel.<sup>52</sup> In September 1866 he became chairman of the Greymouth and Saltwater Creek Tramway Company, which was wound up in November 1867.<sup>53</sup> In 1869, he had shares in three mining companies in the Moonlight Creek area and was involved in forming a company to construct a railway to the Arnold local mine;<sup>54</sup> no other investments have been traced. He was a member of the local freemason lodge.<sup>55</sup>

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<sup>47</sup> G.S. Sale to Provincial Secretary, 10 November 1865, 1866 [no precise date], Inwards Correspondence to Provincial Secretary, Department of Lands and Survey, CAAR 19936, CH 287, CP 71/ICPS, 1661/1865; CP 83/ICPS, 1684/1866, ANZ-C.

<sup>48</sup> *New Zealand Gazette*, 15 January 1867, p. 39, 19 January 1867, p. 46.

<sup>49</sup> *Grey River Argus*, 22 January 1867, p. 2.

<sup>50</sup> *Grey River Argus*, 19 February 1867, p. 2.

<sup>51</sup> *New Zealand Gazette*, 20 March 1867, p. 119; *Wellington Independent*, 21 March 1867, p. 3.

<sup>52</sup> *Grey River Argus*, 1 August 1868, p. 3.

<sup>53</sup> *Grey River Argus*, advertisement, 15 September 1866, p. 3, 6 October 1866, p. 2, 5 February 1867, p. 2; *New Zealand Gazette*, 11 November 1867, p. 426.

<sup>54</sup> *Nelson Provincial Government Gazette*, 29 May 1869, p. 72, 3 September 1869, p. 100, 19 October 1869, p. 116, 15 November 1869, p. 125; *Grey River Argus*, 9 October 1869, p. 2, 6 December 1869, p. 2, 7 December 1869, p. 2.

<sup>55</sup> *Grey River Argus*, 26 May 1868, p. 2.

Occasionally Kenrick became involved in controversy. In late February 1867, as one of the 12 members of the Greymouth Improvement Committee he attended a meeting at which a petition was read by the chairman, John Arthur Whall, a member of the provincial council,<sup>56</sup> asking it not to seek a municipality before the government had made several improvements to the town.

Mr Kenrick: With all due deference to the persons who had signed that petition, he thought it a most extraordinary thing that the members of the Committee should be asked to stultify themselves. They were here to carry out a distinct pledge according to the resolution of a public meeting, and now it appeared they were asked not to do what they were pledged to do. It seemed to him that this petition or memorial had been brought forward for the purpose of burking the discussion on then municipal question, there being a notice of motion on that subject for this evening. Some of the signatures to the petition had been given in mistake as to the real nature of the document,

citing an example, and, accordingly, moved that the petition stand over for six months. After Whall said he would resign if this motion passed, Kenrick said he 'would certainly resign if it was not'; it passed. After it was unanimously agreed to ignore a protest against Kenrick's election because he was a 'government servant', Kenrick moved that a petition for a municipality be drawn up immediately. 'He hardly considered it necessary to use many arguments in support of his resolution, as the reasons for desiring municipal powers were too well appreciated'. Having 'travelled about the colonies a good deal', he had never heard of 'any place refusing to receive civil rights, and he trusted Greymouth would not be an exception'. In responding in detail to Whall's objections, he urged the need to safeguard health and protect the buildings from fire. As for the objection to his election to the committee, 'the only restriction that was placed on the private action of government officials was that they should take no part in' elections, and noted that magistrates in both Christchurch and Lyttleton had been chairmen of municipalities. 'He had a strong reason for taking this subject up; he had felt severely in his own family the effect of the absence of proper sanitary regulations', and only a municipality could 'get rid of the nuisances that were spreading disease throughout the town'.

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<sup>56</sup> See Philip Ross May, *West Coast Gold Rushes* (Christchurch, 1962), pp. 420-421, 423, 430, 434-435, 443-445.

Whall claimed to 'see very well' Kenrick's motives: 'it was simply to get his sections on the Maori Reserve included in the municipality, so that he would make his tenants improve his property'. After another member 'thought that people should be careful about imputing motives' and understood that Kenrick's motion 'was simply brought forward to confirm that passed by the public meeting', Kenrick confirmed this to be the case. He was merely fulfilling 'a pledge imposed upon this Committee by one of the most numerous attended public meetings in Greymouth. If any members had accepted office in ignorance of this pledge it was their duty now, if they were not able to carry it out, to resign'. Kenrick's motion that the memorial be not received was carried.<sup>57</sup>

Subsequently, to give residents the opportunity of hearing both sides of the municipality question, Kenrick challenged Whall and his supporters to prove their case by argument, 'which Mr Whall has so signally failed to do by personal vituperation and false assertions', at a public meeting. 'If Mr Whall has anything beyond personal abuse to advance in favor of his side of the question, he will not refuse this challenge'.<sup>58</sup>

When a public meeting was convened to consider the committee's refusal to receive the petition, a speaker complained about the *Grey River Argus's* claim that many of the signatories had no 'stake or interest in the town' and that one man had signed 'in ignorance of its contents'.<sup>59</sup> Kenrick confirmed this was the case, for he had asked him. He 'distinctly denied the charge of intending to insult the inhabitants. If they had erred they had done so in error'. The committee had been elected, 'directed to do certain things ... and then, at the very outset of their career, they were asked not to do them'. There was no intention to insult anyone; 'the simple fact was, they found themselves in a dilemma, and they were told by Mr Whall, their chairman, they must either accept or reject the petition'. He opposed the petition 'because he considered himself pledged by the resolution of the previous public meeting to carry out a municipality. If they had done wrong in doing that which they were directed to do, he only trusted the public would be more fortunate with their next Committee. If the public were dissatisfied, they had only to call upon the Committee to resign'.

There were claims that a clique dominating the committee, being government officials and bank clerks, did not care about the higher rates a

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<sup>57</sup> *Grey River Argus*, 28 February 1867, p. 2.

<sup>58</sup> Letter from Harry Kenrick, *Grey River Argus*, 2 March 1867, p. 2.

<sup>59</sup> See editorial, *Grey River Argus*, 2 March 1867, p. 2.

municipality would raise. Whall charged Kenrick and William Horton Revell, the magistrate and warden as well as the agent to the Native Trust,<sup>60</sup> ‘with having abused their position in possessing themselves of sections of land, to the exclusion of the public. He stated that on one occasion they had “tossed-up” for the possession of a section of land that had been applied for, for the purpose of erecting a school on it’. He claimed the newspaper refused to publish his letters, which was immediately denied. ‘Mr Kenrick would not allow Mr Whall’s remarks to go unchallenged. What he had said about taking up sections unfairly was a deliberate falsehood, and he challenged him to prove his words’. Revell agreed the charge was ‘utterly false’, though they had tossed for one at Okarita. ‘They had each applied for a town allotment, and they had got two close together; one was said to be a little better than the other, and it was arranged to toss up for the choice, and Mr Kenrick won – (loud laughter and cheers)’. After an amendment regretting the petition had not been received but absolving the committee of deliberately insulting the inhabitants was carried, Kenrick ‘briefly expressed the satisfaction of the Committee at the result. He urged the public to have the question of a municipality settled one way or other’, and not to send more petitions to the committee.<sup>61</sup>

The same issue of the newspaper that reported this meeting published a letter from ten men, including Kenrick, declaring that the report of the committee meeting was ‘a fair, correct, and impartial one, Mr Whall’s assertions to the contrary notwithstanding’.<sup>62</sup> Robert Bain, a government surveyor,<sup>63</sup> who had explained to Whall that he was mistaken in accusing Kenrick, for ‘interested motives’, of trying to adjust the boundaries of the municipality. ‘You may judge then of my surprise when I heard Mr Whall, last evening, in his dastardly attack on Mr Kenrick, make use of the self same arguments which he had acknowledged to me he was sorry for having used on a previous occasion’.<sup>64</sup>

In response, Whall expressed his surprise that the members of the committee had ‘allowed Mr Kenrick to shake the dust from his “meal-bag” in their eyes’ so that they agreed with his view of the reporting of the

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<sup>60</sup> See *Grey River Argus*, 5 December 1884, p. 2, 23 September 1893, p. 2; May, pp. 98-100, 104, 111, 116-117, 156, 165, 274, 301, 522.

<sup>61</sup> *Grey River Argus*, 2 March 1867, p. 2.

<sup>62</sup> Letter from James Davies and nine others, *Grey River Argus*, 2 March 1867, p. 2.

<sup>63</sup> *Grey River Argus*, 5 March 1867, p. 2.

<sup>64</sup> Letter from Robert P. Bain, *Grey River Argus*, 2 March 1867, p. 2.

February meeting. In his letter Kenrick ‘charged me with vituperation and false assertions, for having asked him if the etiquette of the service of which he was a member placed him in possession of the sections of land of which he is now the leaseholder’ when other residents had been refused permission to lease them. As well, he asked whether ‘the etiquette of the service allowed General Government officers to select the best sections by the spinning of a coin, after a gentleman had been informed that there was no land, only a swamp in Arney street, left for school purposes’. Revell had denied ever tossing a coin for a section of land with Kenrick, his clerk, and Kenrick had ‘demanded me to retract my statement, and stated if not, he would brand me to the public a palpable liar’. He claimed officials were obtaining the best land ‘in preference to the general public’, and that Kenrick had the ‘impudence’ to want to discuss the question of a municipality, which should be decided by the residents. Noting that Bain had ‘come to the rescue of a brother official’, he denied saying what was quoted, and noted that Kenrick had threatened to resign if his motion was not carried. He cited a letter from Jessie Oak, a widow, charging Kenrick behaving ‘in a very ungentlemanly manner’ by getting into ‘a passion’ over the government land she occupied, and forcing her and her seven-months-old child to leave their house.<sup>65</sup>

Kenrick’s long response was a foretaste of how he would defend himself against his enemies in Thames:

However contemptible I may think Mr Whall’s mode of conducting a discussion on a public question, and though I do feel the contest between us to be manifestly unequal when the chosen weapons are calumny and slander – (for who can compete with Mr Whall at those weapons?) – I cannot let his false assertions go forth to the public uncontradicted. In answer then to Mr Whall’s reiterated assertion that Mr Revell and I were seen by himself and others in the Court House spinning a coin for the choice of sections in this town, after some gentlemen had been informed that there were no more sections to be taken up – to this and to any other assertion of Mr Whall’s which charges Mr Revell and me with competing for *any sections* in the town of Greymouth, Maori town included, to the disadvantage of the public, I say deliberately, sir, that Mr Whall asserts, for purposes of his own, what he knows to be false; and I say more, sir, that if Mr Whall believes what he has asserted, he has been guilty, as a public man, in not bringing the matter before the public before, and for

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<sup>65</sup> Letter from John Arthur Whall, *Grey River Argus*, 5 March 1867, p. 2.

concealing it in his own breast for some 13 months. Mr Revell's explanation, of our having tossed for choice of two sections at Okarita, in the presence of Mr Mackay, is literally true, and we both hold the sections still, after having paid twelve months rent on them. If Mr Coates, or any other gentlemen, back up Mr Whall in his assertion, let them come forward and make their statements. Now, sir, with respect to the much vexed question of the piece of land I hold from the Maoris, Mr Whall has again spoken incorrectly, when he says that I received that land in preference to some of the public who were desirous of leasing it some months prior to my taking possession. The contrary is the fact – for part of the very land I hold was applied for and taken up, and afterwards thrown up as worthless, being prior to my applying for it. Had I wished to speculate in sections I had the choice of the whole of the Maori land as well as the rest of the public; but I refrained, and only asked Mr Mackay for a piece to build upon for myself. That this land subsequently became more valuable is surely not my fault, especially as I am paying a rent quite up to the average for it.

As for the Jessie Oak case, his conduct was 'not only blameless, but I dare to say, commendable'. As the charge 'of oppressing the widow and robbing the helpless' was 'the heaviest charge that can be made against any man', it 'ought not lightly to be made'. He gave a detailed account of how he had found her husband work and had let him stay in the cottage rent free, but when his widow prepared to erect a house so that she could claim the sections she was told to leave, 'for I looked upon the affair as a great piece of ingratitude on Mrs Oakes' part, after having been allowed to occupy the house so long rent free'. She could not erect a house on the section because one was already on it, and as for his conduct when she came to the courthouse, 'I did not answer as she describes' and 'those who know my conduct in the office can judge on that point'. He told the bailiff that if she left the house and pay the cost of the summons for one week's rent owing, 'I would withdraw the case. She did both, and I of course let the affair drop'. Others could confirm his account; 'let the public judge between this woman and I'. He showed how Whall had distorted some of the facts of this dispute.

In conclusion, as I have no wish to be always troubling you, or to have my name continually dragged before the public to gratify the private malice of any man, I have to inform Mr Whall that I have placed his letter in the hands of my solicitor, with instructions to commence an action against Mr Whall, if he should think there are sufficient grounds to justify me in incurring the expense, and this is the mode I intend to answer any further personal attacks

of Mr Whall. Any questions of a public nature I shall always be ready to argue to the best of my ability, and since my *impudence!!* in offering to discuss a question so vitally important to this town as that of a municipality, with the aid of men of ability, has it appears somewhat frightened Mr Whall, I repeat the offer, and without any extraneous aid whatever will argue the question with him on its merits, and let the public be the judge between us, merely premising that personal abuse is no argument, and that were I the scoundrel Mr Whall has endeavored to make me out, it would not affect the question at issue ... in the least. Apologizing for the unavoidable length of this letter....<sup>66</sup>

A resident who commented on the ‘Bombastes Furioso style’ of Kenrick’s letter considered it proved civil servants should not take part ‘in matters municipal or political’.<sup>67</sup> Presumably on his solicitor’s advice, Kenrick did not sue Whall. He refrained from writing more letters to the press until July 1869, when he defended Revell against the ‘charge of acting with undue severity’ in fining a publican because Revell, as magistrate, could not defend himself. The newspaper accepted his explanation, but pointed out that he had referred to two cases that were not analogous.<sup>68</sup>

A tragedy befell the family in 1869, and a greater one was narrowly averted. In October his eight-month-old daughter, Florence Mabel, died,<sup>69</sup> the only child to predecease him. A week later, the local newspaper described ‘one of the narrowest escapes from the death of a family by drowning that it has ever been our duty to record’. With his wife, four children, and brother Tom he had gone boating on the lagoon at the South Spit, and when trying to row back from the river against the tide rushing out of the lagoon was driven into a pile of the old Blake Town bridge.

Instead of the boat staving in, as was expected, the old rickety bridge came down on top of the boat and swamped it, throwing all its occupants into the water. A struggle for life then ensued, as they were all in deep water, and none of them could swim; and what took place for a few minutes is not very clearly recollected, but Mr H. Kenrick certainly caught hold of a pile which had fallen

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<sup>66</sup> Letter from Harry Kenrick, *Grey River Argus*, 7 March 1867, p. 2.

<sup>67</sup> Letter from R. Poole, *Grey River Argus*, 12 March 1867, p. 3.

<sup>68</sup> Letter from Harry Kenrick, with editorial comment, *Grey River Argus*, 29 July 1869, p. 3.

<sup>69</sup> Birth Certificate of Florence Mabel Kenrick, 1869/23784; Death Certificate of Florence Mabel Kenrick, 29 October 1869, 1869/8453, BDM; Death Notice, *Grey River Argus*, 30 October 1869, p. 2.

on the boat with one hand, and Mrs Kenrick with the other, and she, in her turn, was supporting one of the children and trying to keep its head above water. Thinking that the boat would right, Mr H. Kenrick pushed it from under the pile, when the boat turned completely over, and he caught an oar, which supported him, until the boat drifted down against him, when he got on the keep with his wife and one child, and was drifted about forty yards below the bridge, but the strong current prevented them getting ashore until Mr Gleeson arrived to the rescue in a boat. In the meantime, Mr Tom Kenrick had been struggling to save the other three children, and by a gallant effort succeeded in keeping a hold of them, while all he could do was to stand against the strong current. The cries of the party soon brought assistance, and Mr Chesterman speedily came to the rescue, got out his canoe, and took the children ashore. All the party were then safe, and we must say that, considering the circumstances, a more providential escape never came under our notice.<sup>70</sup>

In August 1877, Kenrick was appointed resident magistrate for Poverty Bay.<sup>71</sup> The *Grey River Argus* regretted losing him, as did many residents. ‘A large number of the principal citizens of the town assembled’ at a hotel to express ‘their regrets at his leaving, and their congratulations upon his promotion’ and present him with a purse containing 75 sovereigns. The local newspaper considered there was ‘an unanimous feeling’ in Greymouth that in losing him it ‘was losing one of its best citizens’. He ‘had earned the unqualified respect of all’ for his ‘strict adherence to duty’ combined with ‘uniform courtesy’, and ‘had always been prominent in all things calculated to advance the interests of the community’. In 1867 he had been largely responsible for establishing an Improvement Society, the predecessor of the municipal council. The Literary Society was created ‘almost entirely’ by him, and he had ‘rendered very valuable service’ on the Education Board. He was ‘always ready to help useful public undertakings’, for instance as a promoter of the first tramway in the district, from Greymouth to Paroa, ‘and in proportion to his means had taken his fair share of risk in the various efforts made’ to develop the local resources. His ‘many friends’ would ‘sorely miss him’, but he had been promoted to ‘a position he should have held long ago’. After he was toasted ‘with all the honors’, Kenrick, after being ‘so much affected as to be unable to speak for a minute or two’, said ‘it was quite impossible for him to express what he felt’.

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<sup>70</sup> *Grey River Argus*, 9 November 1869, p. 2.

<sup>71</sup> *New Zealand Gazette*, 2 August 1877, p. 794.

The suddenness of his appointment, and his leaving, had quite overpowered him; he could only thank the many old friends he saw around him for this mark of their respect and goodwill. He had not until this realized how hard it was to cast asunder ties formed during so many years as he had lived amongst them, and indeed it was only after earnest consultation with his closest friends that he had decided to accept the appointment offered him. It was very gratifying to him to find that his actions outside his official duties had been appreciated by his fellow citizens. He had always felt a deep interest in the welfare of the district, and had, perhaps, taken a more active part than was in strict consonance with the rules of the Civil Service, but in everything he had been actuated by a desire to promote the well-being of the people among whom he lived.<sup>72</sup>

One obituary would state that as clerk of court he acquired an ‘accurate and comprehensive knowledge of the procedure of the inferior courts and the laws there administered’, and another would refer to ‘his thorough knowledge of the intricacies of goldfield matters, acquired in the course of his large experience’ on the West Coast.<sup>73</sup> The Greymouth newspaper described him as ‘one of the pioneers’ of the town, who as warden’s clerk ‘discharged his duties in an energetic and straightforward way, which secured for him the respect and esteem of the mining community, and also of all who had business to transact in his office’. He had helped Greymouth’s development, ‘and took a warm interest in charitable and benevolent affairs’, being a founder of the Grey River Hospital and Benevolent Society and helping to manage both.<sup>74</sup> One of his friends later recalled him as being ‘the life and soul’ of the Greymouth Literary Association ‘from its start, an eloquent debater’.<sup>75</sup>

Based in Gisborne, later that year he was appointed a trust commissioner under the Native Lands Fraud Prevention Act.<sup>76</sup> His career there has not been traced in detail, but during it his reputation grew: in September 1879 a Gisborne correspondent described him as ‘a nice

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<sup>72</sup> *Grey River Argus*, 3 August 1877, p. 2.

<sup>73</sup> *Thames Star*, 31 July 1886, p. 2; *Thames Advertiser*, 2 August 1886, p. 2.

<sup>74</sup> *Grey River Argus*, 2 August 1886, p. 2, reprinted in *Inangahua Times*, 4 August 1886, p. 2.

<sup>75</sup> ‘Waratah’ [William Henry Scott Hindmarsh], *Tales of the Golden West* (Christchurch, 1906), p. 154.

<sup>76</sup> *New Zealand Gazette*, 23 August 1877, p. 850.

intelligent gentleman, well versed in law'.<sup>77</sup> He was elected to the Hawke's Bay Education Board.<sup>78</sup> Naturally not all his decisions were popular with everyone, notably in his role as chairman of the Gisborne Licensing Bench and his allegedly 'arbitrary rulings' about publicans,<sup>79</sup> a foretaste of conflicts in Thames. In 1879, when one critic wanted him removed as magistrate because of some of his decisions, 'Truth' responded that his complaints were 'most unfair'. Kenrick had 'worked here very hard, and I believe him to be a thoroughly competent magistrate; and although he generally slates me with technicalities, a perfectly upright, sincere, and conscientious man' who should not be removed, unless at his own request.

It is impossible but that judgments must give offence to some of the parties; and again, who is infallible? But as long as judgments are given which are above suspicion, and (even if mistaken) bear the stamp of rigid integrity, the giver must command the respect of those who, like the writer, occasionally in civil cases do not quite concur. As regards his criminal decisions, they have been, and are, undoubtedly correct and calculated to be deterrent from any infraction of the law, which indeed is the object of Courts – *i.e.*, to prevent, more than to punish.<sup>80</sup>

The *Poverty Bay Herald*, which later described him as 'a good man',<sup>81</sup> strongly concurred with 'Truth'.<sup>82</sup> In November 1878 he became resident magistrate at Waiapu and the following February for the Wairoa District, both in addition to Poverty Bay.<sup>83</sup> An obituary would state that 'his integrity and ability' had won him 'golden opinions',<sup>84</sup> and according to a reporter who first met him there 'a very high opinion was entertained of him'.<sup>85</sup> Upon his transfer to Thames, the *Poverty Bay Herald* regretted his departure:

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<sup>77</sup> *Thames Advertiser*, 18 September 1878, p. 3.

<sup>78</sup> *Hawke's Bay Herald*, 22 March 1878, p. 2.

<sup>79</sup> *Poverty Bay Herald*, 6 March 1879, p. 2.

<sup>80</sup> Letter from 'Truth', *Poverty Bay Herald*, 26 July 1879, p. 2.

<sup>81</sup> *Poverty Bay Herald*, 24 September 1879, p. 2.

<sup>82</sup> Editorial, *Poverty Bay Herald*, 26 July 1879, p. 2.

<sup>83</sup> *New Zealand Gazette*, 21 November 1878, p. 1623, 20 February 1879, p. 256, 4 September 1879, p. 1233.

<sup>84</sup> *Thames Advertiser*, 2 August 1886, p. 2.

<sup>85</sup> Thames Correspondent, *New Zealand Herald*, 2 August 1886, p. 5.

Mr KENRICK, during his sojourn amongst us, had distinguished himself by the painstaking manner in which he has investigated every case brought before him, by his freedom from all personal bias, and by the conscientiousness of his decisions. Though we have had somewhat to differ with our respected Magistrate on one or two occasions, there can be no question that he acted at all times by the light of the laws laid down for his guidance, the strict letter of which he administered without fear and without favor. Taking him all in all, in his judicial capacity, we shall seldom see his like again, while, as a private gentleman, he has secured the lasting esteem of many residents in the district. Mr KENRICK'S departure is to be regretted as a loss to the Bay, but we must congratulate him on being promoted to a more important post.<sup>86</sup>

One resident considered his removal from the district to be 'an almost irreparable loss to the community', for he had 'a masterly judicial mind'.<sup>87</sup>

#### APPOINTED TO THAMES

On 29 July 1879, the same day as William Fraser resigned as resident magistrate and warden for Hauraki, Kenrick received a telegram from the Justice Department asking if he was willing to replace him; 'How soon can you leave?'<sup>88</sup> Two days later, the *New Zealand Gazette* announced his appointment, Fraser having resigned from 'all his offices in the Civil Service'.<sup>89</sup> He arrived in Thames in early August.<sup>90</sup> His unexpected and hasty departure from his previous posts caused the *Poverty Bay Standard* to be 'exceedingly sore at their loss, and our gain', the *Thames Advertiser* noted.<sup>91</sup> Poverty Bay residents continued to regret losing him, a correspondent writing in 1881 when it was rumoured he might become their magistrate once more that 'I am afraid we shall have no such luck'.<sup>92</sup>

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<sup>86</sup> *Poverty Bay Herald*, 30 July 1879, p. 2.

<sup>87</sup> Letter from 'P. Bay', *Poverty Bay Herald*, 2 August 1879, p. 2.

<sup>88</sup> Under-Secretary, Justice Department, to Harry Kenrick, 29 July 1879, Telegram Book 1877-1879, p. 643, Justice Department, J 8/3, ANZ-W.

<sup>89</sup> *New Zealand Gazette*, 31 July 1879, p. 1061.

<sup>90</sup> *Thames Advertiser*, 12 August 1879, p. 2.

<sup>91</sup> *Thames Advertiser*, 6 October 1879, p. 2.

<sup>92</sup> Poverty Bay Correspondent, *Auckland Weekly News*, 4 June 1881, p. 8.

There is no record of Kenrick being warned about what was in store for him at Thames, although in December 1880 the under-secretary of the Mines Department commented to his minister that Kenrick ‘has had to bear the brunt of establishing a very necessary new regime’,<sup>93</sup> an indication of how officials viewed his predecessor. Soon after he arrived, according to one obituary he ‘soon acquired a complete knowledge of the laws of the Hauraki gold mining district and during the seven years of his administration of our gold field laws, we believe with one exception, his decisions were unquestioned’.<sup>94</sup> In fact, almost from the beginning Kenrick was criticized by supporters of his predecessor, who, as the *Observer* later wrote, ‘had an active following in the district, and merely to have displaced him was, in their eyes, a sufficient ground for hostility to the new official. Consequently, an agitation was set afoot against the incoming Warden’.<sup>95</sup>

#### WILLIAM FRASER BEFORE 1879

Born in Inverness, Scotland, in 1827, Fraser studied law at Edinburgh University and became a solicitor in 1851.<sup>96</sup> In that year, he was married to Elizabeth Horsbrough, ‘daughter of the last hereditary sheriff-clerk of Fifeshire’.<sup>97</sup> Soon afterwards, they moved to Victoria, having ‘the usual goldfields experience, visiting the various diggings’.<sup>98</sup>

He was in Australia when the trouble with the Maoris broke out in the Waikato, and he formed a company of the first regiment that came across to wage war against the natives. He was offered and accepted a Captain’s commission and in the Waikato war he and his men did splendid service. He took part in the military operations until they closed.<sup>99</sup>

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<sup>93</sup> Under-Secretary, Mines Department, to Minister of Mines, 3 December 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>94</sup> *Te Aroha News*, 21 August 1886, Supplement, p. 3.

<sup>95</sup> *Observer*, 19 December 1903, p. 5.

<sup>96</sup> *Cyclopedia of New Zealand*, vol. 1, p. 107.

<sup>97</sup> *Cyclopedia of New Zealand*, vol. 1, pp. 107-108; *Thames Star*, 26 March 1901, p. 2.

<sup>98</sup> *Cyclopedia of New Zealand*, vol. 1, p. 108.

<sup>99</sup> *Thames Star*, 17 September 1901, p. 2; for his commissions, see *New Zealand Gazette*, 27 October 1863, p. 460, 7 November 1863, p. 487.

As well as serving in the First Waikato Regiment, he fought with the Tauranga Volunteers and was under fire in one major battle in 1864 and three in 1867, as well as several minor engagements.<sup>100</sup> Much of Fraser's support came from his involvement in these wars, for he was commonly referred to as a colonel long after he returned to civilian life. As always with Fraser, some criticized him and some lauded him. In 1894, during controversy over his being appointed Sergeant at Arms, 'Old Identity' and 'Soft Soap' considered his war record was exaggerated, the former writing that he was only once under fire, 'and that was not much'.<sup>101</sup> A former sergeant in the Waikato regiment responded that he had seen him under fire on several occasions, and credited him with being the only officer to object to the government's breach of its contract with the volunteers.<sup>102</sup>

After fighting ceased and the regiments were disbanded, he became an auctioneer, first in Tauranga and then in Auckland.<sup>103</sup> He was a member of the Auckland Provincial Council from December 1865 to September 1869.<sup>104</sup> In 1872 he declined a request to stand for Superintendent.<sup>105</sup> Three years later, when East Coast electors asked him to stand in their electorate, he answered that he would stand only for Thames.<sup>106</sup>

When visiting Thames in October 1867, he bought a share in one of the 'crack claims'.<sup>107</sup> In the following two years he invested in five claims at Thames and two at Coromandel.<sup>108</sup> After becoming warden, he could no longer invest in mining, or at least not under his own name. In 1938, one of the discoverers of gold at Karangahake in 1875 claimed that Fraser had,

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<sup>100</sup> *New Zealand Gazette*, 31 May 1871, p. 242; Maori War Index, MW 2832, Army Department, AD 32, ANZ-W; *Cyclopedia of New Zealand*, vol. 1, p. 108.

<sup>101</sup> Summaries of letters from 'Old Identity' and 'Soft Soap', *New Zealand Herald*, 12 July 1894, p. 3.

<sup>102</sup> *New Zealand Herald*, 16 July 1894, p. 3.

<sup>103</sup> *New Zealand Gazette*, 26 April 1867, p. 130; *Auckland Weekly News*, 20 April 1867, p. 4, 15 June 1867, pp. 11-12; *Thames Star*, 17 September 1901, p. 2.

<sup>104</sup> *New Zealand Parliamentary Record* (Wellington, 1913), p. 153.

<sup>105</sup> *Auckland Weekly News*, 5 October 1872, p. 4.

<sup>106</sup> *Auckland Weekly News*, 14 August 1875, p. 5.

<sup>107</sup> *Auckland Weekly News*, 19 October 1867, p. 9.

<sup>108</sup> Thames Warden's Court, Claims Register 1868, folios 278, 336, BACL 14397/1a; Claims Register 1868-1869, no. 507, BACL 14397/2a; Claims Register 1868-1869, no. 1405, BACL 14397/3a; Claims Register 1869, nos. 1678, 1812, BACL 14397/4a; Register of Coromandel Mining Claims 1868-1872, no. 147, BACL 14396/1a, ANZ-A.

unsuccessfully, offered him a block of land in the centre of the future township of Paeroa for a quarter interest in the find.<sup>109</sup> His wife purchased land from Maori during the 1870s in her name,<sup>110</sup> and he acquired Maori land at Paeroa as well.<sup>111</sup> When an interpreter, John William Richard Guilding,<sup>112</sup> was sued in 1877, Fraser told him that he would be able to meet his debt if he would sell some land, and adjourned the case to allow this to happen; he indignantly denied the gossip that he wished to acquire this land.<sup>113</sup>

In October 1869, he was appointed resident magistrate and warden for the Hauraki district, based first at Coromandel.<sup>114</sup> His district was soon expanded, and at the beginning of 1871 he was acting as warden at Thames, winning ‘golden opinions by the manner in which he has conducted the business of the Court’.<sup>115</sup> At the end of that year, it was reported that his ‘urbanity and politeness’ had ‘become proverbial’.<sup>116</sup> At the beginning of 1872, he was appointed one of the two Hauraki wardens.<sup>117</sup>

After his death, the *Observer* commented that Fraser had ‘ruled the goldfield as a kind of satrap’.<sup>118</sup> At hearings, ‘Warden Fraser used to sit in state in his dizzy white waistcoats’.<sup>119</sup> Fraser’s performance as magistrate was much commented upon and contrasted of his successor. Whilst it has not been researched in depth, it is clear that his authoritarian ways repelled some, while others, sometimes the beneficiaries of his decisions, were more favourable. One historian’s rather romantic view of Thames in ‘the good old days’ entitled the chapter on Fraser ‘Justice without Mercy’, justifying it because of his sentencing an eight-year-old boy who had stolen

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<sup>109</sup> *Observer*, 10 February 1938, p. 6.

<sup>110</sup> *Thames Advertiser*, 30 May 1885, p. 3.

<sup>111</sup> Jackson and Russell to William Fraser, 22 December 1875, Letterbook no. 14, p. 424, Jackson and Russell Papers, MS 360, Library of the Auckland Institute and War Memorial Library; *Observer*, 10 February 1938, p. 6.

<sup>112</sup> See paper on his life.

<sup>113</sup> Magistrate’s Court, *Thames Advertiser*, 13 October 1877, p. 3.

<sup>114</sup> *New Zealand Gazette*, 30 October 1869, p. 582; *Auckland Weekly News*, 28 January 1871, p. 4.

<sup>115</sup> *Auckland Weekly News*, 28 January 1871, p. 4.

<sup>116</sup> *Auckland Weekly News*, 9 December 1871, p. 4.

<sup>117</sup> *New Zealand Gazette*, 6 January 1872, p. 8, 28 May 1872, p. 1315.

<sup>118</sup> *Observer*, 10 November 1906, p. 4.

<sup>119</sup> *Observer*, 26 March 1904, p. 4.

a fowl worth 18 pence to ‘Twenty-four hours in Shortland gaol and a whipping’.<sup>120</sup> The author wondered whether Fraser, ‘in the still night watches, ever saw a piteous, unhappy little face with tear-blinded eyes being led away?’<sup>121</sup> Three years later, when the same boy was convicted of stealing a pistol, Fraser imprisoned him for seven days and warned that, if he offended again, he would receive six months in gaol.<sup>122</sup> A few days after the father ‘humbly thanked the colonel’ for his leniency, a ten-year-old boy charged with stealing a quartz specimen valued at two shillings contradicted himself in giving evidence. Fraser shouted, ‘Apparently you are a liar as well as a thief’, and sentenced him for 48 hours imprisonment and a whipping. The last example was of a boy given 14 days’ hard labour for stealing a dog collar worth five shillings.<sup>123</sup> This historian considered a mining town required

men who were supermen, mentally and physically, to dominate the unruly and keep peace and order. Anyone who knew Colonel Fraser would, without hesitation, state he had all the attributes of leadership. He was a handsome man, of commanding presence. His striking appearance made him stand out anywhere. He usually wore a cream bell-topper hat, white waistcoat, scarlet tie with a gold horse-shoe tiepin. He was addicted to really fragrant cigars, and rarely appeared in public without one.<sup>124</sup>

That Fraser had a strong sense of his own importance was indicated by an 1889 comment by the *Thames Observer* Man after Fraser, then a member of parliament, said he deserved their vote of thanks. ‘But modesty was always his prominent characteristic!’<sup>125</sup>

There were occasional criticisms of some of his judgments and how they were reached, for rumour had it that Fraser and his friends met in hotels to determine the verdicts.<sup>126</sup> ‘Critic’ described him ‘in public-house

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<sup>120</sup> John Grainger, *The Amazing Thames: The story of the town and the famous goldfield from which it grew* (Wellington, 1951), p. 94.

<sup>121</sup> Grainger, p. 95.

<sup>122</sup> Grainger, p. 95.

<sup>123</sup> Grainger, p. 96.

<sup>124</sup> Grainger, p. 96.

<sup>125</sup> ‘Our Thames Letter’, *Observer*, 22 June 1889, p. 12.

<sup>126</sup> Letter from ‘a correspondent’, *Thames Advertiser*, 14 June 1880, p. 2; *Te Aroha News*, 19 September 1885, p. 2.

parlors discussing the merits of cases then pending in his Court, and taking instructions how to decide'.<sup>127</sup> In September 1873, when hearing evidence against shop assistants, Fraser's support for the police case was so strong that he refused to hear more evidence for the defence and ordered the police 'to institute proceedings'.<sup>128</sup> When the subsequent charge of perjury was heard, the two justices of the peace found there was no case to take to trial.<sup>129</sup> After this verdict was announced, the storekeeper protested that there 'surely never was a grosser case of injustice' than Fraser damaging his assistants' reputation and reproved his 'undignified reference' to the nationality of one. 'Surely her Majesty's representative is the last person from whom a young lady ought to receive discourtesy or insult, and besides not being Scotch, she has no wish to claim relationship to that country, especially if Mr Fraser is to be taken as a fair specimen'.<sup>130</sup> The *Thames Advertiser* deplored Fraser's arbitrary and unprecedented behaviour in refusing to hear witnesses who would have destroyed the police case, and considered the verdict had been pre-determined.<sup>131</sup>

In early April 1874, although he imposed a fine of £200 on a specimen thief, the alternative being three months' imprisonment, Fraser disparaged the police using an unwitting agent to offer specimens to a battery owner to prove he was crushing illegally. In his five years as magistrate, 'this was the first time he had known the police lower themselves, by condescending to this method of getting up a case. He much regretted that the police found it necessary to resort to this step', which was 'contrary to the spirit of justice, fair play, right or manly feeling'. The task of the police 'was to deter and prevent crime, not to induce people to commit crime for the purpose of making out a case against them'.<sup>132</sup> The *Thames Advertiser* responded by asking how else could the police prosecute? It was 'nonsense to speak of this case being an entrapping of a man into crime'.<sup>133</sup> The *New Zealand Herald* considered he 'went very much out of his way in censuring the police', who did not have any alternative method of catching such thieves. 'It is all very well for the magistrate to obtain an outburst of applause in the Court by

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<sup>127</sup> Letter from 'Critic', *Thames Star*, 23 June 1880, p. 2.

<sup>128</sup> Police Court, *Thames Advertiser*, 18 September 1873, p. 3.

<sup>129</sup> Police Court, *Thames Advertiser*, 30 September 1873, pp. 3-4.

<sup>130</sup> Letter from William Fraser, *Thames Advertiser*, 30 September 1873, p. 3.

<sup>131</sup> Editorial, *Thames Advertiser*, 30 September 1873, p. 2.

<sup>132</sup> Police Court, *Thames Advertiser*, 9 April 1874, p. 3.

<sup>133</sup> Editorial, *Thames Advertiser*, 10 April 1874, p. 2.

denouncing the police; but we again ask, if what had been done was contrary to the spirit of justice, why did he inflict so heavy a punishment?' It considered that Fraser should withdraw his censure.<sup>134</sup>

The *Auckland Star* published a letter from a Thames miner criticizing the police tactics and supporting Fraser's statements,<sup>135</sup> and then commenting on both the letter and Fraser. That the latter showed 'such sympathy with crime as to censure the police in the circumstances to win the plaudits of the roughs in Court' was 'a disgrace to the Bench'. He 'should be deprived of Her Majesty's Commission' because he had 'deliberately pandered to the lowest principles of the lowest *canaille* [rabble]<sup>136</sup> at the Thames'.<sup>137</sup> The following day, another editorial abused specimen stealers, applauded the police action, and condemned miners and Fraser for criticizing the police. 'We would fain say a word on Resident Magistrate Fraser's righteous howl, but we are afraid to trust our pen to write of his conduct', which encouraged specimen stealers to continue stealing. Fraser's five years as magistrate had 'not bestowed upon him an undue amount of magisterial prudence. We cannot conceive anything more mischievous in its tendency to injure the best interests of the Thames Goldfields than that injudicious homily'. It called for an inquiry despite knowing that because, of his popularity, this demand would give offence. 'But if his popularity has been gained by pandering in this way to the lawless sentiments of the rabble, that popularity is a reproach to the administration of justice', and his behaviour should be 'visited with severity by the Government'.<sup>138</sup>

On the following day, the *Thames Star* condemned police entrapment as degrading to themselves and 'calculated to have a more injurious effect on the morals of the community than undetected specimen-stealing and clandestine crushing'. It rejected the *Auckland Star*'s 'most unjust and unjustifiable' criticisms of Fraser and described it as 'the most scurrilous paper in New Zealand'.<sup>139</sup> The newspaper responded that, 'irrespective of the fact that we believe Mr Fraser to be himself the writer' of this article, it was 'wholly natural that the specimen-stealers should have an advocate in

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<sup>134</sup> Editorial, *New Zealand Herald*, 9 April 1874, p. 2.

<sup>135</sup> Letter from 'A Thames Miner', *Auckland Star*, 9 April 1874, p. 2.

<sup>136</sup> A.J. Bliss, *A Dictionary of Foreign Words and Phrases in Current English* (London, 1966), p. 108.

<sup>137</sup> Editorial, *Auckland Star*, 9 April 1874, p. 2.

<sup>138</sup> Editorial, *Auckland Star*, 10 April 1874, p. 2.

<sup>139</sup> *Thames Star*, 10 April 1874, reprinted in *New Zealand Herald*, 11 April 1874, p. 5.

the *Thames Star*. The government should enquire into Fraser's conduct and consider whether 'he should be removed to some other sphere, not by way of punishment, but to effect a separation between him and a class of persons whose friendship and applause he evidently courts'. After claiming that hundreds of Thames miners had stolen specimens, it concluded that Fraser's action 'has been a very dirty business, and the more he stirs it up by writing in the press the more unsavoury the stench'.<sup>140</sup>

After taking legal advice, Fraser laid a 'criminal information for libel' because his conduct 'was impeached by corrupt and improper motives being attributed' to him. He had acted immediately, on the advice of his lawyers, 'so that no imputation could be made that he rested on his injury'. He denied writing the *Thames Star* article or in any way causing it to be written, and denied sympathizing with specimen stealers. The printers and publishers of the *Auckland Star* were required to show why a charge of libel should not be laid against them.<sup>141</sup> The newspaper immediately defended its views, adding that the libel process was 'a relic of barbarism, and a blot on the English statute-book'.<sup>142</sup> At the end of April, a meeting of Fraser's supporters, 'a number of the most influential men' in Thames, discussed whether he should accept an apology if offered and require a donation of £50 to the hospital. Almost all agreed he should, and all made clear their 'greatest indignation at the foul libels on the Resident Magistrate and on the community',<sup>143</sup> indicating that the latter may have been as much a reason for their involvement as support for Fraser. The *Coromandel News*, which saw Fraser as 'a most impartial magistrate and honorable man', was also upset at the branding of the district as 'a community of thieves'.<sup>144</sup> The *Auckland Star* responded with an article headlined, 'Captain Fraser Funking', calling on Fraser to apologize to the police and pay £50 to charity, 'we shall be prepared to permit him to drop his case'. It claimed to be sorry for 'the false position' and 'stupid course' his friends, led by his solicitor, had forced him into with the intention of crushing the newspaper. 'We wish now, once for all, to say that neither bribery, nor threats, neither damages, nor

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<sup>140</sup> Editorial, *Auckland Star*, 11 April 1874, p. 2.

<sup>141</sup> Supreme Court, *Auckland Star*, 27 April 1874, pp. 2-3; Supreme Court, *New Zealand Herald*, 28 April 1874, p. 3.

<sup>142</sup> Editorial, *Auckland Star*, 27 April 1874, p. 2.

<sup>143</sup> *Thames Star*, 1 May 1874, p. 2; Thames Correspondent, *Auckland Weekly News*, 9 May 1874, p. 10.

<sup>144</sup> *Coromandel News*, n.d. reprinted in *Thames Star*, 9 May 1884, p. 2.

fine, nor imprisonment shall ever have the effect of paralyzing our pen'.<sup>145</sup> On reading this fulmination, the *Thames Star* confirmed that Fraser's solicitor and friends had wrongly advised him by suggesting the Auckland newspaper was willing to apologize.<sup>146</sup>

As the *Star* neither apologized nor produced any reasons why the case should not proceed, it did.<sup>147</sup> When heard in October, Fraser's denial that he had written the *Thames Star* article was confirmed by one of its proprietors. He had never asked anyone to write on his behalf. He had wanted to show the police that they had exceeded their duty, not to win 'the plaudits of the roughs', and had always opposed specimen stealing, once giving 12 months' imprisonment, twice what was allowed. His legal action was solely to defend the honour of his position.<sup>148</sup> After the defendants declined to give evidence, the jury failed to agree; while there was general agreement that Fraser's remarks were 'injudicious' and the newspaper's were 'intemperate', the majority did not consider he had been libelled.<sup>149</sup> As the *Observer* later noted, Fraser 'did not bring on his second trial, therefore he had his costs to pay, and a pretty penny they were, too'.<sup>150</sup>

Fraser was actively involved in community life, for example in May 1869 being handicapper for the annual race meeting.<sup>151</sup> Having first joined a Masonic lodge in 1849, he was a leader of another at Thames.<sup>152</sup> Some residents approved and others disapproved of his very public social life.

The colonel lived at Tararu and daily he drove into Thames with his coachman<sup>153</sup> and his page boy in buttons.<sup>154</sup> The coachman, Barry, had an onerous position to fill. After dinner in the evening the colonel would be driven to the Pacific Hotel, where he would indulge in a game of cards and imbibe a few glasses of his

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<sup>145</sup> *Auckland Star*, 1 May 1874, p. 2.

<sup>146</sup> Editorial, *Thames Star*, 2 May 1874, p. 2.

<sup>147</sup> Supreme Court, *New Zealand Herald*, 18 June 1874, p. 3.

<sup>148</sup> Supreme Court, *Auckland Weekly News*, 24 October 1874, pp. 7-8.

<sup>149</sup> Supreme Court, *Auckland Weekly News*, 24 October 1874, pp. 8, 10.

<sup>150</sup> *Observer*, 7 May 1892, p. 10.

<sup>151</sup> *Auckland Weekly News*, 22 May 1869, p. 6.

<sup>152</sup> *Cyclopedia of New Zealand*, vol. 1, p. 108; *Thames Advertiser*, 27 June 1876, p. 2.

<sup>153</sup> For a photograph of Fraser in his buggy, see Johnny Williams, *Racing for Gold: Thames and the goldfields with the history of the Thames Jockey Club* (Thames, 1987), p. 55.

<sup>154</sup> For a reference to this phenomenon, see 'Thames Tittle Tattle', *Observer*, 20 January 1883, p. 293.

favourite beverage. He kept this up usually till a late hour, and poor old Barry would sit outside in the buggy patiently waiting for his lord and master, who sometimes needed more than a little assistance to climb into the vehicle.

An amusing story is told of one of these late carousels and its results. The boon companions of the colonel, having between them hoisted that dignitary into the buggy for the journey home and watched Barry drive off, then started with faltering steps to walk along Albert Street. Alas, they were pounced upon by the vigilant constabulary and were brought before the colonel in the morning on a charge of being inebriated in a public place. Without batting an eyelid the colonel sternly rebuked them and pointed out how unbecoming such conduct was to men of their position. Then he calmly fined them a pound and costs. History does not relate the conversation which took place the next evening when the coterie met in the Pacific Hotel.<sup>155</sup>

In 1914 a former Thames auctioneer told a similar story about Fraser, whom he described as ‘something of a character’:

Part of the character was of the sporting brand. The shooting season had not opened. There were two days to go, but His Worship’s trigger finer was itching, and he invited two leading brokers to accompany him. “I know a hot corner for pheasants,” he said, “come and get into it with the gun.” The brokers naturally thought that they were perfectly safe from interference by the law when they had its more or less distinguished administrator as a fellow law breaker.

His Worship and the two brokers therefore anticipated the season, took to the fern, and blazed away with great and flattering success. The Resident Magistrate was working next to the bush. A man popped into view. The magistrate knew him. The others did not. His Worship dived into the bush, and the ranger did not observe him. He, however, took the names of the two brokers. They were hauled before the R.M. in the morning. “This is a case of flagrant disregard of the game laws,” thundered the magistrate. “I usually inflict the nominal fine of £1, but on this occasion each defendant will pay £5.” The intensely indignant brokers waited for the magistrate. “Look here,” they roared, when they had him in a quiet spot, “what the (etc) d’you mean by fining us a fiver each – you were with us, too.” The magistrate smiled a pitying smile. “First, you were \_\_\_ fools for being caught, secondly you have plenty of money, and thirdly the Acclimatisation Society is very poor – come and have a drink!”<sup>156</sup>

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<sup>155</sup> Grainger, p. 97.

<sup>156</sup> *Observer*, 23 May 1914, p. 16.

In 1880, when Fraser's partisans were criticizing Kenrick, 'Critic' preferred Kenrick because he was not 'seen staggering about the town in a state of insobriety'.<sup>157</sup> In 1894, when there was controversy about Fraser's fitness to be Sergeant at Arms, one of his parliamentary supporters noted rumours that he had 'been wanting, and extremely wanting, in temperance', but 'on tolerably good authority' claimed he had 'practically been a total abstainer' since leaving Thames,<sup>158</sup> implying acceptance that he had been a heavy drinker there. He was rumoured to have close links with Louis Ehrenfried, the local brewer.<sup>159</sup> One resident recalled his parents having their hotel closed because he would not stock Ehrenfried's beer. 'Old Cornel Fraser – his pup refused another License – ruined both of them'.<sup>160</sup> Fraser was also believed to bet on the prospects of claims being dealt with in his court.<sup>161</sup>

#### FRASER'S RESIGNATION

Neither Thames newspapers commented on Fraser's resignation, and there was a marked degree of evasiveness whenever the question of why he resigned was raised. His *Thames Star* obituary blandly noted that he 'resigned the appointment prior to entering political life'.<sup>162</sup> The Thames jubilee souvenir of 1927 dropped a hint, stating that he 'tendered his resignation from the Civil Service, under circumstances which need not be detailed here'.<sup>163</sup> These circumstances were well known to residents of Thames and beyond: in June 1879 he had been accused of cheating at cards at the Northern Club in Auckland,<sup>164</sup> and on 24 July he sent a telegram to the Minister of Justice: 'I most respectfully tender my resignation of all offices held by me under Government. I shall continue to act until my

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<sup>157</sup> Letter from 'Critic', *Thames Star*, 23 June 1880, p. 2.

<sup>158</sup> *New Zealand Parliamentary Debates*, vol. 83, 6 July 1894, p. 323.

<sup>159</sup> See *Cyclopedia of New Zealand*, vol. 2, pp. 332-333.

<sup>160</sup> A.F. Sawyer, Notes on Early Thames [written 1946-1946], W.G. Hammond Papers, folder 34b, MS 134, Library of the Auckland Institute and War Memorial Museum.

<sup>161</sup> Supreme Court, *Auckland Weekly News*, 24 October 1874, p. 7.

<sup>162</sup> *Thames Star*, 17 September 1901, p. 2.

<sup>163</sup> F.W. Weston, *Thames Diamond Jubilee Souvenir* (Thames, 1927), p. 78.

<sup>164</sup> 'Report of Public Petitions Committee', *AJHR*, 1881, I-1, p. 20.

successor is appointed if Government so desire'.<sup>165</sup> As the under-secretary later explained, 'the resignation was accepted at once because the Government was aware at the time' of the accusation, 'not officially, but by rumour'.<sup>166</sup> Five days after submitting his resignation, Fraser was informed that the Governor in Council had accepted it.<sup>167</sup>

On 11 August, after ten years as magistrate, at his last court hearing Fraser made a statement to lawyers and court officials:

My resignation of this position which I have occupied so long, has, as must be known to all, been caused by rumours and accusations concerning my private conduct, which were inconsistent with my continuing usefully to hold this position. Of the foundation of these rumours I know nothing – of these accusations I have challenged a searching examination in full confidence that they cannot be sustained. But, finding that in the meantime suspicion might attach to me in the eyes of some, I have thought it quite in your interest as in my own to retire from a position which is only useful or honourable while it is beyond suspicion.<sup>168</sup>

He had dealt with 15,000 cases, and no appeals against his decisions had succeeded.<sup>169</sup> Several lawyers praised his 'strong sense of honour' and trusted that the accusations 'would be found to be base and untrue'.<sup>170</sup> One, George Nathaniel Brassey,<sup>171</sup> said that in the nearly three years he had been at Thames, Fraser had 'meted out even justice to all'.<sup>172</sup> In a curiously back-handed complement, he said he had disagreed with Fraser's rulings 'many times, and if at any time he had thought or said that any partiality

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<sup>165</sup> Memorandum by Under-Secretary, Justice Department, on Petition by William Fraser, n.d. [September 1881], Legislative Department, LE 1, 1881/9; original telegram noted as 79/2545, Register 1879-1880, Justice Department, J 2/10, ANZ-W.

<sup>166</sup> Memorandum by Under-Secretary, Justice Department, on Petition by William Fraser, n.d. [September 1881], Legislative Department, LE 1, 1881/9, ANZ-W.

<sup>167</sup> Under-Secretary, Justice Department, to William Fraser, 29 July 1879, Telegram Book 1877-1879, p. 643, Justice Department, J 8/3, ANZ-W.

<sup>168</sup> *Thames Advertiser*, 12 August 1879, p. 3.

<sup>169</sup> *Thames Star*, 11 August 1879, p. 2.

<sup>170</sup> *Thames Advertiser*, 12 August 1879, p. 3.

<sup>171</sup> See *New Zealand Herald*, 27 November 1896, p. 5.

<sup>172</sup> *Thames Star*, 11 August 1879, p. 2.

was shown, he had not done so with any feeling of malice'. He regretted that Fraser had resigned before the rumours had been investigated.<sup>173</sup>

One lawyer who did not join in this chorus was Henry Elmes Campbell,<sup>174</sup> reputed to have been most active in removing Fraser.<sup>175</sup> With a miner and labourer, Patrick Kerwin Donnelly,<sup>176</sup> in October he asked parliament that the truth of the charge be investigated, which the public petitions committee recommended be done.<sup>177</sup> This should have suited Fraser, who on 1 September had asked that parliament 'appoint a Commission to enquire into charges made against him by Campbell and Donnelly',<sup>178</sup> but the government did not oblige, clearly being glad to have received Fraser's resignation. He was, apart from anything else, its political opponent, having intended to fight an election as a Liberal Party candidate shortly after stepping down.<sup>179</sup> Campbell later claimed that he had been 'highly commended by many' for engineering Fraser's removal.<sup>180</sup>

Fraser continued to regret his hasty resignation, early in 1880 claiming not to have resigned all his posts. The Minister of Justice responded that, as his 'resignation was accepted in the broad sense of the word', he was no longer a Justice of the Peace or held 'any office under the Government'.<sup>181</sup> Fraser continued to argue that his resignation 'only applied to paid offices held by him under Government'.<sup>182</sup> In September 1881, parliament considered his petition that he had requested an enquiry 'in

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<sup>173</sup> *Thames Advertiser*, 12 August 1879, p. 3.

<sup>174</sup> See Henry Elmes Campbell to Minister of Justice, 26 June 1879, Justice Department, J 1, 80/5071, ANZ-W; letter from Henry Elmes Campbell, *Thames Star*, 9 August 1880, p. 2; District Court, *Thames Advertiser*, 7 February 1883, p. 2, 3 April 1883, p. 2; *Te Aroha News*, 27 December 1884, p. 2.

<sup>175</sup> Letter from 'Critic', *Thames Star*, 23 June 1880, p. 2.

<sup>176</sup> See District Court, *Thames Star*, 31 March 1875, p. 2.

<sup>177</sup> 'Reports of Public Petitions Committee', *AJHR*, 1879, Session 2, I-1, p. 1 [the file in the Legislative Department on this petition has been lost].

<sup>178</sup> Summary of letter from William Fraser to Minister of Justice, 1 September 1879, 79/3158, Justice Department, Register 1879-1880, J 2/10, ANZ-W.

<sup>179</sup> *Thames Advertiser*, 14 August 1879, p. 2, 28 August 1879, p. 2.

<sup>180</sup> Letter from H.E. Campbell, *Thames Star*, 9 August 1880, p. 2.

<sup>181</sup> Under-Secretary, Justice Department, to William Fraser, 23 January 1880, Letterbook 1879-1880, pp. 580-581, Justice Department, J 5/34, ANZ-W.

<sup>182</sup> Summary of letter from William Fraser to Minister of Justice, 9 February 1880, 80/899, Justice Department, Register 1879-1880. J 2/10, ANZ-W.

order that he might be restored to his position in the Civil Service', but none had been made. The committee did not recommend one.<sup>183</sup> It had received advice from the Justice Department that, 'as the resignation was voluntary and unconditional and alluded to nothing, the Government knew officially of nothing to enquire into, and the petitioner was then outside the service'.<sup>184</sup>

As Fraser was unable to clear his name, this stain on his reputation haunted him for the rest of his life, even though the nature of the stain was normally only hinted at in the press. When he stood for election to parliament in October 1881, the *Observer* described him as 'affable and popular in sporting and other circles, but not free from obloquy in connection with certain scandal not noticeable here'.<sup>185</sup> Political opponents used it against him when he stood for election for Te Aroha in 1890. After commenting that he was 'a bit of a card-player', the *Observer* reported that at a Morrinsville meeting he was challenged over an evasive answer he had given at Paeroa. Asked if he was the only parliamentarian not elected to any Wellington club during the session, he had answered that he had been a member of the Wellington Club, but was no longer. His interrogator asked had he 'ever had any unpleasantness in any Club'. Fraser

replied in the affirmative. He said that a few years ago a good deal of drinking and gambling was carried on in a certain Club of which he was a member, and it ended in a row. To save his friends he made himself their scapegoat, and resigned his membership of the Club, a step which he had regretted ever since.

The *Observer*, 'with all respect to' Fraser, whom it hoped would be elected, commented that 'we fancy some Aucklanders would give a very different version of the scene at the Northern Club'. It noted that Fraser's explanation was not seen as satisfactory, 'as he abruptly left the meeting to evade a vote of no-confidence'.<sup>186</sup> When he lost the election, it described the

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<sup>183</sup> 'Report of Public Petitions Committee', *AJHR*, 1881, I-1, p. 20.

<sup>184</sup> Chairman of Public Petitions Committee to Justice Department, 15 September 1881, 81/1803, Justice Department, Register 1880-1882, J 2/11; Memorandum by Under-Secretary, Justice Department, on Petition by William Fraser, n.d. [September 1881], Legislative Department, LE 1, 1881/9, ANZ-W.

<sup>185</sup> *Observer*, 29 October 1881, p. 104.

<sup>186</sup> *Observer*, 6 December 1890, p. 9.

victor as ‘a man of higher principle than his opponent’.<sup>187</sup> When Fraser petitioned to get the result annulled, the *Observer* published a cartoon of him trying to win the seat in a card game: ‘The two political players thought they had managed finely, by concealing cards up their sleeves; but the legal joker has spoiled their game’.<sup>188</sup> It cited the views of a Wellington newspaper on his standing once again: ‘He is by no means a desirable supporter, and has not, we imagine, a ghost of a chance of success. At least we should hope not. The Government must be hard up for good men if they cannot find a candidate to do them more credit’.<sup>189</sup>

In 1892, an *Observer* journalist wrote that Aucklanders were amused by his move to abolish the totalisator:

I never thought Fraser a Simon Pure in the matter of gambling; but evidently he doesn’t approve of it. I know he doesn’t play cards; indeed, I am sure he would not, and I positively declare I don’t believe he ever did. There is a certain very amusing story extant about Fraser and cards which gives piquancy to this anti-gambling crusade, but I won’t repeat it.<sup>190</sup>

Later that year, a cartoon in this journal mocked him for gambling on the totalisator at a race meeting in Auckland despite urging parliament to abolish it.<sup>191</sup> In 1889, when Fraser had attacked the totalisator in a speech at Thames, some of the audience ‘were apparently sceptical as to whether the Colonel was really in earnest’.<sup>192</sup> He continued to gamble on horses, in 1894 having ‘a bit of luck with Royal Rose at the Egmont meeting. One win was worth two hundred guineas’.<sup>193</sup>

In 1891, the *New Zealand Herald* printed a letter from ‘Ace of Trumps’ under the heading ‘Cheating at Cards’, in which the writer rejected the newspaper’s criticism of cheating by having a ‘spare ace’ and its view that this crime ‘admits of no palliation’. He had ‘heard of a gentleman in this colony who was reported to have been detected in this particular weakness some years ago, and who was repeatedly chosen afterwards to act as one of

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<sup>187</sup> *Observer*, 13 December 1890, p. 3.

<sup>188</sup> Cartoon, *Observer*, 11 April 1891, p. 18.

<sup>189</sup> *Post* (Wellington), cited in *Observer*, 2 May 1891, p. 7.

<sup>190</sup> ‘The Fretful Porcupine’, *Observer*, 2 July 1892, p. 3.

<sup>191</sup> Cartoon, *Observer*, 26 November 1892, p. 5.

<sup>192</sup> ‘Our Thames Letter’, *Observer*, 22 June 1889, p. 12.

<sup>193</sup> *Observer*, 24 February 1894, p. 3.

our law makers. I never heard that the offence was visited in his case with the dire consequences you hint at'.<sup>194</sup> On this theme, one of the *Observer's* new year's wishes for 1895 was that Fraser might 'always manage to find a joker up your sleeve. This must be understood in a purely political sense'.<sup>195</sup>

When Fraser was appointed parliament's Sergeant at Arms in 1894, some parliamentarians hinted at his dubious reputation, Sir Robert Stout citing the Christchurch *Press* that 'as a club man and a sporting man' he received 'the greatest humiliation, the severest penalty, which a Social Club or a sporting organization can inflict upon a member. His club disgrace belongs to New Zealand, his turf humiliation to another colony'.<sup>196</sup> Presumably the Geelong Turf Club had expelled him, for he was its secretary at one time and known as 'Tandem Fraser', for unknown but presumably non-libelous reasons.<sup>197</sup> The *Press* considered that he had been given this sinecure 'to reward his modesty in retiring' from the 1893 election, and registered its 'most forcible protest' at this example of the 'party jobbery' of the Premier, Richard John Seddon.<sup>198</sup> Stout considered that Fraser was duty-bound 'to vindicate his character by an action for libel against the newspaper'.<sup>199</sup> Fraser did not sue, but Seddon did respond to Stout by arguing it was unfair to cite newspapers as if they wrote the truth. 'A libel action is a luxury which few men in this country can afford', he argued, noting that of the conservative newspapers the *Press* was the bitterest opponent of his government and was attacking it rather than Fraser. He proved, by referring to a Cabinet minute, that Fraser had requested an inquiry but a previous government had refused. That Fraser was appointed a justice of the peace when mayor of Thames implied that the government had not accepted the truth of the charge.<sup>200</sup>

#### FRASER AFTER HE CEASED TO BE WARDEN

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<sup>194</sup> Letter from 'Ace of Trumps', *New Zealand Herald*, 24 February 1891, p. 3.

<sup>195</sup> 'Observer New Year's Wishes', *Observer*, 29 December 1894, p. 4.

<sup>196</sup> Editorial, *Press*, 21 April 1894, p. 6, cited in *New Zealand Parliamentary Debates*, vol. 83, 27 June 1894, p. 72.

<sup>197</sup> *Bulletin* (Sydney), n.d., cited in *Auckland Weekly News*, 10 December 1881, p. 17.

<sup>198</sup> Editorial, *Press*, 21 April 1894, p. 6.

<sup>199</sup> *New Zealand Parliamentary Debates*, vol. 83, 27 June 1894, p. 72.

<sup>200</sup> *New Zealand Parliamentary Debates*, vol. 83, 27 June 1894, pp. 76-77.

After resigning, Fraser, who sometimes described himself as a miner, started investing in mining.<sup>201</sup> He also took out an auctioneer's license, selling cattle and land,<sup>202</sup> and, after being present on opening day at Te Aroha in 1880,<sup>203</sup> a 'substantial wooden structure' was erected there by mid-December as his auctioneer's and land agent's office.<sup>204</sup> Immediately after the rush, a local correspondent recorded that the unnamed 'great jumper, who was interested in the pegging out, has taken his departure, but has deputed ex-Warden Fraser and Mr McIlhone to look after his specialty in his absence'.<sup>205</sup> However, unless by using dummies, Hugh McIlhone, one of Fraser's partisans and a former inspector of miners' rights at Thames,<sup>206</sup> obtained no interests, by jumping or otherwise. Fraser invested in seven claims, none with good prospects,<sup>207</sup> and did not jump those belonging to others. Instead, he lost one claim because of not working it.<sup>208</sup> He held shares in two companies, being legal manager of one for four months and obtaining a license for the other.<sup>209</sup> When gold was discovered at Tui, he applied for a water race for a battery he would erect 'should the locality prove auriferous'.<sup>210</sup> Although a provisional director of the company formed to erect the Te Aroha battery,<sup>211</sup> he did not acquire shares in it. He retained

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<sup>201</sup> For instance, Company Files, BBAE 10286/8b, 11h, 12a, 12g, 14b, 14g, 14l, 15c, 16e, 17a, ANZ-A; *Thames Star*, 22 January 1880, p. 2.

<sup>202</sup> *Thames Star*, 31 May 1880, p. 2, 6 December 1880, p. 2.

<sup>203</sup> Te Aroha Warden's Court, Miner's Right no. 601, issued 25 November 1881, Miners' Rights Butt Book 1881, BBAV 11533/1e, ANZ-A.

<sup>204</sup> *New Zealand Gazette*, 30 December 1880, p. 1797, 20 January 1881, p. 111; *Thames Advertiser*, 17 December 1880, p. 3.

<sup>205</sup> Te Aroha Correspondent, *Thames Advertiser*, 27 November 1880, p. 3.

<sup>206</sup> See paper on Maori and goldfields revenue.

<sup>207</sup> Te Aroha Warden's Court, Register of Applications 1880-1882, folio 103, BBAV 11505/3a; Register of Te Aroha Claims 1880-1888, folios 176, 192, 202, BBAV 11567/1a; Complaint Book 1880-1898, 2/1880, BBAV 11547/1a, ANZ-A.

<sup>208</sup> Te Aroha Warden's Court, Complaint Book 1880-1898, 18/1880, BBAV 11547/1a, ANZ-A; Warden's Court, *Waikato Times*, 8 January 1881, p. 3.

<sup>209</sup> *Waikato Times*, 11 December 1880, p. 2, 26 April 1881, p. 2; *New Zealand Gazette*, 30 December 1880, p. 1797, 20 January 1881, p. 111; Te Aroha Warden's Court, Register of Applications 1880-1882, folio 101, BBAV 11505/3a, ANZ-A.

<sup>210</sup> Te Aroha Warden's Court, Register of Applications 1880-1882, folio 3, BBAV 11505/3a, ANZ-A; *Thames Advertiser*, 23 December 1880, p. 3.

<sup>211</sup> *Thames Star*, 8 January 1881, p. 2.

an interest in Te Aroha mines in mid-1881,<sup>212</sup> but when Waiorongomai was discovered invested in only three claims, Fraser Nos. 1-3, of which he was the sole owner. Of no significance, these were forfeited a year later.<sup>213</sup> He was sued for not paying the survey costs.<sup>214</sup> He held shares in one company, but did not pay calls.<sup>215</sup> Later in the decade, to assist the Battery Company he sold it some 'valuable allotments' at cost price.<sup>216</sup>

By 1880, Fraser was acquiring interests in other Hauraki fields and continued to do so until mining faded at the end of the century.<sup>217</sup> He was a director of several companies in the 1880s.<sup>218</sup> Although not forced to become bankrupt, he seems to have been unsuccessful as a mining speculator and to have lost a fortune inherited from his mother.<sup>219</sup>

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<sup>212</sup> See Magistrate's Court, *Thames Advertiser*, 18 June 1881, p. 3.

<sup>213</sup> Te Aroha Warden's Court, Register of Licensed Holdings 1881-1887, folios 69-71, BBAV 11500/9a, ANZ-A.

<sup>214</sup> Te Aroha Warden's Court, Plaintiff Book 1880-1898, 10/1883, BBAV 11547/1a, ANZ-A.

<sup>215</sup> Public Notice, *Te Aroha News*, 12 July 1884, p. 7.

<sup>216</sup> *Te Aroha News*, 13 June 1888, p. 2.

<sup>217</sup> For example, in the early 1880s: *New Zealand Gazette*, 8 April 1880, p. 474, 14 April 1881, p. 445, 18 August 1881, p. 1088, 3 November 1881, pp. 1442-1443, 7 September 1882, p. 1236, 14 December 1882, p. 1886, 21 December 1882, p. 1915, 22 February 1883, p. 268, 8 March 1883, p. 312, 14 June 1883, p. 799; for the late 1890s, see 17 September 1896, p. 1577.

<sup>218</sup> *New Zealand Gazette*, 24 November 1881, p. 1588; *Thames Star*, 8 January 1881, p. 2, 30 November 1883, p. 2, 9 December 1885, p. 3; *Waikato Times*, 23 November 1882, p. 2.

<sup>219</sup> See *Thames Advertiser*, 14 March 1882, p. 3; *A Return of the Freeholders of New Zealand* (Wellington, 1884), pp. F 37, F 39; James Russell to Elizabeth Fraser, 7 December 1886, Letterbook no. 33, p. 102; James Russell to William Fraser, 7 March 1889, Letterbook no. 39, p. 142; James Russell to William Fraser, 9 October 1889, 10 December 1889, 10 January 1890, Letterbook no. 41, pp. 86, 516, 603; James Russell to William Fraser, 25 September 1890, Letterbook no. 43, p. 684A; James Russell to William Fraser, 14 October 1890, 27 January 1891, 11 February 1891, Letterbook no. 44, pp. 26, 499, 733, Jackson and Russell Papers, MS 369, Library of the Auckland Institute and War Memorial Museum; Bank of New Zealand, Colonial Auditor's Letterbook 1896-1905, pp. 182, 282, 538, Bank of New Zealand Archives, Wellington; *New Zealand Parliamentary Debates*, vol. 118 (17 September 1901), pp. 562-563; Testamentary Register 1903-1906, folio 195, BBCB 4208/5, ANZ-A.

In November 1880, the betting was three to one that Fraser would be elected mayor of Thames.<sup>220</sup> His competition was Brassey and William Wilkinson, editor of the *Thames Advertiser*;<sup>221</sup> when he withdrew, Wilkinson won convincingly.<sup>222</sup> The following year, he was elected to the Thames County Council.<sup>223</sup> For five consecutive terms, from 1883 to 1887, he was mayor of Thames.<sup>224</sup> In 1892, he purchased the *Thames Advertiser* and edited it for a while.<sup>225</sup> In 1889, he was president of the Jockey Club.<sup>226</sup> After he died, the *Observer* wrote that he was ‘prominent in every function going, social and general, and any meeting that was not exactly political was never considered in form unless the Colonel was there to address it. He had a ready command of words, and no end of wit, and was an eloquent speaker. There was no more popular man’ at Thames.<sup>227</sup>

A strong supporter of the Liberal Party,<sup>228</sup> immediately after resigning Fraser wanted to stand for the Thames seat, but retired to give Sir George Grey and John Sheehan a clear run.<sup>229</sup> In 1881, he stood for the East Coast seat, but withdrew.<sup>230</sup> He represented Thames from 1884 to 1890, scraping in by a mere seven votes in 1884 but topping the poll in 1887.<sup>231</sup> In his 1884 election address, he opposed the requirement that all miners be required to hold a miner’s right, and strongly supported the interests of mining.<sup>232</sup> He represented Te Aroha from 1891 to 1893, but only after challenging the result of the first election and successfully claiming corrupt practices by an

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<sup>220</sup> *Observer*, 13 November 1880, p. 69.

<sup>221</sup> See *New Zealand Herald*, 23 September 1921, p. 6.

<sup>222</sup> *Thames Advertiser*, 25 November 1880, p. 2.

<sup>223</sup> *Thames Star*, 4 November 1881, p. 3, 17 November 1881, p. 2.

<sup>224</sup> *Thames Star*, 17 September 1901, p. 2; F.W. Weston, *Diamond Jubilee Souvenir: Thames goldfields: A history from pre-proclamation times to 1927* (Thames, 1927), p. 272.

<sup>225</sup> *Thames Advertiser*, 1 April 1892, p. 2, 7 April 1892, p. 2.

<sup>226</sup> *Thames Star*, 31 August 1889, p. 2.

<sup>227</sup> *Observer*, 3 August 1901, p. 6.

<sup>228</sup> For example, *Auckland Weekly News*, 27 September 1879, p. 8.

<sup>229</sup> *Thames Advertiser*, 14 August 1879, p. 2, 28 August 1879, p. 2.

<sup>230</sup> *Observer*, 24 September 1881, p. 20, 29 October 1881, p. 104; ‘Votes Recorded for Each Candidate (Return of, at the General election, 1881, etc)’, *AJHR*, 1882, H-1, p. 1.

<sup>231</sup> ‘The General Election, 1884’, *AJHR*, 1884, Session 2, H-5, p. 1; *Thames Advertiser*, 27 September 1887, p. 2.

<sup>232</sup> *Thames Star*, 10 July 1884, p. 2.

agent of the winner of the first poll,<sup>233</sup> William Shepherd Allen.<sup>234</sup> How he served notice against Allen was noted by the *Observer*, which had earlier described Allen as ‘a man of higher principle than his opponent’.<sup>235</sup>

Colonel Fraser is a cool card, and no mistake. He went in person to serve the election petition upon Mr W.S. Allen, and in response to that gentleman’s invitation, waited for dinner and had an hour’s friendly conversation. The gallant Colonel then intimated that he had a little matter of business to talk over, and on Mr Allen leading the way to a private office, the warrior handed the notice to the astounded host. Mr Allen took the notice in silence and at once bowed out his guest, who must have felt very mean as he reflected how he had at one stroke got a free feed and saved the fee of an officer to serve the notice.<sup>236</sup>

One commentator described him as adept at ‘bluff’ and a ‘cunning manipulator of backstairs influences’.<sup>237</sup> In parliament he was a leading spokesman for miners, the *Observer* describing him as

all but an ideal gold fields member. He is keen, shrewd, persistent, and thoroughly in sympathetic accord with his constituents. Political principles, if they trouble him at all, are kept well in hand. Party sentiments, if they are felt at all, are entirely subservient to the great utilitarian views of his district. He is not a speechmaker, but when his Doric accents are heard, they are always on the side of those most likely to do justice to the Thames.

Fraser had been expected to support Sir George Grey but soon put the interests of his constituents first by supporting ‘the powers that be’, for the government could help Thames whereas Grey could not. He believed ‘in being found in the lobby when the crumbs of Government expenditure are being dropped beneath the table’, like all goldfields members. ‘His constituents believe in him. They do right. In his strong as well as his weak points, he is one of themselves, and his idea of politics, if not a lofty one, is

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<sup>233</sup> *Thames Advertiser*, 6 January 1891, p. 3, 15 April 1891, p. 2, 10 July 1891, p. 2, 14 July 1891, p. 2.

<sup>234</sup> See *Cyclopedia of New Zealand*, vol. 2, p. 788.

<sup>235</sup> *Observer*, 13 December 1890, p. 3.

<sup>236</sup> *Observer*, 7 March 1891, p. 7.

<sup>237</sup> ‘A Tramp, Esq’, ‘Casual Ramblings’, *Auckland Weekly News*, 12 November 1892, p. 35.

at all events exactly their own'.<sup>238</sup> In 1887 he was elected chairman of the Goldfields Committee.<sup>239</sup> On his death, his devotion to the interests of his district was praised.<sup>240</sup>

In 1893, to avoid splitting the vote for the Bay of Plenty seat he retired from the contest at Seddon's request.<sup>241</sup> As a reward, and because he was a close friend of Seddon,<sup>242</sup> he was later appointed Sergeant-of-Arms, an appointment regarded as jobbery of the worst kind by the government's opponents.<sup>243</sup> He died in 1901, aged 73, still holding this position despite years of poor health.<sup>244</sup>

Even in the last decade of his life, scandalous rumours circulated. In May 1892, the *Observer* regretted that his libel action seeking £20,000 from the Wellington *Evening Press* was withdrawn because the newspaper accepted his version of events and paid his legal costs. 'The public have been disappointed of some very startling scandal by this termination of the case'.<sup>245</sup> Fraser had not been mentioned in the article about a 45-year-old woman and her child who had become homeless after the two-roomed toolshed in which they had been living was demolished. She told the newspaper that many years ago she had become acquainted with a man who was now a leading politician. 'She yielded to his blandishments, and the result was offspring, a girl, now earning an honest living in another part of the colony'. She later married, but after her husband died she returned to the North Island, renewed her acquaintance with her seducer, and they were married. However, 'the record was destroyed', according to her story.

He kept her in poor style, until he married in due form someone else. The new wife called upon her and announced herself, and ...

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<sup>238</sup> *Observer*, 15 May 1886, p. 4 [only copy held by Hocken Library, Dunedin].

<sup>239</sup> *Te Aroha News*, 7 May 1887, p. 2.

<sup>240</sup> *New Zealand Parliamentary Debates*, vol. 118, 17 September 1901, pp. 562-563.

<sup>241</sup> *Thames Advertiser*, 27 November 1893, p. 2.

<sup>242</sup> Speech by R.J. Seddon, 17 September 1901, *New Zealand Parliamentary Debates*, vol. 118, p. 562.

<sup>243</sup> *Thames Advertiser*, 20 April 1894, p. 3; *New Zealand Parliamentary Debates*, vol. 83 (July 1894), pp. 22, 25-28, 70-84, 104-110, 194, 314-358.

<sup>244</sup> Death Certificate of William Fraser, 17 September 1901, 1901/3923, BDM.

<sup>245</sup> *Observer*, 14 May 1892, p. 1; see also cartoon and short article, *Observer*, 7 May 1892, p. 10.

gave her free permission to live with her protector, so that she did not dispute the marriage. This she would not agree to, and there followed a terrible altercation between her and her protector, with the result that she came down to Wellington.

Of this and other details of her sad life, the newspaper expressed ‘no opinion, but the case is a sufficiently startling one’.<sup>246</sup> After Fraser claimed that the story libelled him, stating that others thought it referred to him, the newspaper accepted ‘without reserve’ his denial and thanked him for withdrawing the action.<sup>247</sup> It was curious that several people believed Fraser was the unnamed politician, for it was well known that his wife was still alive, meaning that some details of this story could not apply to him. The implication clearly was that he was considered capable of such behaviour. Nothing is known about the happiness or otherwise of his marriage (to Elizabeth, before they left Scotland), but they had no children.<sup>248</sup> His widow’s obituary stated she was ‘held in high esteem’.<sup>249</sup> She may have had to put up with great deal, what with her husband’s drinking, gambling, and perhaps philandering, as well as serious concerns about his standard of morality in general. As another example of how he was mocked by some and admired by others, the *Observer* pointed out, in 1889, that at a public meeting prior to the election held two years previously, Fraser had promised to contribute £5 to help obtain an experimental plant for the Thames School of Mines. This money had never been paid, and nobody liked to ask him to pay up.<sup>250</sup> A letter writer, presumably a supporter of Fraser (but could it have been a sarcastic response?), questioned whether this charge was correct because of his ‘reputation for probity and truthfulness’.<sup>251</sup> The *Observer* cited these words and wondered whether he had simply forgotten to pay.<sup>252</sup> Nothing more was heard of this minor matter: had Fraser been embarrassed into fulfilling his promise?

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<sup>246</sup> *Evening Press* (Wellington), 23 April 1892, p. 3.

<sup>247</sup> *Evening Press*, 23 April 1892, p. 3.

<sup>248</sup> Death Certificate of William Fraser, 17 September 1901, 1901/3923, BDM; *Cyclopedia of New Zealand*, vol. 1, p. 107.

<sup>249</sup> *Thames Star*, 31 January 1906, p. 2.

<sup>250</sup> *Observer*, 10 August 1889, p. 17.

<sup>251</sup> Letter from ‘Rambler’, *Thames Star*, 10 August 1889, p. 2.

<sup>252</sup> *Observer*, 17 August 1889, p. 17.

## McILHONE VERSUS KENRICK: ROUND ONE

Kenrick was drawn into a controversy over Hugh McIlhone, Inspector of Miners' Rights. McIlhone, an Irish Catholic commonly known as 'the Cardinal', was a colourful and popular figure in both Thames and Auckland.<sup>253</sup> After teaching in a Catholic school in Auckland in the 1860s, he became a member of the provincial council, and then a teacher in Thames. He was active in politics on the side of his fellow Irish Catholics.<sup>254</sup> In April 1880, solicitor Henry Elmes Campbell,<sup>255</sup> on behalf of some Maori landowners, petitioned for an investigation into claims that McIlhone did not require all miners to have miners' rights, especially if they were Irish and Catholic. Kenrick, asked to investigate, was told that he 'favoured his friends and neglected his duties' but that 'he could give reasons why' he could justify the 'lengthy list' of those working without rights. He asked McIlhone to provide 'a written statement of his reasons', and adjourned the hearing.<sup>256</sup> There was considerable support for how McIlhone discharged his unpopular duties,<sup>257</sup> and Fraser was mentioned as being allied with him.<sup>258</sup> The agent for the Maori landowners 'had not complaint' against how McIlhone carried out his duties, though he 'sometimes thought the Inspector might have been more active'. He said 'it was clearly understood' when McIlhone was appointed 'that he was to have a discretionary power, and that in case he was satisfied that offenders against the regulations were not in a position to comply with the law, he could withhold proceedings'. Campbell charged McIlhone with paying his witnesses 'to keep away, giving one of them £20 for that purpose'.<sup>259</sup> There was some delay in McIlhone sending Kenrick his statement, and when he did Kenrick told him

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<sup>253</sup> For example, cartoons, *Observer*, 30 January 1897, p. 12, 3 December 1904, p. 5, 21 October 1905, p. 16, 2 December 1907, p. 21; 'Pars About People', 12 November 1910, p. 5.

<sup>254</sup> 'Pars About People', *Observer*, 12 November 1910, p. 5.

<sup>255</sup> See *Thames Star*, letter from Henry Elmes Campbell (advertisement), 9 August 1880, p. 2, Magistrate's Court, 15 February 1881, p. 2, District Court, 7 February 1883, p. 2; *Thames Advertiser*, 5 May 1883, p. 3 *Te Aroha News*, 27 December 1884, p. 2.

<sup>256</sup> *Thames Star*, 21 April 1880, p. 2; *Thames Advertiser*, 22 April 1880, p. 2.

<sup>257</sup> *Thames Advertiser*, 27 April 1880, p. 2, 30 April 1880, p. 3, 3 May 1880, p. 2, 15 May 1880, p. 3.

<sup>258</sup> Police Court, *Thames Advertiser*, 27 May 1880, p. 3.

<sup>259</sup> *Thames Star*, 22 April 1880, p. 2.

that his report had already been sent to the government but offered to send McIlhone's statement 'if it was submitted to him. This Mr McIlhone thought unfair – that one side of the story should be placed before the head of the department first and so have the effect of prejudicing his case'.<sup>260</sup> Kenrick had sent his report believing McIlhone had gone to Wellington, whereas he had gone to see the Native Minister in Auckland.<sup>261</sup> McIlhone claimed he was permitted to use his discretion in cases of hardship, but the minister, after receiving Kenrick's report, decided that, whilst the charges of favouritism were not upheld, any powers of discretion were cancelled.<sup>262</sup> When hearing a subsequent case brought by Campbell against Patrick Trainer, a contractor and miner,<sup>263</sup> for mining without a right, Kenrick commented that he had been 'very much surprised' when told McIlhone claimed 'a special power of discretion. The law was very clear. There was only one authority that could exercise this discretion, and that was the Court', and after he contacted the government 'such a power if it ever existed was withdrawn'.<sup>264</sup> The only power with any discretion was the warden's court, which 'he was sure would force no man to take out a right if it was proved that he could not afford it. He might mention that the day after the notice appeared regarding Mr McIlhone's discretionary power 60 Miner's Rights had been taken out, and a considerable number on the following days, which showed the absurdity of the discretionary power'.<sup>265</sup>

On 1 June, when the licensing court considered applications for renewal of hotel licenses, Campbell claimed that the applicant for the Warwick Arms Hotel neither lived there nor ran it. 'Mr McIlhone conducts the house, and lives there with his family. I shall also be able to prove that gambling was carried on in the house. I do not think it right that Mr McIlhone should hold a license considering the fact of his assuming to be a Government official. The natives do not think it was fair that Mr McIlhone should hold the license'.<sup>266</sup> The owner confirmed that McIlhone always paid the rent, having rented it from his father-in-law, but knew of no gambling.

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<sup>260</sup> *Thames Star*, 29 April 1880, p. 2.

<sup>261</sup> *Thames Advertiser*, 30 April 1880, p. 3.

<sup>262</sup> *Thames Advertiser*, 30 April 1880, p. 3, 2 June 1880, p. 3.

<sup>263</sup> See *Thames Star*, 7 January 1879, p. 2, 23 February 1889, p. 2, 20 April 1889, p. 2, Ohinemuri County Council, 4 April 1898, p. 2.

<sup>264</sup> Warden's Court, *Thames Advertiser*, 11 June 1880, p. 3.

<sup>265</sup> Warden's Court, *Thames Star*, 10 June 1880, p. 2.

<sup>266</sup> Annual and Quarterly Licensing Meeting, *Thames Star*, 1 June 1880, p. 2.

A bushman stated he had gambled with McIlhone, and two others confirmed that gambling took place. One deposed that 'McIlhone had upbraided him for knocking about his house and getting information for Campbell'. Brassey, McIlhone's solicitor, 'had told him he need not attend the Court, and offered him half-a sovereign to clear out. Brassey strongly advised him to go away from the Thames, he said that the steamer left for Auckland early next morning. This took place in Brassey's office'. Cross-examined by Brassey, he repeated this claim, but also said he had been given ten shillings by Campbell 'to get a drink with'. Kenrick assured Brassey that this evidence would not be considered relevant to the case, and despite the commissioners considering one charge of gambling was proved, they would not refuse the license, only requiring the official licensee to reside in the house.<sup>267</sup>

Despite Kenrick ruling in favour of McIlhone in this case, McIlhone retained a hatred that occasionally became public. For instance, when asked to address a meeting of miners held the day before the Te Aroha goldfield opened, he seized the opportunity:

He considered he could not remain silent. He had attended the meeting convened by the Warden, and being specially interested in it, had listened with the utmost attention to what Mr Kenrick had to say, and had no hesitation in saying that the statements made by the Warden were of the most extraordinary character he had ever listened to.... He could hardly bring himself to believe that a man placed in Mr Kenrick's position would so far expose himself to ridicule as to talk such trash. What that gentleman had told the meeting with regard to pegging out claims and marking out business and residence sites were statements which he knew to be contrary to law; but if he spoke what he believed to be true, then he must have been speaking in ignorance of the law which he was sent to Te Aroha to administrate.

He claimed to be 'surprised that so many men whom he knew to be well acquainted with goldmining laws at the Thames and elsewhere had been so patient as to listen in the manner in which they had'. He suggested the miners obey Kenrick's instructions and 'allow any matters that might arise to be decided by the authorities in Wellington'.<sup>268</sup> In another version of his speech he described Kenrick's statements as 'most extraordinary,

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<sup>267</sup> Annual and Quarterly Licensing Meeting, *Thames Star*, 2 June 1880, p. 3.

<sup>268</sup> *Thames Advertiser*, 26 November 1880, p. 3.

coming from a man in his position', making it clear he had 'little or no knowledge of goldfields administration'. He claimed his proposals were 'wholly opposed to the Act under which the district had been proclaimed'.<sup>269</sup>

### EHRENFRIED VERSUS KENRICK

Louis Ehrenfried, owner of a Thames brewery,<sup>270</sup> was mayor in 1880 after having been a councillor for the previous six years.<sup>271</sup> In a letter criticizing Kenrick published on 12 June 1880, solicitor George Nathaniel Brassey claimed Kenrick had shown 'animus' towards Ehrenfried,<sup>272</sup> a reference to his chairing the annual licensing meeting at the beginning of June when six renewals were refused and another six deferred.<sup>273</sup> Kenrick had opened the meeting by announcing that as 'the Court had come to the conclusion that there were a great many houses which did not afford sufficient accommodation as required by the Act', it had decided to close a number that were not required.<sup>274</sup> When Ehrenfried's solicitor, Brassey, asked the committee to visit his City of Glasgow hotel because it was well conducted and its closure would mean 'great loss', Kenrick 'declined to do so, and he thought his colleagues would do the same, as it was no part of the duty of the Licensing Bench to make inspection of public-houses'.<sup>275</sup>

When Ehrenfried called a meeting of councillors to consider the decision of the commissioners, a resident expressed his concern:

The question asked by many people is this, does the Mayor call this meeting for his own purposes or gains or for the good of the Borough? Rumour say, his own pocket; but, sir, do you think if these houses belonged to other persons would our cunning old fox have called a meeting at all? I think not. I would ask our Councilmen to beware, or they will be caught in a trap. I think we have some good and sensible men there who will uphold the good

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<sup>269</sup> *Waikato Times*, 27 November 1880, p. 2.

<sup>270</sup> See David Arbury, *Thames' Beer Baron: Louis Ehrenfried* (Thames, 2003); Paul Goldsmith and Michael Bassett, *The Myers* (Auckland, 2007).

<sup>271</sup> *Thames Star*, 26 February 1897, p. 2.

<sup>272</sup> Letter from G.N. Brassey, *Thames Advertiser*, 12 June 1880, p. 3.

<sup>273</sup> Annual Licensing Meeting, *Thames Advertiser*, 2 June 1880, p. 3.

<sup>274</sup> *Thames Star*, 1 June 1880, p. 2.

<sup>275</sup> Annual and Quarterly Licensing Meeting, *Thames Star*, 2 June 1880, p. 3.

sense of our worthy Magistrate and not listen to the fanoodling [manipulating]<sup>276</sup> of the wealthy brewer.<sup>277</sup>

At the council meeting, some councillors were concerned at the loss of revenue by the closures, but their request that the government make up for this loss by granting money for roads was only carried by one vote. Ehrenfried did not speak.<sup>278</sup>

When the licensing bench ceased its hearings,

The Chairman said that the Bench wished him to make a few remarks upon their action in closing some of the public houses. They had had an unpleasant duty to perform, but had done so in a fair manner. In the opinion of the Bench there was not sufficient accommodation for travellers on the Thames, and had they have acted as they were prompted to do, several more houses in the district would now be closed. In a place like the Thames more accommodation for the travelling public was required – not drinking shops, but legitimate accommodation for travellers. When the Bench saw good accommodation they would be inclined to grant licenses, but a number of the houses had not the conveniences required by the public.<sup>279</sup>

The *Thames Star* was pleased at the closure of several hotels ‘of doubtful character’.<sup>280</sup> The following month, the *Thames Advertiser* reprinted *Otago Daily Times* comments on the ‘greater stringency’ that had reduced the number of public houses, ‘utterly in excess of the wants’ of the town, by 20 per cent. The Bench wanted to remove ‘mere grog-shanties’ and its decision was approved by two-thirds of the community. ‘Some idea of the magnitude of the vested interests involved by such a decision may be imagined when it is stated that one brewer alone owns or controls 36 houses’.<sup>281</sup>

On 23 June, the *New Zealand Herald* published an editorial on the ‘gross injustice’ inflicted on publicans by this reduction in the number of public houses without compensation. The editorial feared this ‘cruel and

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<sup>276</sup> See example of use of this expression in *Thames Advertiser*, 7 December 1893, p. 2.

<sup>277</sup> Letter from R.M., *Thames Star*, 7 June 1880, p. 2.

<sup>278</sup> Thames Borough Council, *Thames Star*, 7 June 1880, p. 2.

<sup>279</sup> *Thames Star*, 12 June 1880, p. 2.

<sup>280</sup> *Thames Star*, 17 June 1880, p. 2.

<sup>281</sup> *Otago Daily Times*, n.d., reprinted in *Thames Advertiser*, 23 July 1880, p. 2.

unjustifiable' decision might be copied elsewhere, especially if the chairman was 'a splenetic person, or if he had a grudge to avenge', and claimed it displayed 'ignorance of the limits of their duties' by the commissioners. 'A very unpleasant aspect' was that only one person lost any licenses, for which 'some explanation is imperatively required'. The reason given for this 'injustice', that the houses were not required, was 'worthless' because it went beyond their duties. There had been no complaints about how they operated. The editorial then contrasted Fraser with Kenrick:

The previous chairman of the Commissioners laid down and acted upon a principle as clear as equitable. He held that so long as a house had the accommodation required by the Act, and the police were satisfied it was respectably conducted, the license should be renewed, considering the rent and taxes afforded a sufficient guarantee.

The change in the proceedings of the Commissioners is synchronous with the assumption of the position of their chairman by the new Resident Magistrate, and we have therefore some justification for assuming that he has been the moving spirit in the whole matter.... There is an allegation which has not necessarily any connection with the decision of the Commissioners. It is stated that the chairman has evinced anything but a friendly feeling to the gentleman whose six houses have been closed – that there was a personal difference between them, which in the case of anyone might be considered unfavourable to an impartial judgment.

That being the case, he should have left the decision to the other commissioners; by not doing so it suggested 'that adverse feeling influenced the conduct of the chairman. He should have been keenly solicitous to avoid the possibility of such an imputation' in the public mind. It urged 'the trade' to 'stand shoulder to shoulder' against this 'injustice'.<sup>282</sup>

On the following day, Kenrick sent a telegram to the Minister of Justice, William Rolleston, that this editorial made 'a libellous attack upon me in my capacity as chairman of the licensing court'.<sup>283</sup> Next day, he wrote that its statements 'have evidently emanated from the same malicious hand – that has put forth equally false and libellous paragraphs through the Press and otherwise – reflecting my conduct as a Public officer', and sought

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<sup>282</sup> Editorial, *New Zealand Herald*, 23 June 1880, p. 4.

<sup>283</sup> Harry Kenrick to William Rolleston (Minister of Justice), 24 June 1880 (telegram), Justice Department, J 1, 81/1324, ANZ-W.

permission ‘to take such legal steps as I may be advised – for the purpose of exposing the author of these slanders’.<sup>284</sup> Rolleston responded, ‘It is open to you to take what course you think right on your own responsibility’.<sup>285</sup> A subsequent editorial indicates that he contacted the newspaper privately: ‘As to the conduct of Mr Kenrick there is a direct conflict of statement, but it is due to that gentleman we should state that he repudiates having been influenced by any feeling of hostility to Mr Ehrenfried’.<sup>286</sup> The Auckland evening newspaper, noting that the row over the licensing court had been made ‘the pretext for a personal attack’ on Kenrick, which was unfair because all the commissioners were responsible for the decision, described the *Herald’s* retraction as ‘partial, but not very graceful’.<sup>287</sup>

On 26 June, Ehrenfried wrote to Rolleston about the ‘astonishing decisions’ that meant he would lose over £2,500. ‘The closing of these Houses I unhesitatingly affirm is on the part of the Chairman of the Licensing Bench done as an act of personal hostility to myself (and to my solicitor)’, Brassey, ‘that he held the threat of closing up my Houses over me on an occasion when he quarreled with me on board a public Steam Boat some little time after he arrived here’. All but one commissioner had met privately to decide to close these houses; an enquiry was sought.<sup>288</sup> Rolleston did not oblige.

Three days later, a letter to the editor condemned ‘the ruthless, tyrannical, and cruel way in which an incompetent man or men’ could deprive people of their livelihood. He was pleased the brewers were meeting to discuss this ‘glaring and unwarrantable power assumed’ by these licensing commissioners, and hoped politicians would act to protect ‘the vested interests of property’.<sup>289</sup> This meeting, fearing for their own interests, listened to Ehrenfried attack Kenrick’s ‘peculiar views’ which had inexplicably influenced the other commissioners. ‘Some of the members

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<sup>284</sup> Harry Kenrick to William Rolleston, 25 June 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>285</sup> William Rolleston to Harry Kenrick, 27 June 1880 (telegram), Justice Department, J 1, 81/1324, ANZ-W.

<sup>286</sup> Editorial, *New Zealand Herald*, 30 June 1880, p. 4.

<sup>287</sup> *Auckland Star*, 30 June 1880, press cutting in Justice Department, J 1, 81/1324, ANZ-W [this issue of the newspaper has been lost].

<sup>288</sup> Louis Ehrenfried to William Rolleston, 26 June 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>289</sup> Letter from ‘Biaordo’, *New Zealand Herald*, 29 June 1880, p. 6.

must have changed their minds very soon, or Mr Kenrick must have had some peculiar influence over them'. He understood that at a 'private and secret meeting' they unanimously decided to close 20 per cent of the hotels. When the cases were considered in open court on 1 June, Kenrick announced that they had decided that some would be closed and would not 'hear anything in favour or against the houses'. He insisted the commissioners had gone beyond their power, 'There were men on the Bench who knew nothing about business, and did not know how to deal with business cases that came before them, men who had come to the surface like a cork, by the mere turning of the wheel of fortune. Were their trades and properties to be entrusted to the care of such men?' When the chairman asked if it were true that the commissioners had warned six months previously that they would reduce the number, Ehrenfried said 'if such an opinion had been expressed a very limited publicity must have been given to it'. The meeting unanimously agreed there was no justification for the closures, which were 'injurious to the interests of the public at large'. Ehrenfried would refer the action of the commissioners refusing to hear applicants to the government, with the applicants' total support.<sup>290</sup> In the same issue, the newspaper attacked 'the monstrous course of ruining private property' through the commissioners, none of whom were trained lawyers, taking 'upon themselves to constitute themselves the conservators of what they deemed the public interest', illegally.<sup>291</sup>

After Ehrenfried petitioned parliament, in his evidence to the public petitions committee given on 21 July he stated that, when told he should inform the police which of his hotels should be closed 'I refused to have any of them closed I said that if they came to me like highwaymen and demanded my property I supposed I should be forced to give up my property to them'. Only some of the committee had decided to close the hotels, and as no valid reasons for closure had been given he had no remedy. He claimed that no notice had been given and that under the Act only new licenses could be rejected in this way. As his solicitor had told him he could not appeal to the Supreme Court, he had to appeal to parliament. He claimed there had been no complaints about his houses and pointed out that the number of public houses, formerly 108, had been reduced to 32 or 33, and that only his houses had been closed by a committee that had 'dealt very arbitrarily with me'. He sought both compensation and clarification of the

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<sup>290</sup> *New Zealand Herald*, 30 June 1880, p. 3.

<sup>291</sup> Editorial, *New Zealand Herald*, 30 June 1880, p. 4.

policy, for although deprived of the licenses he was still liable for ground rent. He still had 13 hotels within the borough and some outside it. When asked whether the Bench had showed favouritism to others, he first answered 'No', then changed his answer to: 'I should prefer not to go into that matter'.

Samuel Stephenson, who as secretary of the Licensed Victuallers' Association was its delegate to the committee, stated he was not aware of complaints against the houses closed. The Bench had gone through the list of hotels alphabetically and stated which ones were not required without giving reasons or previous notice of closure. He admitted that there had been some criticisms by the police and that some were not so well conducted. Although no such closures had been made before, he admitted that these were permitted by the Act. Two or three months previously he had overheard a conversation between Ehrenfried and Kenrick, in which the latter 'said something about closing up the houses', which 'very much annoyed' Ehrenfried. He did not consider Kenrick had 'any ill feeling against' Ehrenfried, his action, like that of all the Bench, was 'done wholly on public grounds'. He assumed the members were unanimous and had made up their minds before the hearing for it was generally known beforehand that six hotels would be closed; he agreed the drop in population meant there were too many public houses. He was informed that the police had twice informed Ehrenfried that some would be closed and asking him to nominate those he would prefer closed, and agreed that it was not a surprise to publicans when their houses were closed. As they were wholly dependent on Ehrenfried, he agreed this was 'a very bad system'.

John Sheehan, one of the two local parliamentarians, agreed there was no malice against Ehrenfried, but in outlining the legal issues stated that the commissioners had no right to meet in advance and decide to reduce the number. They should have announced this publicly, and the publicans, not Ehrenfried, should have been informed, because they held the licenses.

On the following day, William Rowe claimed this arbitrary act had taken away the livelihood of working men who had become publicans. He was 'personally interested' in one of the houses, Ehrenfried leasing his land for 'one of the best hotels in the whole Colony', the Nil Desperandum. He denied there had been any criticisms of the hotels and claimed there was considerable dissatisfaction over their closures, of which the publicans had

received no prior notice.<sup>292</sup> (Rowe, a prominent miner, had been a member of both the provincial council and parliament.<sup>293</sup> As an example of the moral character of some of Kenrick's most prominent opponents, when a member of parliament he had been seen travelling from Wellington to Thames in the company of a prostitute.<sup>294</sup> In February 1881 he was sentenced to 48 hours' imprisonment for stealing two shillings from the till of a Wellington hotel, having been suspected of stealing earlier; his excuse was that being a heavy drinker he too drunk to know what he was doing.)<sup>295</sup>

On the following day, 23 July, Kenrick sent a telegram to the committee pointing out that the licensing court in September 1879 and later had announced it would reduce the number of hotels in June 1880,

they being far in excess of the requirements of the population - Those offering least accomodation or which from situation or other causes least suitable to be done away with. The number decided to be reduced before examining police report was 20 per cent on whole (10); this number on examination of list was reduced to 7 solely because it was thought that if carried out it would press heavily on Mr Ehrenfried.

The owners, meaning the brewers, were asked to provide a list of 'houses which it would injure them least to close so that the duty of the licensing court might be made to clash as little as possible with the interests of the owners. Mr Ehrenfried furnished the names of five'. All these were closed plus one more of his 'after examination of police report and before the sitting of the Court', and at the sitting he gave notice of

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<sup>292</sup> Evidence to Public Petitions Committee, 21-22 July 1880, Petition 183, Legislative Department, LE 1, 1880/11, ANZ-W.

<sup>293</sup> See *Auckland Star*, editorial, 12 September 1875, p. 2, 8 January 1876, p. 2, 3 July 1886, p. 2; *Thames Star*, 1 April 1875, p. 2, 20 April 1875, p. 2, 3 November 1875, p. 2, 29 December 1875, p. 2, letter by 'Birds'-Eye', 22 August 1879, p. 2, 3 July 1886, p. 2; Edward Harvey, 'A Pioneer Ancestry: A notable uncle in New Zealand: William Rowe of Thames', P q920 ROW HAR 1967?, Alexander Turnbull Library, printed in *Ancestor* (December 1971), pp. 6-13; *New Zealand Parliamentary Record 1840-1949*, ed. G.H. Scholefield (Wellington, 1950), pp. 136, 186.

<sup>294</sup> Peter E. Cheal, untitled reminiscences of the Thames goldfield, n.d., no pagination, Cheal Papers, 85/106, folder 1, MS 1319, Library of the Auckland Institute and War Memorial Museum.

<sup>295</sup> *Thames Star*, 16 February 1881, p. 2.

adjourning for ten days to let the licensees object. Ehrenfried complained about the closing of two of his houses. 'Police reported adversely to all places closed, our only difficulty was to select when so many were unsuitable belonging to one owner'. The committee had acted out of a 'sense of public duty & whilst anticipating that some unpleasantness would most probably ensue they certainly were not prepared to find that personal feeling would be carried so far as to injure them in their private capacity'. He cited one of them who had 'suffered severely in his business having to resign a valuable shipping agency in consequence of the animus displayed towards him by Mr Ehrenfried'.<sup>296</sup>

The Colonial Secretary's office informed the committee that licensing courts were required to consider whether hotels were necessary.<sup>297</sup> The committee determined that as the court had acted according to the Act and in 'good faith and in the public interests' it could not recommend overriding its decision.<sup>298</sup>

#### BRASSEY VERSUS KENRICK: THE FIRST ATTACKS

In June 1880, George Nathaniel Brassey defended men accused of not having miners' rights. When Kenrick imposed the nominal fine of one shilling, Brassey 'said he must say that he considered the thanks of the public were due to Mr Kenrick for his decisions in these two cases. – The Warden acknowledged the compliment'.<sup>299</sup> A subsequent case in the magistrate's court ended less amicably. When Patrick Trainer sought payment by Campbell of his solicitor's fees, evidence revealed McIlhone had encouraged Trainer to take this action. When Kenrick did not award these costs, as Trainer's solicitor, Brassey, wanted, the latter 'protested. – The Court said it was no matter what he thought. He could say what he liked out of the Court, but not in'.<sup>300</sup> Another account had Brassey saying 'I think'

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<sup>296</sup> Harry Kenrick to Chairman, Public Petitions Committee, 23 July 1880, Petition 183, Legislative Department, LE 1, 1880/11, ANZ-W.

<sup>297</sup> Under-Secretary, Colonial Secretary, to Chairman, Public Petitions Committee, 27 July 1880, Petition 183, Legislative Department, LE 1, 1880/11, ANZ-W.

<sup>298</sup> 'Public Petitions Committee', *AJHR*, 1880, I-1, p. 9.

<sup>299</sup> Warden's Court, *Thames Advertiser*, 12 June 1880, p. 3.

<sup>300</sup> Magistrate's Court, *Thames Advertiser*, 12 June 1880, p. 3.

before Kenrick interrupted: 'You have no right to comment on the judgment of the Court. You can do so outside, but not in'.<sup>301</sup>

Immediately afterwards, Brassey wrote a letter to the morning newspaper which it published as an advertisement. Citing Kenrick's remarks that he could comment outside the court, he stated this was the first time since becoming a solicitor that he had considered it his duty 'to take up a challenge thrown out by the Bench'. Kenrick's poor decisions in two cases were 'in keeping with' his 'arbitrary course', and from the 'numerous other instances' he mentioned but did not cite he argued it was 'extremely desirable' that 'professional men' be appointed as magistrates.

Mr Kenrick's conduct may, and no doubt will, if persisted in, be attended with serious consequences to my clients, and will possibly necessitate my having to petition the House for redress, a course I should be loath to pursue, but will undoubtedly pursue if trifled with in the manner I have been lately. The course of action adopted by Mr Kenrick, and the apparent animus displayed to Messrs Ehrenfried, McIlhone, Greenville and others, is anything by agreeable to the people of this community, who have hitherto been free from strife, and have held liberal ideas, and cannot but be condemned by those immediately affected by his whims and fancies. It is to be hoped that before long the Government will see their way to give the sapient expounder of law and justice a quiet suburban retreat, where an occasional "drunk" will be the limit of his jurisdiction.<sup>302</sup>

William Sowersby Greenville was a battery owner.<sup>303</sup> 'Miss Quickley' considered that Brassey had been too modest:

Now, it he would try to overcome this excessive bashfulness and say boldly: "I am the proper person to be given a billet; look at my abilities how great they are; I am not above asking, and would take anything that would lift me out of the obscurity of necessary work. I do not care about the Coroner's job; something more refined – that is, without so much to do for the pay – say R.M. or District Judge, or any good thing where the work is mostly put out. I have tried all sorts of things to obtain notoriety, - Liberal Association, goat bye-laws, Hauraki Engineers, loss of temper in court, and making an exhibition of my versatile talents in various ways, without that success which would repay me. I am now

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<sup>301</sup> Magistrate's Court, *Thames Star*, 11 June 1880, p. 2.

<sup>302</sup> Letter from G.N. Brassey, *Thames Advertiser*, 12 June 1880, p. 3.

<sup>303</sup> 'Reports of Gold Fields Committee', *AJHR*, 1880, I-3, p. 3.

carrying round a petition which will fade if too much light shines upon it, and I hope it will do me good.<sup>304</sup>

‘Justice’ considered this letter came with ‘singular grace and propriety from a disappointed, would-be R.M.’<sup>305</sup> This jibe was accurate. Earlier in the year, when Brassey had applied to be appointed a magistrate, he was told there were ‘no contemplated appointments’.<sup>306</sup> Clearly Brassey had told others of his ambition. ‘Justice’ warned him to ‘avoid the thunderbolt that is being prepared to hurl him from his seat, and send him to ruralise amongst the victims of Ehrenfried’s XXX’.<sup>307</sup>

## PETITIONS

On 12 June, the *Thames Star* published a letter expressing disgust at the ‘petty ebullition of surplus spleen’ published in the morning paper.

I also experienced a great feeling of satisfaction at finding that the members of the ring who formerly tried to rule our destinies feel their dismemberment. Mr Kenrick’s honest, open, course has been mainly instrumental in consummating this happy state of things, and every right thinking man must hold our R.M. in the highest esteem, and if necessary defend him from the attack of mean snarling curs ever ready to bite a good man behind his back. I hear that the Mc., B. and F. confederation are secretly getting up a petition asking for Mr Kenrick’s removal, but now that the secret strength of the ring, the “discretionary power,” has been taken away, I do not think they will get many to have a hand in it.<sup>308</sup>

Those referred to were clearly McIlhone, Brassey, and Fraser. The newspaper responded by noting that the petition was being ‘clandestinely circulated’.

The cause that cannot bear looking at by the light of day must be a poor one, and the reasons for the wished-for change are

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<sup>304</sup> Letter from ‘Mistress Quickley’, *Thames Advertiser*, 15 June 1880, p. 3.

<sup>305</sup> Letter from ‘Justice’, *Thames Advertiser*, 15 June 1880, p. 3.

<sup>306</sup> Under-Secretary, Justice Department, to G.N. Brassey, 16 February 1880, Letterbook, p. 690, Justice Department, J 5/34, ANZ-W.

<sup>307</sup> Letter from ‘Justice’, *Thames Advertiser*, 15 June 1880, p. 3.

<sup>308</sup> Letter from ‘Junius’, *Thames Star*, 12 June 1880, p. 2.

evidently of too mean a nature to be placed under the eye of the public. The “gentlemen” mixed up in the matter have probably some spite to gratify, and their vindictiveness knows no bounds, and from the manner in which they are circulating the petition, it is clear they will stoop to any means, no matter how degrading, to pay a grudge which they have, but which although caused in the interest of the public has not failed to awaken in them feelings more in keeping with people of the Bill Sykes tribe, than with persons claiming a respectable position in society. We are surprised that such a petition should have been circulated, and we trust that the good sense of Thames people will preclude them sympathising with a league of malicious individuals whose only cause of action is their contemptible and low-minded nature, and that they will not countenance the disgraceful proceeding by affixing their signatures, and so tarnishing their good name.<sup>309</sup>

Behind the scenes, Kenrick had taken steps to defend himself. On 3 June, a member of the Coromandel licensing court wrote to him after being shown a telegram from Brassey stating that 700 people had signed the petition and asking John Uncles, a publican,<sup>310</sup> to collect more. Uncles told him that ‘he had received indirect offers of support and assistance in obtaining signatures from the courthouse officials’. The writer sent Kenrick this information because he had a ‘decided objection to foul play’ and thought Kenrick was ‘not fairly treated’.<sup>311</sup> Immediately after he received this, Kenrick made a note on it: ‘Personally I have only an official acquaintance with him, and up to the present time – have had reason to believe that he bore me some ill will – having been a disappointed litigant in my Court at Coromandel and having publicly expressed his feelings of ill will afterwards towards myself’.<sup>312</sup> He then wrote to the Under-Secretary of the Justice Department about several petitions being ‘hawked about’ seeking his removal, and enclosing this letter showing that ‘allegations – twisted and distorted as they clearly are – are grounded on official correspondence with your department and could only have been gathered from official sources – It is a matter of public notoriety that Mr Brassey and Mr McIlhone ... are the authors of the whole affair’. Some of the cases cited

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<sup>309</sup> *Thames Star*, 12 June 1880, p. 2.

<sup>310</sup> See advertisement, *Thames Star*, 1 July 1881, p. 1.

<sup>311</sup> D.B. McDonald to Harry Kenrick, 3 June 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>312</sup> Harry Kenrick, note, n.d., on D.B. McDonald to Harry Kenrick, 3 June 1880, Justice Department, J 1, 81/1324, ANZ-W.

to prove his 'ignorance of law' were heard at Coromandel, where Brassey was the counsel for the 'disappointed litigants', and were unknown to Thames residents 'as they were never reported publicly'. As he had been told that, as the petitions would not be sent to Wellington, he could not respond to their 'malicious statements', he asked whether he was able to take official notice of petitions that were dropped. He wanted to expose the source 'from where official information – that should have been private' had come.<sup>313</sup>

Five days later, Kenrick wrote to inform the department that the petition had been withdrawn and another would be sent to parliament instead. He still wanted to find out who had provided the official information: 'Can I as a Govt Officer – take the initiative and call upon them to do so?' Although Brassey claimed 700 had signed, 'scarcely a hundred' had.<sup>314</sup>

Four days later, the *Thames Advertiser* published a letter from an unnamed correspondent reporting a petition being 'hawked about' seeking Kenrick's removal. In a clear attack on Fraser, the writer explained the 'true reasons for this request':

He is not a gambler; does not get drunk, or frequent sundry fashionable public houses, and cannot be influenced by any of the usual means to give judgments as certain people require who have hitherto been all-powerful in these matters. Since he has been here justice has ceased to be a farce; on the contrary, it has been dispensed according to common sense, but invariably tempered with mercy, and anyone can now take a disputed case into the court with the full confidence that it has not been settled before hearing it. The promoters of this underhand petition know this, and dare not openly ask for signatures, but are obliged to carry it round surreptitiously, asking those only whom they think to influence by fear or favour; therefore I beg to suggest that a counter-petition be got ready without delay. It will be signed by all honest men at the Thames, although not by Quirk, Gammon, and Snap.<sup>315</sup>

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<sup>313</sup> Harry Kenrick to Under-Secretary, Justice Department, 5 June 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>314</sup> Harry Kenrick to Under-Secretary, Justice Department, 10 June 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>315</sup> Letter from 'a correspondent', *Thames Advertiser*, 14 June 1880, p. 2.

(The latter were clearly meant to be corrupt lawyers: gammon meant humbug, and snap a cheat.)<sup>316</sup> The following day, a storekeeper who had heard a rumour about a petition a month previously called upon ‘all lovers of righteousness’ to oppose it by holding a public meeting and organizing a counter-petition. ‘The late ring is now broken, but the fragments still exist and may yet be joined up together and then – what? Why revenge. We had a dastardly specimen the other night of this kind of thing’ (referring to a ‘murderous assault’ on Campbell).<sup>317</sup> ‘Many illegal acts, if not revengeful acts, have been done at the Thames under the wing of officialdom. The evil birds are still lively though the nest is routed and they have lost their plumage, but they require watching lest they do harm’.<sup>318</sup> A Hikutaia resident reported that the petitions being circulated by ‘the Colonel and his friends’ were ‘abortions, so far as the Hikutaia settlers are concerned’, being signed only by some drunk gum-diggers and a young boy. He praised the closing of the ‘low drinking dens’ and their ‘adulterated liquors’.<sup>319</sup>

‘Justice’ commenced his letter with a quote from St John: ‘Men loved darkness rather than light because their deeds were evil’. This verse was ‘a singularly fit and complete answer to the question’ of why some people were ‘clandestinely circulating a petition’ for the removal of ‘our respected R.M. These “gentlemen” have been working quietly for some weeks past, keeping dark and aloof from the respectable and unbiased portion of the public’, but by seeking signatures ‘from law-abiding citizens, and men of honor’, their actions had become visible. He considered it unnecessary to organize a counter-petition, as ‘the promoters of the “dark” one’ were ‘pretty well known’ and ‘their aims and objects understood’.

Our worthy R.M. was dispensing justice when those who presume to criticise him were rejoicing in their new knickerbockers and subject to maternal correction with the slipper. Mr Kenrick’s character will bear the strictest investigation. I feel proud of such R.M.’s; but integrity, sobriety, and honour do not suit a class given to evasion of justice – one who can drink, gamble, and bet, would be more acceptable to people of crooked ways.<sup>320</sup>

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<sup>316</sup> Eric Partridge, *A Dictionary of Slang and Unconventional English*, 8 ed., ed. Paul Beale (London, 1984), pp. 444, 1100.

<sup>317</sup> *Thames Star*, 11 June 1880, p. 2.

<sup>318</sup> Letter from William Wood, *Thames Star*, 15 June 1880, pp. 2-3.

<sup>319</sup> Letter from Henry Alley, *Thames Star*, 15 June 1880, p. 3.

<sup>320</sup> Letter from ‘Justice’, *Thames Advertiser*, 15 June 1880, p. 3.

On 19 June, the *Thames Star* obtained a copy of the petition 'being promulgated by a man named Sandy Hanlon', otherwise Alexander Hanlon, a carpenter.<sup>321</sup>

The manner of obtaining signatures to it shows the carelessness with which it is circulated, and the glaring deceit practised in getting it signed. It will be remembered that at the present time a petition is being circulated for signature for the reseating of Sir George Grey for Christchurch, and the unseating of Mr Richardson. Sandy has made a good thing out of this, and uses it to gain names for the present petition. He carries a copy of the petition in his pocket and never brings it out unless sure of obtaining a signature. He goes up to a gentleman, and with the utmost serenity of demeanour, asks him if he is "on the electoral roll." The gentleman referred to, being aware of the petition in connection with Sir George Grey, and being deceived by the *suaviter in modo* [pleasantness] of the applicant, replies "Yes;" "Then," says the hawking collector, "put your signature to this petition." The gentleman takes hold of it, but the wary Sandy fearful of having its purport disclosed says, "Oh never mind reading it, it is too long to read," and so obtains the signature of the unwary elector. This is the mode in which the petition has been circulated, and a more deceitful one could not have been adopted.

The newspaper understood that 'a legal gentleman intimately connected with the petition', clearly Brassey, had 'expressed a wish "That he could put things right with Kenrick, but he couldn't see his way to do it" '. It then printed the reasons given for requesting Kenrick's removal:

That he tried to deprive the Inspector of Mines of the Office of Inspector of Coal Mines.

That he tried to deprive the Inspector of Miners' Rights of the office of Inspector of Miners' Rights.

That he attempted to remove the Coroner from his office of coroner.

That he commented on the way certain professional gentleman conducted their cases in Court.

That he frequently left his office at one o'clock, and did not again return, much to the inconvenience of the public.

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<sup>321</sup> See *Thames Electoral Roll, 1880*, p. 19; *Thames Advertiser*, 14 August 1875, p. 2, 7 January 1878, p. 3, 9 March 1880, p. 2, Ohinemuri County Council, 19 January 1886, p. 3.

That he held eccentric views with regard to the licensing question.

That he was not sufficiently well acquainted with legal knowledge to adjudicate.

(The cases of Roberts v. Short, Greenville v. Mann, and of a woman at Coromandel for sly grog selling, were mentioned in support of this statement.)

That in case of the removal of the R.M., only a professional man should be appointed as Resident Magistrate.

That the present Magistrate has a great lack of legal knowledge.

That the present R.M. said that a gentleman who had been made a J.P. had no right to be a Justice of the Peace, and that Mr Kenrick had endeavored to remove him from the Commission.

The newspaper pointed out that all the cases cited were ones in which Brassey had 'appeared unsuccessfully, and the allusions to the coroner and the next Resident Magistrate clearly point to him'. After leaving it 'to our readers for their approval or condemnation', it quoted a strophe, based on *H.M.S. Pinafore*, sent by 'an erratic correspondent':

And this is the petition  
 Made 'gainst the upper crust  
 By one of low condition.<sup>322</sup>

Letters to the editor deplored how signatures had been obtained, one claiming that 'honourable men who have read it have in all cases positively refused to be parties to it'.<sup>323</sup> 'Critic' went through each item of the petition to show how Kenrick's actions could be justified. The removal of McIlhone, by Campbell not Kenrick, was 'meritorious' because he had defrauded the government for several years. 'It is well known his friends, single men, were allowed by him to work without rights, but woe betide the man he had a down on – he must take his month in gaol, be he ever so unable to pay his pound, and his family left destitute'. If Kenrick had attempted to remove Brassey as coroner 'he did perfectly right. It has been a mystery to the *respectable* inhabitants however any Minister could have appointed so unfit a man in every way to the office'. Kenrick was right to comment on how lawyers conducted their cases, 'especially if they imitate the warblings of the Australian laughing jackass, or exhibit the antics of the monkey'. While he might leave the office for lunch, he could not be found in hotels

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<sup>322</sup> *Thames Star*, 19 June 1880, p. 2.

<sup>323</sup> Letter from 'Eclipse', *Thames Star*, 23 June 1880, p. 2.

discussing the cases and ‘taking instructions how to decide’, nor ‘staggering around the town in a state of inebriety’. ‘Critic’ also lashed Brassey’s pretensions to legal knowledge and ambitions to become a magistrate.<sup>324</sup>

The under-secretary advised Rolleston that he did not think Kenrick ‘need take any notice’ of the petition, adding that McIlhone ‘leaves the service I hear at the end of this month’. Rolleston agreed: ‘Certainly take no notice’.<sup>325</sup> Kenrick was sent Rolleston’s opinion, ‘which no doubt you wd. value. Please note and return’.<sup>326</sup> Kenrick returned it, ‘with many thanks’, and informed the under-secretary that ‘my friend Mr Brassey has at last sent his Petition in ... I will say nothing further on the subject’ because he expected it would lead to an enquiry when he would have the opportunity, so far denied, ‘of meeting publicly these malicious Slanders’.<sup>327</sup> A week later, he told Rolleston: ‘Will wait the result of the investigation into charges preferred in various petitions. The expose will save the expense of litigation’.<sup>328</sup>

By late June, the *Thames Advertiser* understood that ‘upwards of 500 signatures’ had been obtained.<sup>329</sup> A week later, ‘Daylight’ urged those claiming not to have signed, nor to have authorized others to sign for them, to reveal who had forged their signatures and thereby ‘put themselves right with the honourable portion of the community’. He clearly did not believe their protestations, for they were ‘in constant communication with the promoter’, who had not forged their signatures.<sup>330</sup>

On 12 July, all the justices of the peace passed a resolution that Kenrick performed his duties ‘with unusual care, impartiality, and ability’ and that ‘his conduct as a private citizen is exemplary’. The allegations contained in the petition were ‘contradicted by’ their experience, and as the

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<sup>324</sup> Letter from ‘Critic’, *Thames Star*, 23 June 1880, pp. 2-3.

<sup>325</sup> Under-Secretary, Justice Department, to William Rolleston, 26 June 1880; William Rolleston to Under-Secretary, Justice Department, 26 June 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>326</sup> Under-Secretary, Justice Department, to Harry Kenrick, 1 July 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>327</sup> Harry Kenrick to Under-Secretary, Justice Department, 12 July 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>328</sup> Harry Kenrick to William Rolleston, 20 July 1880 (telegram), Justice Department, J 1, 81/1324, ANZ-W.

<sup>329</sup> *Thames Advertiser*, 29 June 1880, p. 2.

<sup>330</sup> Letter from ‘Daylight’, *Thames Advertiser*, 9 July 1880, p. 2.

district 'would sustain a very great loss by his removal' they sent their views to the government.<sup>331</sup> Joseph Kilgour informed the minister that all the justices believed Kenrick performed his duties 'with unusual care impartiality and ability that his conduct as a private citizen is exemplary', and that the allegations in the petition were 'contradicted' by their experience. 'The town and district would sustain a very great loss by his removal'.<sup>332</sup> All the lawyers in the town bar Brassey denied the latter's claim that Kenrick displayed 'animus' to lawyers. There was 'no foundation whatever for making the statements', and they testified to 'the straightforward and impartial manner' in which he did his duty and 'his uniform courtesy and his apparent anxiety to do full justice to all parties'. They asked Rolleston to show their letter to all parliamentarians.<sup>333</sup>

Two days later, there was a 'large and influential attendance' representing 'all classes of the community' at a meeting opposing the petition. One speaker, despite losing his cases in the licensing court, stated that Kenrick was impartial, and another said a 'wealthy clique' opposed him over hotel licenses. The meeting unanimously supported the resolution passed by the justices of the peace and decided to organize a public meeting.<sup>334</sup> The chairman of the meeting informed the minister that the meeting had comprised about 200 professional and businessmen, who unanimously expressed confidence in Kenrick's 'strict impartiality'.<sup>335</sup> On the same day, a Coromandel solicitor explained that two of the largest shareholders in the Bright Smile Company had told him the company was appealing against Kenrick's decision 'not on account of the equity and fairness of the Judgments which they both admitted but merely to gain time'. And in a case of sly grogging the evidence could not be clearer. As he had never seen Brassey nor anyone else 'treated on any but the most courteous and impartial manner', the charge of 'animus' against the legal

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<sup>331</sup> *Thames Advertiser*, 13 July 1880, p. 2.

<sup>332</sup> James Kilgour to William Rolleston, 12 July 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>333</sup> H.E. Campbell, J.E. Dodd, and J.A. Miller to William Rolleston, 12 July 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>334</sup> *Thames Advertiser*, 15 July 1880, p. 3.

<sup>335</sup> William Carpenter to William Rolleston, 15 July 1880, Justice Department, J 1, 81/1324, ANZ-W.

profession was 'wholly unfounded'.<sup>336</sup> The following day, the chairman of the Coromandel County Council told Rolleston he was prepared to state on oath that sly grogging did take place and Kenrick's decision was 'a just one'.<sup>337</sup> Also on that day, the chairman of the Thames County Council informed the Justice Department that he could 'supply additional evidence to uphold decision of R.M. in sly grog selling case mentioned in petition'.<sup>338</sup>

A *Thames Advertiser* editorial stated that the promoters of the petition had attended the courthouse to obtain the signatures of 'disappointed suitors, discharged criminals, and drunkards' as well as seeking signatures at Coromandel, Ohinemuri, 'and elsewhere'. Those supporting the petition were 'a few disreputable persons, loose characters and such like ilk'.

We know one citizen who signed the petition when he was smarting under an adverse judgment, and because the tempters were at his heels, and took him in the nick of time. That citizen has since seen fit to cut off his right hand as a punishment for his folly, and is only consoled with the assurance that an opportunity will be afforded him of proclaiming his recantation.

The newspaper agreed with the pro-Kenrick meeting that a counter-petition was 'unnecessary, and would be attaching an importance to ninety-eight nonentities which they would not otherwise receive'.<sup>339</sup> The following day it published 'The Black List!' of those who had signed; and indeed, it included few pillars of the community.<sup>340</sup> In Wellington, stories circulated about how signatures were obtained. 'One of the petitioners requested that his name should be withdrawn, inasmuch as he had been induced to sign it on the representation that it was to make Mr McIlhone, who had been a good friend to him, Mayor of Grahamstown, and that he deserved some recognition from the Thames people'.<sup>341</sup>

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<sup>336</sup> James Carnell to William Rolleston, 15 July 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>337</sup> A.J. Cadman to William Rolleston, 16 July 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>338</sup> Chairman, Thames County Council, to Under-Secretary, Justice Department, 16 July 1880, Justice Department, Register of Inwards Correspondence, J 2/1, 80/3326, ANZ-W.

<sup>339</sup> Editorial, *Thames Advertiser*, 15 July 1880, p. 2.

<sup>340</sup> *Thames Advertiser*, 16 July 1880, p. 3.

<sup>341</sup> *Thames Advertiser*, 31 July 1880, p. 3.

On 15 July, parliament considered a motion by Sir George Grey, who held one of the Thames seats, that a committee be appointed to consider Ehrenfried's petition against closing his hotels. After a long debate, the motion was defeated.<sup>342</sup> Thomas Dick, the Colonial Secretary and later Minister of Justice, in opposing the appointment of a committee noted that, for a population of about 5,000, Thames had 44 public houses, half owned by Ehrenfried, and wondered whether anyone should have so many, or even more than one.<sup>343</sup> An Auckland politician, William James Speight, an opponent of the drink trade, who claimed to know the issues and 'the petitioner intimately', also opposed setting up a special committee.

They were told that the magistrates had done something harsh. Would any one who had read the existing Act tell the House that the magistrates had not the power to act as they had done under the law? If they had the power to do so, why blame them? If the proceeding was wrong, alter the law; but do not blame the magistrates.

Fraser had believed that anyone being 'willing to deposit £40 for a license-fee was proof of the necessity for the existence of the house'. In contrast, Kenrick considered there were too many houses and had given 'fair notice' that he would reduce the number. 'If persons entered into this trade knowing what the state of the law was, they must be prepared for the consequences', for renewals of licenses was at the discretion of the magistrates. Speight noted that there was a petition for Kenrick's removal 'because he had dared to carry out the law in a manner in which he was quite entitled to carry it out'.<sup>344</sup> The day after this debate, an Ohinemuri correspondent praised Kenrick for closing six of Ehrenfried's hotels and hoped he would close two in Paeroa.<sup>345</sup>

On 16 July, Dr James Kilgour<sup>346</sup> chaired a 'very largely attended and enthusiastic meeting'. (Kilgour later admitted being Kenrick's friend.)<sup>347</sup> He

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<sup>342</sup> *New Zealand Parliamentary Debates*, vol. 36, 15 July 1880, pp. 252-262.

<sup>343</sup> Speech by Thomas Dick, *New Zealand Parliamentary Debates*, vol. 36, 15 July 1880, p. 258.

<sup>344</sup> Speech by W.J. Speight, *New Zealand Parliamentary Debates*, vol. 36, 15 July 1880, p. 259.

<sup>345</sup> Ohinemuri Correspondent, *Thames Star*, 16 July 1880, p. 3.

<sup>346</sup> See *Thames Advertiser*, 21 September 1897, p. 2; *New Zealand Herald*, 21 September 1897, p. 5; *Cyclopedia of New Zealand*, vol. 2, p. 286.

praised Kenrick's 'honesty, integrity, and impartiality', as did other prominent members of the community. It was claimed 'a large proportion' of the 98 signatories 'had simply signed owing to irritation caused by the loss of some trifling case' and now 'bitterly repented' their action. Others had signed not knowing what they were signing, whilst others believed they had been signing something else; names of those who had unwittingly signed were given. Kenrick was only doing his duty in upholding the law concerning miners' rights. It was argued that all three petitions were produced by the same person, meaning Brassey, whose petition that he would be forced to leave if Kenrick was not removed 'meant either Brassey or Kenrick must leave the Thames. (Roars of laughter)'. A motion that the meeting had 'entire confidence' in Kenrick and praising his 'strict impartiality' was proposed, to 'loud cheers'. Before it was put to the vote, Kilgour asked whether anyone wished to speak. Calls of 'Brassey, Brassey' going unanswered, McIlhone rose to explain his actions over miners' rights. He considered Kenrick had rushed his investigation and by telling the government that McIlhone's position was not needed had taken away 'his bread and butter'. His amendment that, as the petitioners 'allege they can substantiate' their charges, the meeting take no action 'pending an enquiry', was seconded by Greenville, who denied any animosity towards Kenrick but wanted a more competent person appointed.

I know a good deal about mining legislation, and know that Kenrick is not capable of dealing properly with such a matter. (A voice: "You must be a judge." Laughter.) Since he has been here I have seen him do two or three base acts of injustice. (Voices: "Query." "Too square," ['honest and upright']<sup>348</sup> and uproar.) This I do know, that he has done me and others a base injustice ("No, no"). A large amount of this is not his fault. He does not know how to deal with the working miner. (Cries: "Yes he does.") They all have now to pay a tax of £1 a year. (A voice: "It is not his fault. The law was made before he came here.")

Greenville blamed Kenrick for miners' rights having to be paid, prompting further interjections. 'Such a law was not in force before he came here. (Cries: "It was," and uproar)'. To protests that he was airing a private

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<sup>347</sup> *Thames Advertiser*, 22 June 1881, p. 2.

<sup>348</sup> Jonathon Green, *The Cassell Dictionary of Slang* (London, 1998), p. 1128.

grievance, he continued to state his case, claiming that the case for Kenrick was ‘a miserable failure’.<sup>349</sup>

Brassey then stepped onto the platform to ‘cheers, mingled with hisses and great shouting’ or, alternatively, ‘derisive cheers and hisses’.<sup>350</sup>

He considered himself as much respected on the field as the R.M. He had never taken any action in which he was interested without hitting straight from the shoulder. (Opposition cheers.) That the R.M. was not capable of giving legal decision everyone knew. (“No.” Cries of “Miller don’t say so”). [James Armstrong] Miller [a solicitor]<sup>351</sup> may go to \_\_\_\_\_. If the meeting entrusted him with a case and it was lost through the R.M.’s lack of legal knowledge would it not be his duty to ask for an enquiry into the matter? (A voice: “How about goats having collars.”)

After Kenrick deprived McIlhone of discretionary power over miners’ rights,

over 150 persons had been compelled to take out Miners’ Rights, and this had caused great hardship. He could mention some who were compelled to do so, who made their bread from bran. (Name one.) (No, no.) Had these gentlemen who called the meeting a right to call those men who signed the petition blacklegs. (Yes.) They were as much respected as Mr Kenrick.

Comments about one case was greeted with ‘“You’re no legal authority anyhow, Brassey.” Roars’. He claimed that one of the speakers was Kenrick’s landlord ‘and it was necessary that he should keep on good terms. (Shut up.) He had great pleasure in supporting the amendment’.<sup>352</sup> After two other men were shouted down, the resolution was passed by ‘a very large majority, about 150 hands being held up for the amendment’.<sup>353</sup>

Subsequently, Greenville claimed that because of Kenrick’s decisions ‘most people will prefer to put up with an injustice rather than go before him, and that being the case, there must be an end to investments in mining speculations on this field’. After explaining how Kenrick unfairly gave another man the right to use his tunnel at Hape Creek, he argued that

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<sup>349</sup> *Thames Advertiser*, 17 July 1880, p. 3.

<sup>350</sup> *Thames Advertiser*, 17 July 1880, p. 3; *Thames Star*, 17 July 1880, p. 2.

<sup>351</sup> See *Cyclopedia of New Zealand*, vol. 2, p. 876.

<sup>352</sup> *Thames Star*, 17 July 1880, p. 2.

<sup>353</sup> *Thames Advertiser*, 17 July 1880, p. 3.

Kenrick proved the truth of ‘the old saying, put a beggar on horseback, &c’. As he had ‘caused a great deal of distress’ by insisting miners pay for the right to mine, Greenville preferred McIlhone’s ‘just and charitable’ waiving of this requirement during the previous ten years.<sup>354</sup>

According to the *Observer*, ‘miners, as a class, are always ready to insist upon fair play, so the bulk of them refused to be led by the agitators’. The petition could not obtain even a hundred signatures, and ‘the “petition of the ninety eight” was laughed out of the House as one of the most complete of fiascos’.<sup>355</sup> On 5 August, the Gold Fields Committee reported that it did ‘not consider it necessary to make any report upon the merits of the petition’, and expressed ‘a very strong opinion that the Petitions Classification Committee’ should report whether petitions alleging serious charges against officials had any evidence to support them. ‘In this case no such evidence has been tendered, while the officer complained of has been exposed to the serious evil of publicity having been given to unsupported charges of maladministration, quite possibly originating from feelings of cowardly maliciousness’.<sup>356</sup> When James Bickertson Fisher, the member for Buller, presented the report to parliament, he stressed that nobody had appeared ‘in support of the petition, and not a tittle of evidence was given to sustain the charges’. The committee considered that such charges should not be made ‘unless the persons making them were prepared to support them. It was a very cowardly way of attacking a man behind his back, and the Committee expressed very strongly their disapprobation of the course adopted by the petitioners’.<sup>357</sup> Rolleston thanked the committee for its views, for he ‘felt very strongly upon a matter of this kind’, because similar complaints, similarly ‘unsupported by facts’, were being made against other judicial officers. If the latter made mistakes, ‘the law provided a remedy’; it was ‘most unfortunate’ that these complaints occurred ‘without proper reason’.<sup>358</sup>

Other petitions fared equally poorly. In response to Ehrenfried claiming a loss of £2,750 and publicans stating they had been ‘ruined’ and should be granted ‘relief’, the petitions committee noted that the licensing court had announced in September 1879 that the number of licensed houses

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<sup>354</sup> Letter from W.S. Greenville, *Thames Advertiser*, 20 July 1880, p. 3.

<sup>355</sup> *Observer*, 19 December 1903, p. 5.

<sup>356</sup> ‘Reports of Gold Fields Committee’, *AJHR*, 1880, I-3, p. 2.

<sup>357</sup> *New Zealand Parliamentary Debates*, vol. 37, 6 August 1880, pp. 152-153.

<sup>358</sup> *New Zealand Parliamentary Debates*, vol. 37, 6 August 1880, p. 153.

would be reduced in the following year ‘as they were far in excess of the requirements’, and had received legal advice confirming it had acted appropriately.<sup>359</sup> The committee told a woman who claimed Kenrick had ‘improperly dismissed’ her case against the father of her illegitimate child that new evidence enabled it to be reheard.<sup>360</sup> Responding to Greenville’s claims that Kenrick had made two wrong decisions affecting him owing to his ‘ignorance of the law’, the Gold Fields Committee considered he had not ‘exhausted his legal remedy’.<sup>361</sup> As for Brassey’s claim that Kenrick had ‘seriously injured’ his business as a solicitor, it regretted he had provided no evidence to support these ‘unspecified charges’.<sup>362</sup>

At the end of the year, Brassey stood for mayor, obtaining 252 votes compared with the victor’s 326.<sup>363</sup> What some Thamesites thought of him, his supporters, and his behaviour towards Kenrick may be indicated by extracts from a doggerel poem about this election:

There is a brat, a natty brat,  
A man of some renown,  
And he has long aspired to be  
The Mayor of Grahamstown.

This natty bat was bald at pate,  
With whiskers long and “sassey,”<sup>364</sup>  
A curled moustache – a deuced swell,  
His name, Nathaniel B\_\_\_\_y.

He liked to make a jolly row,  
And brought the town in bad repute.  
He sent his prayers to Wellington;  
He was so very cute....

“I’ll get the votes of boozing Bill,  
“And Dick, and Tom, and Harry.  
“And Bill Bacullough’s<sup>365</sup> just the man  
“The election for to carry.

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<sup>359</sup> ‘Reports of Public Petitions Committee’, *AJHR*, 1880, I-1, p. 9.

<sup>360</sup> ‘Reports of Public Petitions Committee’, *AJHR*, 1880, I-1, pp. 15-16.

<sup>361</sup> ‘Reports of Gold Fields Committee’, *AJHR*, 1880, I-3, p. 3.

<sup>362</sup> ‘Reports of Gold Fields Committee’, *AJHR*, 1880, I-3, p. 3.

<sup>363</sup> *Thames Advertiser*, 25 November 1880, p. 2.

<sup>364</sup> ‘jaunty, stylish’, and possibly ‘bold’ and even ‘impudent’: *The Free Dictionary*, Google.

<sup>365</sup> William McCullough, editor of the *Thames Star*: see *Cyclopedia of New Zealand*, vol. 2, p. 96; *Observer*, 1 August 1925, p. 4.

“Then I’ll have McIlhone the brave,  
 “Who’ll swear black’s white to serve me,  
 “And then there’s lots of other chaps  
 “Who will their votes reserve me.”

Here he stopped, and laughed Ha! ha!  
 He! he! like an old hyena,  
 And thought himself how find he’d look  
 In the political arena.<sup>366</sup>

By the end of the year, Kenrick was ‘gaining popularity every day from the business-like and gentlemanly manner in which all persons having dealings with him are treated’.<sup>367</sup>

#### EHRENFRIED TRIES ANOTHER WAY

At the end of July, Ehrenfried informed Kenrick he would take action against him in the Supreme Court to recover £5,000 in damages through the licensing court ‘maliciously, and without reasonable or probable cause’, declining to renew his licenses.<sup>368</sup> Kenrick sent this letter to Rolleston and asked, seeing the parliamentary committee had supported the licensing commissioners, that the government meet the cost of his defence.<sup>369</sup> The under-secretary advised that the government had no funds for this purpose. ‘If it comes to the worst Mr Kenrick can apply to the Court of Parliament’.<sup>370</sup> Both Rolleston and Frederick Whitaker, the Attorney General, agreed that the government could not interfere ‘at this stage. It would be prejudging the case to some extent & be a bad precedent’.<sup>371</sup> Ehrenfried did not carry out his threat.

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<sup>366</sup> *Observer*, 20 November 1880, p. 82.

<sup>367</sup> *Thames Star*, 1 December 1880, p. 2.

<sup>368</sup> Louis Ehrenfried to Harry Kenrick, 29 July 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>369</sup> Harry Kenrick to William Rolleston, 6 August 1880, enclosing Louis Ehrenfried to Harry Kenrick, 29 July 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>370</sup> Memorandum by Under-Secretary, Justice Department, 14 August 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>371</sup> William Rolleston to Frederick Whitaker, 15 August 1880; Frederick Whitaker to William Rolleston, 16 August 1880, Justice Department, J 1, 81/1324, ANZ-W.

## BRASSEY RENEWS HIS ATTACK

In late September, Brassey asked for an enquiry into Kenrick's 'conduct towards me' and his decisions in court cases. 'For some time' Kenrick had shown 'an unmistakably strong ill feeling towards me' when hearing cases, 'being snappish in his manner, exhibiting an evident desire and determination to refuse to hear arguments adduced by me', and making 'cutting remarks and sneering conduct'. He listed relevant cases. There had been 'public comment' that how he was treated was affecting his business. 'A great many of Mr Kenrick's judgments are contrary to Law and fact and often attended with absurd reasonings'; details of wrong judgments were provided. Brassey's clients were not awarded costs, and some would not use him now, causing him 'a great loss of fees'. Kenrick's 'animus' was revealed by his trying to have him removed from the roll of barristers and solicitors, which the Law Society declined to do.<sup>372</sup> Whitaker noted in the margin, where Brassey condemned Kenrick's decisions as contrary to law, 'He had his remedy'.<sup>373</sup>

Kenrick pointed out that these charges were simply a repeat of statements in the earlier petitions plus a couple of cases decided since then. He could only deny the allegations, which had already been rejected by other lawyers. 'I have at all times treated Mr Brassey with the same courteous consideration as that shown to me by the rest of the legal profession, but I must frankly admit that at times both my patience and my courtesy have been severely tried by the studied discourtesy displayed by Mr Brassey towards myself'. If his judgments were wrong, why did not Brassey advise his clients to appeal? In the past three years he had made over 1,500 decisions, and only two, Brassey's cases for the Bright Smile Company, had been appealed: and his judgments were 'satisfied by the appellant before the appeal was heard', for the company was just gaining time to pay the fine. He gave two examples of the 'unscrupulous manner in which these cases have been scraped together to support fictitious charges'. He had not asked the Law Society to remove Brassey, although his solicitors told him he had cause to do so. 'I can only regret now that I did not adopt that course'; he had wanted 'to save the expense and unpleasantness to

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<sup>372</sup> G.N. Brassey to William Rolleston, 25 September 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>373</sup> Marginal note by Frederick Whitaker, n.d., on G.N. Brassey to William Rolleston, 25 September 1880, Justice Department, J 1, 1324, ANZ-W.

myself that would ensue from so unusual an application'. He believed some of Brassey's clients would not support his claims.<sup>374</sup>

The Minister of Mines received advice given by his under-secretary, who had seen Kenrick's letter:

I think that an officer of Mr Kenrick's standing, who was not sent to the Thames of his own choice, and who has had to bear the brunt of establishing a very necessary new regime, should be informed that his explanations of these and other recent charges against him meet with the approval of the Government, and that it is not intended to take any further action in the matters.<sup>375</sup>

The minister agreed,<sup>376</sup> and Kenrick received an assurance that his 'explanations of these and the other recent charges against you meet with the approval of the Government, and ... it is not intended to take any further action in the matter'.<sup>377</sup>

Not till the following February did Brassey ask for a response to his September letter. Was it received, had it been investigated, and was it agreed that Kenrick was 'not a qualified person' for his position? And would Kenrick be removed, because he was doing him 'serious injury' through losing business? A copy of the letter was sent in case it had not been received, as he still sought an enquiry and had 'numerous witnesses' to support his claims.<sup>378</sup> He was sent the report of the Public Petitions Committee and informed that the government saw 'no reason for taking any further action'.<sup>379</sup>

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<sup>374</sup> Harry Kenrick to Under-Secretary, Justice Department, 12 November 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>375</sup> Under-Secretary, Mines Department, to Minister of Mines, 3 December 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>376</sup> Memorandum by Minister of Mines, 8 December 1880, Justice Department, J 1, 81/1324, ANZ-W.

<sup>377</sup> Under-Secretary, Justice Department, to Harry Kenrick, 10 December 1880, Thames Warden's Court, Inward Correspondence to Resident Magistrate and Warden 1879-1892, BACL 13388/1a, ANZ-A.

<sup>378</sup> G.N. Brassey to Thomas Dick, 4 February 1881, Justice Department, J 1, 81/1324, ANZ-W.

<sup>379</sup> Memorandum by Thomas Dick, 15 February 1881, Justice Department, J 1, 81/1324, ANZ-W.

## McLAREN VERSUS KENRICK

Some Thames government officials had doubts over some of Kenrick's actions. In mid-January 1881, Albert James Allom, clerk of the court and registrar of electors, and James Monteith McLaren, the mining inspector, met with the native agent, George Thomas Wilkinson,<sup>380</sup> to have 'a long talk about Mr Kenrick's action re Miners' Rights and other matters'.<sup>381</sup> Early in February, they had another discussion 'about Kenrick'.<sup>382</sup> Whatever their concerns were, they were not raised officially; perhaps it was his insisting that the letter of the law be applied.

McLaren, who came to New Zealand in 1864, worked first for the Otago Provincial Government before being a miner in Otago and on the West Coast. Shortly after moving to Thames in 1868, he was appointed by the Auckland Provincial Government engineer in charge of that district and (after 1874) Ohinemuri until the abolition of the provinces in 1876. After then working for the Survey Department, in 1878 he was appointed inspector of coal and gold mines throughout the North Island, 'which position', his entry in the *Cyclopedia of New Zealand* stated, 'he filled with great credit for ten years'.<sup>383</sup>

In May 1881, Kenrick wrote to him concerning the need to enforce the regulations concerning the registration of claims, the maintenance of pegs, and abandonment of claims. As only a 'very small' number of claims were registered, causing 'very great injury and injustice' to those who had taken up ground believing it to be open for occupation, he asked McLaren to enforce the regulations. Large area was locked up for speculation at Waihi and Te Aroha, especially the latter, where most were 'not manned at all'. The 'numerous complaints' he received indicated it was a general problem. He had told McLaren in February that the Bonanza at Te Aroha was unmanned, but it was 'still in the same state – you having taken no steps in the matter'. He required action 'at once' to 'remedy an evil that is found to cause serious complaints amongst the miners'.<sup>384</sup>

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<sup>380</sup> See paper on Merea Wikiriwhi and George Thomas Wilkinson.

<sup>381</sup> G.T. Wilkinson, diary, entry for 19 January 1881, University of Waikato Library.

<sup>382</sup> G.T. Wilkinson, diary, entry for 7 February 1881, University of Waikato Library.

<sup>383</sup> *Cyclopedia of New Zealand*, vol. 2, pp. 867-868.

<sup>384</sup> Harry Kenrick to J.M. McLaren, 10 May 1881, Mines Department, MD 1, 85/990, ANZ-W.

Eight days later, Kenrick sent him a blunt memorandum: 'Will Mr McLaren be good enough to let me know if it is your intention to act upon the information contained in my Letter of the 10th inst. and if so when the Complaints for non registration of Claims will be laid'.<sup>385</sup> One day later, he received a brief note from McLaren that he was 'so excessively busy' that he could not reply at once.<sup>386</sup> On the same day, Kenrick wrote to the minister. 'For many years past a systematic neglect to enforce the provisions of the Goldfields Act and Regulations has been permitted to exist in this District until the evil has grown to be of such magnitude that serious injustice has in consequence been suffered by the miners', as recent cases in the warden's court had disclosed. After some people peg out but don't register, other miners check the register in his office to see if ground is occupied and, if nothing is recorded, take it up, sometimes proving it to be valuable. 'This becoming known, some sharp person finds out that the ground was previously pegged out and notice thereof given to the Mining Registrar perhaps, as in a recent case, three years before', and applies 'for forfeiture of the original interest in the ground for non-working'. When pegging out and non-working is proved, the warden had 'no alternative' but to forfeit the ground and award it to the applicant. 'Cases of this nature have been so common of late – the consequent injustice being great – that I gave public notice in Court that for the future I should request the Mining Inspector to enforce the Regulation providing for the registration of claims, expressing my intention to inflict the full penalty for non registration in all cases brought before me'. He had discovered hundreds of claims pegged out but not registered or formally abandoned. When he told McLaren to enforce the regulations, he replied that he was 'so excessively busy' that he could not. When he told him to get the clerk to make out the summons, McLaren 'then said he would consider the matter'. Kenrick did not agree with McLaren's claim to have discretionary power. McLaren's insistence that 'he could exercise a discretion as to when he should commence proceedings' had resulted in rents being in arrears for one or two years, 'in many cases to the total loss of the rent when the ultimate forfeiture was made'. Kenrick had 'on more than one occasion' told McLaren that licenses were not being worked, and now asked the minister whether McLaren had any discretion,

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<sup>385</sup> Harry Kenrick to J.M. McLaren, 18 May 1881, Mines Department, MD 1, 85/990, ANZ-W.

<sup>386</sup> J.M. McLaren to Harry Kenrick, 19 May 1881, Mines Department, MD 1, 85/990, ANZ-W.

as the matter was leading to conflict. He also asked whether McLaren was 'expected to obey the direction of the Warden in mining matters or not'. Kenrick considered that 'negligent or intermittent enforcement of any law is a distinct evil – Offenders complain not of being punished but of being selected for punishment'. He concluded by commenting that sections of the Act 'require revision'.<sup>387</sup>

On 27 May, McLaren sent Kenrick a long reply; Kenrick made marginal comments on every page of the copy he sent to the department. McLaren claimed not to be aware of any cases where regulations were not complied with, apart from 'the maintenance of pegs', for he was not informed of notices of pegging out, registration, and surrender of claims. (*Kenrick*: 'These records are open to the Mining Inspector. It surely is his duty to ask for the required information – or at any rate to act when his attention is called to particular cases'.) Pegs were often used for firewood or covered with mullock, but it would be 'vexatious and harassing' to enforce it. (*Kenrick*: 'Enforcement of the Regulations providing for the maintenance of Pegs – has never been insisted on nor complaint made in the matter by me'.) He denied any 'great injury and injustice' was suffered by his not enforcing regulations about abandoned claims, and accused Kenrick of introducing a 'new interpretation of the Act, which has thrown things into confusion'. (Referring to the first part of that sentence, *Kenrick* commented: 'Exactly – that is the complaint', and to the second part noted: 'Quite untrue – the same interpretation has always been paced upon the act as at present by me'.) McLaren considered claims to be abandoned if not registered within ten days (*Kenrick*: 'Most certainly not in this District. Not a single claim has ever been considered abandoned through failure to Register'.) He cited the regulations to show that Kenrick's considering that pegging out gave title rendered 'nearly all the titles on the field in danger'. (Citing other clauses, *Kenrick* noted: 'Certainly – unless the Mining Inspector does his duty by declaring the same abandoned or forfeited'.) He considered the Act decreed that not registering a claim within ten days of marking out meant it was abandoned. (*Kenrick*: 'No grounds can be found for this interpretation any where in the Act – I wish that it could be so ruled', and noted McLaren was overlooking 'the duties imposed upon him' by the Act.) McLaren quoted a clause that no claim owner was required to employ any men for ten days after marking out (*Kenrick*: 'Certainly – for the first 10 days the claim

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<sup>387</sup> Harry Kenrick to Minister of Mines, 19 May 1881, Mines Department, MD 1, 85/990, ANZ-W.

cannot be forfeited or declared abandoned’.) He interpreted the Act to mean that only licensed claims could be dealt with. (*Kenrick*: ‘This is nonsense – for a Claim is defined clearly enough by the interpretation Clause of the Act – and Registration has nothing to do with it’.) He considered it ‘remarkable’ that in November Kenrick had asked the government to make a new regulation for Te Aroha whereby claims were deemed to be abandoned if not registered within ten days. (*Kenrick*: ‘Mr McLaren should not require to be told – that this very Regulation points out that the Act itself does not forfeit for “Non Registration.” It has always been so held or else why the necessity for the Regulation at all. See my Letter as to this R being ultra vires’.) When the Act gave title for 21 years for marked out claims, how could Kenrick ‘make a regulation for Te Aroha, that it only constitutes a title for 10 days’ (*Kenrick*: ‘Quite correct – and Regulation – was of doubtful legality – though it answer the purpose for which it was framed’). The Act meant 21 years, not ten days or until registered: Kenrick’s views threw ‘thing into confusion’ (*Kenrick*: ‘Certainly not – The exact reverse has always been understood and acted upon – all the Lawyers agreeing upon the construction placed upon the Act’.) Kenrick’s letter had been ‘unnecessary’, as McLaren had got the registrar to provide a list of all claims marked out but not registered (*Kenrick*: ‘Mr McLaren apparently forgets – that after receipt of my letter – he verbally informed me – that he should “consider: before deciding upon taking any steps as requested’.) At Coromandel his predecessor had interpreted the regulations in the same way. ‘Until I receive these returns I cannot take any steps, though, I confess being unable yet to see what course can be adopted to carry out a regulation that in my opinion does not exist’. As there would be thousands of cases, he ‘must apply to Government for instruction’ on how to act, for an ‘authoritative reading of the Act’ was required. (*Kenrick*: ‘In other words after many legal decisions have been given deciding the point – all concurred in by the [legal] Profession – and none appealed against – the Mining Inspector’s opinion – is against the validity of the decisions’.) To take action as requested ‘would require a large additional staff and a serious loss of time’, for there were ‘thousands of cases where marking out has been done, but no notice of such marking out, or registration given, as required by regulations, and of which I can have no knowledge’. (*Kenrick*: ‘This is absurd – the Mining Inspector has only to take the list of unregistered claims – in the office and let his assistant serve the usual notice – on the ground – there would be no necessity to go very far back at first’.) ‘Only when the regulations came into force’ in 1875 was it ‘necessary

to give notice of marking out'. (*Kenrick*: 'Experience apparently pointed out the necessity of this notice – to enable unregistered claims being identified and reached by the Warden'.)

Some time before that date there has been a vast number of claims marked out of which nothing is known, but which may at any time crop up, if other people now find good gold in the ground then pegged. Something will therefore have to be done to sweep away these, as well as those of which notice of marking out has been given. It is also necessary that an authoritative reading of the Act should be obtained, seeing that when the next Warden comes he may read the act and regulations different from you, and it is not pleasant to have it said that one is doing "great injury and injustice to the miners" merely because men take different views of the same Act. (*Kenrick*: 'This is simple Impertinence'.)

Concerning *Kenrick*'s reference to large areas being locked up in licensed holdings 'for speculative purposes only' at Waitete (meaning Waihi) and Te Aroha,<sup>388</sup> 'This style of writing may look well on paper, but it is very vague & unsatisfactory'. (*Kenrick*: 'My meaning should be clear. When as at Waitete and Aroha one man takes up several claims or Licenses – working none of them it is clear they are taken up for speculative purposes'.) All licenses were a speculation, and he was not aware of any being taken up to sell not work; if *Kenrick* meant this, 'you ought in justice to inform me or better still, if you refuse their application' for a license. He denied most Waihi claims were not manned (*Kenrick*: 'On May 25 when I visited the District only 24 men were working in the various claims'.) Although they were not fully manned, he had never seen 'so much work done on a new Quartz field'. As there was no battery, 'to demand that the ground be fully manned when the men can neither be all reasonably, or profitably employed, would be most injudicious, and to act upon your "forcing policy" would have the effect of driving the miners from the field'.

(*Kenrick*: Throughout the Mining Inspector entirely fails to see – that this would prove a valid reason for asking the Warden for Protection – but affords no excuse for the Mining Inspector – neglecting the duties imposed upon him by the Act – the real question at issue is – shall the Mining Inspector or the Warden decide in these matters. With regard to Licenses the prospects can permit a reduction in numbers of men to be employed.)

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<sup>388</sup> Their disagreements over Te Aroha are dealt with in the papers on the Te Aroha rush.

McLaren referred to the difficulties of raising capital for batteries at Te Aroha and Waihi (*Kenrick*: ‘All this – in consequence of the Licensed Holdings being permitted to remain idle – instead of being compelled to work their claims and to satisfy capitalists of the Bona fides of the venture’.)

Under these circumstances instead of unnecessarily and ruinously trying to force them to fully man their ground, as you wish – I shall allow that number of men to work that I consider fair and reasonable, and purpose shortly calling a meeting of all the Waitete claimholders in order that they may discuss and agree upon the best mode of having a Battery built.

(*Kenrick* [who had underlined this section]: A most extraordinary procedure for a government mining inspector to adopt – Mr McLaren’s attention was called by me to the fact that Licenses were unworked or only partially worked without his permission first obtained under Clause 54 Sub-section 3.)

Government are now and have in the past been expending large sums of money in prospecting to find new gold runs, or fields, on the peninsula, what would they or what could they think if I crushed the very industry they were trying to advance, as I would do by adopting your “forcing policy.”

Claimholders in two Waihi claims had told him that if the regulations were enforced they would surrender their licenses and leave. ‘The more power a man has, gives the greater reason he should act wisely, and not arbitrarily’. He was ‘an administrative officer with certain discretionary powers, which he would ‘exercise for the advancement of the field at the same time endeavouring to do justice between the shareholders on the one side, and the Government on the other’. (*Kenrick*: ‘Yes – with certain clearly specified powers – and it is the non exercise of these Powers that causes the Evil complained of. It may be doubted whether the Mining Inspector possesses any “administrative powers” as understood by Mr McLaren’.) ‘Your endeavouring to coerce me in regard to these discretionary powers is a thing you have no right to do. In so doing you are travelling beyond your proper sphere’. (*Kenrick*: ‘The coercion used being a request that the Mining Inspector would exercise these powers and discretion’.)

McLaren gave a (disputed) version of what they had said and done at Te Aroha,<sup>389</sup> and in particular that *Kenrick* had ‘boasted’ that he had kept claims ‘fully manned previous to my appointment, that they were so is very

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<sup>389</sup> See paper entitled ‘The Te Aroha Goldfield is Revealed, by early 1881, to be a Duffer’.

problematical, how could you tell sitting in your office and no one looking after them?’ (*Kenrick*: ‘I cannot understand this statement – at all. The whole tone of this letter is in thoroughly bad taste – considering our relative Positions’.) McLaren claimed that Kenrick had first insisted on full manning at Te Aroha but then ‘I was utterly astonished to hear you were granting protection to all the Claims & Licensed Holdings at Te Aroha, and this without in any way consulting or referring to me, and when I spoke to you on the subject, you at once informed me “it was your intention to grant protection to every one who applied.”’ (*Kenrick* denied these claims.) He assumed that as Kenrick had discovered his ‘forcing policy’ could not continue he had ‘rebounded from one extreme to another, from a policy of extreme severity to one diametrically opposite’. The latter meant paralyzing ‘any action I might take, to have the ground fairly worked, they knew they could go behind me and get protection from you, therefore I could do nothing except see everything safe with the few that were working on the last visit of inspection’. Responsibility for the state of Te Aroha claims ‘lies wholly with yourself, & not with me’. (*Kenrick* again denied these statements, adding that McLaren had neglected his duty, for ‘the very slightest enquiry of claim holders’ would have revealed ‘a large area of unworked and unprotected ground’.)

I may here point out that it has always been the custom to have all applications for protection referred to the Mining Inspector, indeed, without this, you cannot know that the reasons given by the miners for asking protection are true, you having no personal knowledge of the mines or claims, thro’ this also serious complications may arise, as I will be certifying them to be abandoned to Mining Registrar, knowing nothing of the protection granted by you. (*Kenrick*: The Mining Inspector’s local knowledge – is of course – drawn upon when the Warden is in doubt as to the application.)

‘If your new policy of protection is at an end, I may now be able to step in and put things to rights – but I will not adopt your “forcing policy” ’. (*Kenrick*: ‘The complaints made to me by miners have shewn that if the unworked ground was open for application it would be taken up and worked by others’.) ‘One of the worst things that could happen’ in a new field was to forfeit claims, citing Tararu and Puriri, for ‘once abandoned, it is almost impossible afterwards to get people to invest for fresh trials’. Keeping mines working, ‘however slowly’, was ‘better than shutting them up’; Waitekauri and Owharoa would have been closed by Kenrick’s policy, and they were

now 'prosperous'. (*Kenrick*: 'All this is purposely misleading. The Mining Inspector's exercise of his discretionary powers at Owharoa & Waitekauri – is no excuse for not acting in the same way at Waitete & Aroha & elsewhere – I have no power to force Mr McLaren to compel Licenses to be fully manned only to see that they are not left idle'.)

'I have no wish to press myself forward, or even shew myself in these matters, and would not on this occasion, had your attack not forced me. I am satisfied to see the success of my plans without that, I look to results and that is what men of observation should always look to'. As for complaints of claims not being fully manned, 'It is strange that you hear so many complaints that never come my way! And this notwithstanding my intercourse with the miners and people is so much greater than yours'. (*Kenrick*: 'Other miners have complained to me they have in many instances stated – that they did so as their complaints had not been attended to when made before'.) 'You must remember there are a class of loafers, who, with plausible words such as "ground locked up," &c, are ever ready to take hold of any excuse to obtain possession of the result of other men's labour', and then 'make a rise, not by working, but by selling out'. The law must be made stronger (*Kenrick*: 'By whom'.) to protect the interests of genuine miners.

While he agreed that in parts of Hauraki mines were not fully manned, 'it may read well, and appear right, to those who are ignorant of quartz mining, that Licensed Holdings should always be fully manned, and wrong, when they are not so, but those who have a knowledge of Quartz mining, and its requirements, are aware, that at all times this is quite impracticable'. (*Kenrick*: 'The Complaint throughout is not that they are undermanned – but that they are in many cases not manned at all – or else undermanned without having first obtained the Inspector's permission'.) Sometimes, as when low levels were being driven, 'the full number of men can neither be reasonably or profitably employed'. (*Kenrick*: 'Quite true – in these cases the Mining Inspector has full discretionary power and should exercise it'.)

Giving examples, he explained that he had to judge by the circumstances of each mine. 'I have entered more fully into explanation than might have been necessary had you any practical experience of Quartz mining, and its requirements'. (*Kenrick*: 'The assumption is untrue and contains an implied impertinence'.) 'I am quite prepared to appeal to the Public, or Government, or both, and give my reasons for anything I may do. And can only say further that, even if I had confidence in your

administrative ability, I would not allow myself be forced into the line of policy as pointed at by you, seeing that I am certain it would not only prove disastrous, but ruinous to the field'. (*Kenrick*: 'Placing upon one side Mr McLaren's opinion of my ability he has no [right] to imply that I have attempted to force him into any Policy inconsistent with his plain duty'.) In reply to the memorandum of 18 May asking when he would act, 'which means, as I understand, when will I pull the parties before you, into court' (*Kenrick*: 'Which simply means when will the Inspector enforce Registration or Abandonment'.)

In the first place I am not aware that any who are working their claims, 10 days after marking out, have not registered, and surely it is not intended to try and compel any to register, who within the first 10 days have abandoned their claims. (*Kenrick*: 'This is the most strange statement throughout – surely if abandoned no further steps are required'. He drew 'particular attention' to the following sentences:) In the second place, that you wish to sit in judgment on some parties is apparent, but who they are, or in what way they have broken the law, is a point I am not clear on. Certain it is that whatever I do, I have no intention to take up back cases, nor do I think I will bring any cases into court at all, for the simple reason that I believe I have quite sufficient influence with the miners to cause them to rectify any error, immediately it comes to my knowledge, and I point it out to them. I do not work in this nagging and harassing system, I have too much real work to do to spend much time about a Court house, which I would have to do if I pulled up and punished every one whom I found not exactly doing right. It is time enough to do that when they refuse to rectify whatever is wrong. I can only regret and deplore the terrible increase that has taken place in litigation, and the embittered feeling that has sprung up among the miners, frustrating all efforts at equitable adjustment of differences, the cause of all which is not only shewn by your universal advice to the miners, "bring the case before me into court," but also by your statement to me the other morning that "if I did not bring cases re non-registering of claims into court" you would "set the police to do it." (*Kenrick*: 'The whole of this page requires no comment from me'.)

As the future prosperity of the Goldfields depends in a great measure upon their proper administration & as the questions between us are of vital importance for their prosperity I have

therefore forwarded a copy of this correspondence for the consideration of Government.<sup>390</sup>

In sending copies to the under-secretary, Oliver Wakefield, McLaren mentioned 'that since the recent decisions in the Warden's Court re claims, a deep feeling of Unrest pervades the community in respect to the security of the titles to the ground held' for mining.<sup>391</sup> On 2 June, Kenrick sent the minister, William Rolleston, his annotated copy of McLaren's letter.

I have every reason to complain of the tone of the letter – as also of Mr McLaren's bad taste – and – not to use too harsh a term – want of Judgment displayed throughout the entire letter – more especially perhaps – when reviewing the legality of the decisions given by me in my Judicial Capacity – the "administrative" powers assumed by the Mining Inspector – to have been vested in him by the Government &c – are so extraordinary – that I must certainly ask that these powers be at once defined –

The most astonishing part of Mr McLaren's letter is the statement – that until I decided to the contrary – it has always been held that claims if not Registered were deemed abandoned – I can only say that when taking over charge of the Thames Gold Field – I was astonished to find it held – on the authority of Section 21 of the G[old] M[ining] D[istricts] Act of 1873 that merely marking out a claim gave an indefeasible title for 21 years – failure to Register only incurring a monetary penalty – it took some time to convince me that this was the only possible interpretation to put upon the Act & Regulations.

When the Hon Mr [Frederick] Whitaker [the Attorney General] agreed to the Regulations made for the Aroha Gold Fields – providing that Claims should be deemed to be forfeited if not registered within ten days – he more than intimated that the regulation in question would be found to be ultra vires – being in conflict with the Act – It will be within your Sir – that the Auckland Sharebrokers protested against the same regulation on that ground –

I make this explanation to show the indefensible position taken up by Mr McLaren – who entirely begs the question submitted to him – I complained that he did not use the discretionary powers that were specially granted to him by the Act – and did assume a very large discretion – that had never been vested in him at all –

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<sup>390</sup> J.M. McLaren to Harry Kenrick, 27 May 1881, with annotations by Harry Kenrick, n.d., Mines Department, MD 1, 85/990, ANZ-W.

<sup>391</sup> J.M. McLaren to Oliver Wakefield (Under-Secretary, Mines Department), 28 May 1881, Mines Department, MD 1, 85/990, ANZ-W.

Mr McLaren in his letter goes far beyond all that I had complained of – He apparently claims the right to revise the legal decisions of the Warden – setting up as Law his own opinion in lieu thereof – to question my right to administrative powers in the management of the gold field - to claim the right to question my knowledge of Quartz mining and its requirements and to lecture me upon the same – and lastly to quote his own words then “Even if he had confidence in my administrative ability he would not allow himself to be forced into the line of policy as pointed by me” & & & as that “line of policy” being simply a request from myself that he would do his duty in enforcing the regulations – “exercising” as a matter of course any “discretion” that might have been vested in him by the Act –

I beg to make a formal complaint of the personal, not to say intentionally personal tone of the whole of the letter – and ask if Mr McLaren has any justification for the position taken up by him –

I would now – as a matter of duty – express the opinion – that it was never the intention of the Act under which the Mining Inspector is appointed – to create a new department – outside an independent of the Warden’s department –

It appears to me – if I correctly read the Act – that a Mining Inspector was intended to be a warden’s officer responsible himself for the proper underground workings of the mines – with – in addition the clearly defined and specified duties – as to seeing that certain provisions of the Act and Regulations were complied with – and that in this capacity he should be subordinate to some local authority – At present the Mining Inspector’s Department is separate and distinct – from the local Gold Fields department – and every difference of opinion between the two must be forwarded to Wellington for adjustment –

My marginal notes to the enclosed letter will render unnecessary any further reference to the many strange statements made therein.<sup>392</sup>

Two days later, Kenrick told Rolleston that there needed to be an amendment to the Gold Mining Districts Act of 1873 about marking out, to enforce registration of marked-out claims. He explained how some men collaborated to get ground forfeited from those working it.<sup>393</sup> Wakefield noted that the chief point of dispute was the interpretation of Section 21 of

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<sup>392</sup> Harry Kenrick to Minister of Mines, 2 June 1881, Mines Department, MD 1, 85/990, ANZ-W.

<sup>393</sup> Harry Kenrick to Minister of Mines, 4 June 1881, Mines Department, MD 1, 85/990, ANZ-W.

this Act: 'I think the Warden has given too absolute a meaning' to this, and sought legal advice.<sup>394</sup> The law officer was 'clearly of the opinion that Mr Kenrick's view of the effect of section 21 is the sound one'. If the Act was looked at as a whole, 'no real inconvenience could arise' if both Act and regulations were 'properly enforced'. McLaren might be right that mining 'may be injured by too rigidly enforcing the Act & regulations but considerations of that sort do not effect the Interpretation of the Act'. McLaren's example of men claiming ground after being absent for two years was not realistic.<sup>395</sup> Late in June Wakefield noted this opinion and decided 'Amendment unnecessary'.<sup>396</sup> He immediately told Kenrick his interpretation of the Act was correct and there was no problem if it was enforced properly. The mining inspector was required to ensure provisions were complied with, and must keep him informed. 'On the other hand, it also appears necessary that the Warden should [seek] advice with the Mining Inspector before allowing his sense of what is due to the law to preponderate a sufficient consideration of what is due to the miners from him'. He would send a copy of his letter to McLaren.<sup>397</sup> Three days previously, he had instructed a subordinate to draft a letter to McLaren saying 'the personal and disrespectful tone of his letter to the Warden is disapproved [of] by the Minister'.<sup>398</sup> The letter informed McLaren that Rolleston considered 'that you have somewhat misapprehended your position, and that the tone of your letter to the Warden is not such as will tend to promote a proper understanding of the united action required'. He had 'no right to assume that you are in a separate dept. from that of the Warden'. As the law officers disagreed with his interpretation of marking out, he was instructed to assist the warden.<sup>399</sup>

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<sup>394</sup> Memorandum by Oliver Wakefield, 8 June 1881, Mines Department, MD 1, 85/990, ANZ-W.

<sup>395</sup> Memorandum by Law Officer [name illegible], 17 June 1881, Mines Department, MD 1, 85/990, ANZ-W.

<sup>396</sup> Memorandum by Oliver Wakefield, 27 June 1881, Mines Department, MD 1, 85/990, ANZ-W.

<sup>397</sup> Oliver Wakefield to Harry Kenrick, 27 June 1881, Mines Department, MD 1, 85/990, ANZ-W.

<sup>398</sup> Memorandum by Oliver Wakefield, 24 June 1881, Mines Department, MD 1, 85/990, ANZ-W.

<sup>399</sup> Under-Secretary, Mines Department, to J.M. McLaren, n.d. (draft), Mines Department, MD 1, 85/990, ANZ-W.

Kenrick's stance on enforcing the regulations was popular with miners. When McLaren visited Te Aroha late in June to re-enter 'unworked claims and business sites', a correspondent commented that it was 'high time such was done', for the authorities were 'very much to blame delaying so long, as many have left who would have stopped had this been done before'.<sup>400</sup> Another correspondent noted that McLaren would 'give outsiders a chance by throwing open some of the unworked ground'.<sup>401</sup>

One week after receiving Wakefield's letter, on 2 July Kenrick informed McLaren of Wakefield's response and had 'now the honor to recall your attention to my previous letter asking you to enforce the Regulations', for so long as they were 'suffered to remain in abeyance' Section 21 would be 'taken advantage of by unscrupulous men'. He recommended a course of action 'and shall be happy to receive any suggestions' before giving 'directions':

That your assistant on the first of each month take from the Mining Registrar's Book a list of claim notices as having been pegged out but which have for more than ten days remained unregistered or abandoned.

That Summons be at once issued by you against the parties offending for the breach of the regulations.

That with a view to work off the Arrears – a list be at once taken of all claims remaining unregistered since the 1<sup>st</sup> of January last – a summons issued in each case –

That at your earliest convenience you proceed against the owners of unregistered claims pegged out prior to the first of January either for non registration if being worked or for abandonment if unworked

With a view to obviate unnecessary hardship that would probably ensue from the strict enforcement of such rules that have for so long been allowed to remain in abeyance, you should give public notice by advertisement specifying the rules which will at once and for the future be rigidly enforced – Whilst holding myself ready to accept any suggestion that you may offer I would strongly deprecate any further delay in enforcing the provisions of the Act and regulations – the delay that has already taken place since the matter was first brought to your notice by myself – has been taken advantage of at Coromandel.

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<sup>400</sup> Own Correspondent, *Thames Advertiser*, 29 June 1881, p. 3.

<sup>401</sup> A Correspondent, *Thames Advertiser*, 29 June 1881, p. 3.

He endorsed Wakefield's opinion that McLaren should keep him informed of his proceedings and the condition of the goldfield 'in order that I may be in a position to carry out the duties entrusted to me'. The mining inspector was the warden's officer 'in the field' to whom he 'naturally looks for information and assistance, any advice or recommendation given either personally or by letter I shall therefore be only too glad to receive and consider asking that as a matter of duty you will bring to my notice all matters in connection with mines or miners that may assist me in the management of this Gold field'. As it was 'no portion' of McLaren's duties to convene a meeting of claimholders at Waihi, he trusted 'you have abandoned that intention if indeed you seriously entertained it'. Letters should not be posted but delivered to his office, as posted letters arrived too late. He concluded by asking McLaren to be 'good enough to let me hear from you at once on the subject of the enforcement of the regulations'.<sup>402</sup>

McLaren added a memo on this letter explaining that he could not have taken any action in the Coromandel case because no notice of pegging out had been given to the registrar.<sup>403</sup> Two days later, Kenrick asked Wakefield to instruct McLaren to direct all his correspondence via him. 'The Inspector communicating direct with Wellington deprives me of much information that it is desirable I should be possessed of'. He had not seen McLaren's report, which would have been of 'material assistance' in producing his own report, and caused discrepancies, as Wakefield had noted.<sup>404</sup> Wakefield did as requested,<sup>405</sup> after further disputes.

On 5 July, Kenrick informed McLaren that he was going to Coromandel and trusted he would 'see that no further delay takes place in enforcing the regulations. The evil is a growing one and further delay would only intensify it'. As the government would not amend Section 21, it was

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<sup>402</sup> Harry Kenrick to J.M. McLaren, 2 July 1881, Mines Department, MD 1, 85/990, ANZ-W.

<sup>403</sup> Memorandum by J.M. McLaren, n.d., on Harry Kenrick to J.M. McLaren, 2 July 1881, Mines Department, MD 1, 85/990, ANZ-W.

<sup>404</sup> Harry Kenrick to Oliver Wakefield, 4 July 1881, Mines Department, MD 1, 85/990, ANZ-W.

<sup>405</sup> Oliver Wakefield to J.M. McLaren, 19 July 1881, Mines Department, MD 1, 85/990, ANZ-W.

‘imperative that the regulations be strictly enforced’.<sup>406</sup> Two days later, McLaren responded to his letter of 2 July:

I have the honor to remind you that at no time has there been any difference of opinion between us as to the necessity of enforcing the Act and regulations, the only question has been as to the correct interpretation thereof and as to my own powers under the same. I regret to be obliged to point out that you have omitted [to] acknowledge and still continue to do so, that I have distinct powers under the Act. These are recognized by the Government, as you will see by the letter to me from the Mines Dept copy of which you acknowledge receiving. It was your interference in regard to these powers that caused this correspondence between us.

As to your allusion to me as an officer of the Warden’s Department, my letter from the Minister of Mines does not convey to me the impression that such is my position –

I admit as pointed out by the Minister of Mines – that “united action” between us is necessary – in this I fully concur and will – as heretofore – give every assistance in my power to secure that result, but you must recollect there is a very heavy strain on my department. With the limited staff at my command, the extended district, it is necessary that every assistance should be given me from your office for my field work by giving me regular information and returns of the various matters requiring my attention ... a knowledge of same being only obtained by me by the loss of very valuable time, and at the expense of what is a thousand times more important, the safety of mines where the safety of life and limb is concerned.<sup>407</sup>

Kenrick responded by regretting there was ‘still a doubt on your mind as to the relative position of the Mining Inspector and Warden’. Rolleston’s letter to him should ‘have been decisive’, but he would refer the issue to Rolleston ‘for his final decision, that is if you still think there can be any doubt as to the meaning of his letter’. Rolleston had made it clear that he was to assist the warden, meaning the latter was ‘responsible for carrying out the provisions of the Act’. Wakefield noted ‘I think so’ beside the next sentence: ‘Should there be any difference of opinion as to the mode of performing or the interpretation or construction of the Act, then

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<sup>406</sup> Harry Kenrick to J.M. McLaren, 5 July 1881, Mines Department, MD 1, 85/990, ANZ-W.

<sup>407</sup> J.M. McLaren to Harry Kenrick, 7 July 1881, Mines Department, MD 1, 85/990, ANZ-W.

undoubtedly this decision with the responsibility will rest with the Warden'. If McLaren disagreed, Kenrick would ask Rolleston 'once for all to settle the matter'. It was 'not the exercise but the non exercise of McLaren's powers that he had called 'attention to. I need only call your attention to the mandatory tenor of Sections 91 & 92 of the Act – and then ask you to look round the field and see the numberless instances in which the duties there referred to are allowed to remain in abeyance'. He repeated that while it was 'compulsory to take the steps referred to in Section 91' he could use his discretionary powers, and record their use. The lists of notices of pegging out and of claims registered were always available to him or the underviewer, 'and as it is or should be the most important part of your work to keep yourself posted up (Wakefield made the marginal comment "?") – as to the claims taken up or abandoned – I fail to see how you can lose very valuable time in carrying out these duties'. If he had to neglect safety issues or these duties took up too much time, Kenrick was 'only too willing' to lighten his duties. 'Will you be good enough to reply to the request contained in the letter that I sent to you on the subject of enforcing the regulations as to registration and notice of marking out claims', and provide details of expenditure on roads at Te Aroha and a report of his visit there, for Kenrick was about to visit the district. As only 12 were at work, 'I presume that but few claims are left unforfeited or abandoned'.<sup>408</sup>

In response, McLaren stated that as previous inspectors and Superintendents of the Auckland Province had shared his interpretation of their relative positions he would refer the issue to Rolleston; 'I regret that your action should render this necessary'. He had already advertised that he would enforce Regulation 68,

but – as I have said – in back cases I do not consider it desirable because the advertisement is not complied with to at once issues a Summons in each case – Seeing there are great numbers who would get their unregistered claims marked off as abandoned, but have forgotten the dates of marking out, or even the names they called their claims, so cannot give the necessary information to get it done. As one party told me today, "he knew he had pegged off a piece of ground in the Waiotahi, but what he called it, or whether it was in 1876, 1877 or 1878 he could not say." I therefore will in each case let them know of the name or number

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<sup>408</sup> Harry Kenrick to J.M. McLaren, 12 July 1881, Mines Department, MD 1, 85/990, ANZ-W.

and the date of marking out. When I am sure the necessary notices of abandonment will be immediately given.

Concerning future cases, 'I regret you will not assist me in getting the necessary information from the office records'. (Wakefield noted in the margin: 'Mr Kenrick says that the list of notices is always open to the Inspector'.) He still felt that his most important duty was safety, not registering claims and determining if they were abandoned.<sup>409</sup>

Kenrick responded that he had already pointed out that the complete list of notices of pegging out and claims registered was 'always accessible to you – what other information you require I cannot understand'. As his letter emphasized the importance of 'enforcing at once the regulations respecting registration of claims the consequences of any further delay must rest with yourself – I cannot write more emphatically on the subject than I have already one'. Since then 'several fresh informations have been laid applying for the forfeiture of ground pegged out but never registered, the ground in dispute having been since taken and proved valuable by others whose interests are thus jeopardized'. He regretted McLaren had 'taken the unusual course of forwarding' vouchers for roads at Te Aroha to Wellington without first reporting to him, and would bring this 'to the notice of the minister'. He asked for a list of Te Aroha claims that he had taken steps to forfeit or declare abandoned, plus a report on that field, as he was leaving for it tomorrow.<sup>410</sup> McLaren added a memo about the 'several fresh informations' explaining that there were only two, and as in one case no notice of marking out was given he could take no action; Wakefield minuted, 'Then Mr McLaren should have informed the Warden of this'.<sup>411</sup> Later that day, McLaren did inform Kenrick about the state of claims, but could not provide full information until he knew the results of notices issued. He had ordered proceedings against all but two claims. He had asked Kenrick for information, but thought the mining registrar might

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<sup>409</sup> J.M. McLaren to Harry Kenrick, 15 July 1881, Mines Department, MD 1, 85/990, ANZ-W.

<sup>410</sup> Harry Kenrick to J.M. McLaren, 18 July 1881, Mines Department, MD 1, 85/990, ANZ-W.

<sup>411</sup> Memoranda by J.M. McLaren and Oliver Wakefield, n.d., written on Harry Kenrick to J.M. McLaren, 18 July 1881, Mines Department, MD 1, 85/990, ANZ-W.

provide it as a favour; he regretted Kenrick's 'non assistance' with enforcing regulations, but would do his best to act.<sup>412</sup>

Five days later, McLaren wrote to Wakefield in response to his letter of 27 June because 'the misunderstanding' between himself and Kenrick still existed and Rolleston considered he had 'somewhat misapprehended' his position. He enclosed copies of his further correspondence with Kenrick to show 'that he desires to place me in a position that no mining Inspector has ever before occupied', namely being 'a subordinate officer'. As Kenrick's view was 'entirely new' to him and 'so different from the views held by my predecessors' and several Superintendents he declined 'to accept his ruling' or that Rolleston's views were 'capable of bearing the interpretation' Kenrick placed on them. His office records showed that 'all communications' about the goldfield and the working of his department 'have invariably come direct from the Superintendent', and that all of his reports were sent to the Superintendent. 'I may state further that in no case since the passing of the Act has any conflict of authority taken place between a Warden and Mining Inspector'. While he and his predecessors did not assume he belonged 'to a wholly separate department from the Warden', this was 'far from making us his subordinates'. They had always reported to the warden, and it was 'much more reasonable to suppose that a free and unbiased report on any matter could be obtained from an independent officer'. He objected to Kenrick granting protection 'without first transmitting the application to me and receiving my report thereon, seeing that without such report, he could not know that the reasons given by miners in asking such protection were true'. As for the recent questions about titles of claims, 'I do not think it is the duty of the Warden or Mining Inspector to make themselves the special guardians of people's titles, or that the inconvenience is such as to warrant the worry of all this official correspondence and the pressure now being so offensively put upon me by the Warden'. He was doing his best to 'grapple with' these 'quite new' questions. He argued 'that neither the Act nor Regulations bear out Mr Kenrick's views. They define the Mining Inspector's duties without reference to the Warden'. (*Wakefield*: 'So they do the Receiver and the Mining Registrar's duties, and yet these officers are under the Warden'.) Kenrick had a 'low opinion' of the importance of safety issues.

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<sup>412</sup> J.M. McLaren to Harry Kenrick, 18 July 1881, Mines Department, MD 1, 85/990, ANZ-W.

It will be seen from the Act that decisions of the Mining Inspector may be set aside by the Warden, but as Mr Kenrick would have it, what appeal could there be to him from a Mining Inspector who is a subordinate and acting under his instructions. Take cases for instance where the Mining Inspector has to bring parties before him into court, would that not in reality be the Warden bringing cases before himself! In carrying out official duties there can be no half degrees of service, partly subordinate and partly not – more especially with a man like Mr Kenrick, to whom there appears to be only one centre, and that himself.

Until Mr Kenrick came here no difficulty was ever experienced in administering the Act, but if his views relative thereto were as rigorously enforced as he wishes – I have no hesitation in stating that capital and labour will be driven from the field....

I fully admit the necessity of a “proper understanding of the united action required to be taken in order to give effect to the Act,” but I respectfully submit that whilst such united action as between the Warden and Mining Inspector has always existed until after Mr Kenrick’s arrival, his peculiar views, and utter want of sympathy in any work but his own, for administering the goldfield and his propensity to interfere in every minor detail, renders it exceedingly difficult to arrive at a proper understanding with him.

It would almost appear from the Warden’s continually reiterated request for me to “enforce the regulations” that nothing has been done – on the contrary a very large amount of work has been done, and a great number of unregistered & really abandoned claims wiped out, but it must be remembered there is a very great deal of work in connection with this, and there is about 6 years back work to do – at which my assistant is working both night and day. (*Note by Wakefield: ‘How has this accumulated?’*)

I regret that Mr Kenrick continues to refuse to instruct the Mining Registrar to give me returns – as it not only seriously interferes with my field duties, but also is costly to Govt in traveling expenses. Nearly all my own time and one half of my assistant’s at Te Aroha on the last occasion was office work, and I expect next time I go to Coromandel to have two or three weeks office work alone, which might be all saved if I had the returns I require as I would get at once into the field as soon as I go there – In regard to this it is exceedingly strange that at the time Coromandel was added to my district, the Warden asked Govt to remove me from the Inspection of coal mines on the plea I could not over take the work, and afterwards at the opening of Te Aroha he – I believe – on the same plea wished to have another Inspector appointed there, and now when I have the inspection of all these, combined with the new Rush to the Coromandel and Ohinemuri districts including the new gold field at Waitete and also this additional 6 years back work suddenly thrown on my

hands he wishes ... or requires to be assured I have too much work to do.<sup>413</sup>

Wakefield responded that Rolleston 'cannot admit any argument against the intention' of his letter defining his position, and regretted his 'spirit of opposition' to Kenrick's instructions. McLaren was expected to 'abide by your instructions, and assist the Warden' in carrying out the Act 'without making difficulties, or troubling Mr Kenrick or the Government with further correspondence upon this subject'.<sup>414</sup>

On 12 July, Kenrick had suggested to Wakefield that a new rule be devised to 'mimimise the inconvenience of a literal interpretation' of Section 21, for the rules made no provision for the abandonment of unregistered claims, 'the class that gives the most trouble'. His rule, framed after careful reading of the Act, stated: 'An unregistered claim shall be deemed to be abandoned by the owners thereof and open for occupation under Section 17 of the Act if left unworked and unoccupied for a period of one calendar month'.<sup>415</sup> Wakefield and his officials considered his rule, but the law officer did not see how it met the difficulty of the Act granting the land for 21 years.<sup>416</sup> On 11 August, Kenrick asked if the new rule could be accepted and gazetted immediately. 'Much injustice & a mass of Litigation will be prevented if done'. McLaren had told him he would have to issue summonses in over a thousand cases. 'Recent discoveries at Waitekauri render prompt action imperative'.<sup>417</sup> Wakefield explained the legal position and added that such a regulation could not be made retrospective.<sup>418</sup>

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<sup>413</sup> J.M. McLaren to Oliver Wakefield, 23 July 1881, Mines Department, MD 1, 85/990, ANZ-W.

<sup>414</sup> Oliver Wakefield to J.M. McLaren, 4 August 1881, Mines Department, MD 1, 85/990, ANZ-W.

<sup>415</sup> Harry Kenrick to Oliver Wakefield, 12 July 1881, Mines Department, MD 1, 85/990, ANZ-W.

<sup>416</sup> Oliver Wakefield to Harry Kenrick, 28 July 1881; memorandum of Assistant Law Officer, 11 August 1881, Mines Department, MD 1, 85/990, ANZ-W.

<sup>417</sup> Harry Kenrick to Oliver Wakefield, 11 August 1881 (telegram), Mines Department, MD 1, 85/990, ANZ-W.

<sup>418</sup> Oliver Wakefield to Harry Kenrick, 13 August 1881, Mines Department, MD 1, 85/990, ANZ-W.

Relations between Kenrick and McLaren over administration remained strained, with McLaren trying to evade Kenrick's instructions, as indicated by an August 1882 letter:

Will you be good enough for the future to furnish the Mining Registrar with a list of all notices of forfeiture sent out by you – naming the claims, date of notice, day fixed for the hearing, and lastly how disposed of – I find that we have been receiving applications for protection for Claims – after steps for forfeiture have been taken by you. It will therefore be advisable that the Mining Registrar should have your list kept posted up for my information. This will apply to both Thames and Te Aroha Districts.<sup>419</sup>

In mid-May 1885, the under-secretary sent a circular to all wardens opposing 'laxity' in enforcing the labour clauses; leases must be forfeited if not worked.<sup>420</sup> Kenrick responded that enforcing was the work of the Mining Inspector and for 'some years past' he and McLaren had 'differed in opinion as to the necessity of a stricter enforcement of the mining regulations'. He suggested that 'special instructions' be given to McLaren; he had 'of course brought the Circular to Mr McLaren's notice and given the public intimation of its contents'.<sup>421</sup>

Four times in May 1886 the Inspecting Engineer of the Mines Department sent telegrams to McLaren requesting his reports about coal mines, to be told that an unspecified 'illness' explained why no report had been sent.<sup>422</sup> The under-secretary then wrote to his minister, William Larnach: 'I find it impossible to get reports from Mr McLaren Inspector of Mines at the Thames who is evidently neglecting his duties - I would recommend that the Warden be asked to state what Mr McLaren is and has been doing lately and that if he has not been attending to his duties that he

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<sup>419</sup> Harry Kenrick to J.M. McLaren, 1 August 1882, Te Aroha Warden's Court, General Correspondence 1882, BBAV 11584/1c, ANZ-A.

<sup>420</sup> Under-Secretary, Mines Department, to all Wardens, 18 May 1885, Mines Department, MD 1, 85/990, ANZ-W.

<sup>421</sup> Harry Kenrick to Under-Secretary, Mines Department, 17 June 1885, Mines Department, MD 1, 85/990, ANZ-W.

<sup>422</sup> H.A. Gordon (Inspecting Engineer, Mines Department) to J.M. McLaren, 11, 18, 25, 31 May 1886 (telegrams); J.M. McLaren to H.A. Gordon, 20 May 1886, Mines Department, MD 1, 86/2182, ANZ-W.

be at once suspended'.<sup>423</sup> Larnach instantly agreed,<sup>424</sup> and a telegram informed him that the minister found 'your excuses for not sending in full reports are most unsatisfactory' and that Kenrick had been asked to obtain these reports and to state whether he was attending to his duties.<sup>425</sup> Asked to get the reports and to find out why McLaren was not replying to telegrams and whether he was doing his job, Kenrick replied that he understood he had left for the Bay of Islands 'but as he does not notify his departure destination or date of return I cannot speak positively'. He had asked for the report in April.<sup>426</sup> The under-secretary then informed Larnach, 'It seems to be impossible to get a satisfactory answer from Mr McLaren as he is traveling about between the Thames Auckland & Russell. I recommend that his salary be stopped until he satisfactorily explains why his reports were not sent in a directed'. He also recommended that his replacement 'be placed under the Warden'.<sup>427</sup> Again, Larnach instantly agreed, McLaren was informed of his suspension until he had 'satisfactorily explained the causes which have led to this step becoming necessary', and George Wilson<sup>428</sup> was asked to take on the role temporarily and to provide a brief report on the goldfield as soon as possible.<sup>429</sup>

The day before these messages were sent, McLaren returned to Thames 'suffering from some indisposition apparently serious Bronchitis too ill for Business' but saying he could 'explain everything satisfactorily'.<sup>430</sup>

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<sup>423</sup> Under-Secretary, Mines Department, to William Larnach (Minister of Mines), 2 June 1886, Mines Department, MD 1, 86/2182, ANZ-W.

<sup>424</sup> Memorandum of William Larnach, 2 June 1886, Mines Department, MD 1, 86/2182, ANZ-W.

<sup>425</sup> Under-Secretary, Mines Department, to J.M. McLaren, 3 June 1886, Mines Department, MD 1, 86/2182, ANZ-W.

<sup>426</sup> Under-Secretary, Mines Department, to Harry Kenrick, 3 June 1886 (telegram); Harry Kenrick to Under-Secretary, Mines Department, 3 June 1886, Mines Department, MD 1, 86/2182, ANZ-W.

<sup>427</sup> Under-Secretary, Mines Department, to William Larnach, 5 June 1886, Mines Department, MD 1, 86/2182, ANZ-W.

<sup>428</sup> See paper on his life.

<sup>429</sup> Memorandum by William Larnach, 5 June 1886; Under-Secretary, Mines Department, to J.M. McLaren, 10 June 1886; Under-Secretary, Mines Department, to George Wilson, 10 June 1886, Mines Department, MD 1, 86/2182, ANZ-W.

<sup>430</sup> A.J. Allom to Under-Secretary, Mines Department, 9 June 1886 (telegram), Mines Department, MD 1, 86/2182, ANZ-W.

Kenrick, who had received ‘no direct communication’ from McLaren, was told he was ‘in bed seriously ill’ and received a medical certificate stating he had acute bronchitis and piles and required bed rest ‘for some time’.<sup>431</sup> McLaren then informed the under-secretary that he had not sent a report because his predecessor ‘instructed me to always bring any reports up to the latest possible date’ and therefore he always waited until he had seen the coal mines before writing them. He was still in bed ‘seriously ill’ but he would arrange that a report would be written up from his notes.<sup>432</sup>

Seven days after McLaren’s return, when he was still in bed, Kenrick asked: ‘Will his explanation suffice I wish to relieve his mind if possible though I trust that Mr Wakefield’s [the previous under-secretary] instructions for inspector not to leave district without arranging with warden will be renewed’.<sup>433</sup> Instead, McLaren was informed that Kenrick and the Commissioner of Crown Lands in Auckland would enquire into the causes leading to his suspension.<sup>434</sup> Evidence was taken of his ill health (which now included congestion of the liver) and that he had not provided addresses for where he could be contacted; he denied ‘intentional neglect’ in not doing so.<sup>435</sup> The evidence was sent to the department with the explanation that McLaren claimed to be following Wakefield’s verbal instructions. ‘Apparently’ his illness had affected his memory, but he could not explain his failure to reply to telegrams. ‘No official diary has been kept – nor record of any inspection ... other than notes in a pocket book – neither does it appear to have been his practice to keep the Local Gold Fields Department advised of his movements.... Much public inconvenience must and undoubtedly has ensued from this state of affairs’, as had been ‘anticipated’ by instructions he received from the department in June 1881 and October 1884. McLaren ‘pleads his forgetfulness of any such

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<sup>431</sup> Harry Kenrick to Under-Secretary, Mines Department, 10 June 1886, 11 June 1886, 12 June 1886 (telegrams); medical certificate provided by Dr P. Callan, 11 June 1886, Mines Department, MD 1, 86/2182, ANZ-W.

<sup>432</sup> J.M. McLaren to Under-Secretary, Mines Department, 12 June 1886 (telegram), Mines Department, MD 1, 86/2182, ANZ-W.

<sup>433</sup> Harry Kenrick to Under-Secretary, Mines Department, 16 June 1886 (telegram), Mines Department, MD 1, 86/2182, ANZ-W.

<sup>434</sup> Under-Secretary, Mines Department, to J.M. McLaren, 17 June 1886, Mines Department, MD 1, 86/2182, ANZ-W.

<sup>435</sup> Evidence of F.J. Burgess (Mining Registrar), J.M. McLaren, and Dr P. Callan, 6 July 1886, Mines Department, MD 1, 86/2182, ANZ-W.

instructions having been conveyed' as his reason for not carrying them out. The investigators recommended that the responsibilities of both the mining inspector and the inspector of coal mines 'be more clearly defined' and those holding these positions 'should be subject to some more immediate control than at present appears to be the case'.<sup>436</sup>

After receiving this report, Larnach considered that McLaren 'should be removed' and instructed that Kenrick be asked if the mining inspector for the Te Aroha district, George Wilson, was 'adapted for such an office & bring this matter before me again'.<sup>437</sup> Asked whether Wilson could replace McLaren. Kenrick responded instantly:

I consider Mr Wilson thoroughly well adapted for the post – He makes an admirable Mining Inspector having both discretion and judgment and though inexperienced in Coal mining He is a practical miner and thoroughly understands underground workings, and ventilation of mines. I hope there is no intention of removing him from the Gold Field – he being the only mining inspector I can depend on or have confidence in.<sup>438</sup>

Larnach was told of this response and that Gordon agreed Wilson was 'qualified', but the under-secretary wanted to discuss with him inspectors 'throughout the Colony'.<sup>439</sup> No action was taken until mid-July, when McLaren visited Larnach: 'He assured me that his illness was caused by his zeal & attention to his duties, I told him that I would consider matters' before seeing him the following day.<sup>440</sup> As McLaren then assured him he

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<sup>436</sup> Harry Kenrick and Theophilis Kissling to Under-Secretary, Mines Department, 6 July 1886, Mines Department, MD 1, 86/2182, ANZ-W.

<sup>437</sup> William Larnach to Under-Secretary, Mines Department, 19 July 1886, Mines Department, MD 1, 86/2182, ANZ-W.

<sup>438</sup> Under-Secretary, Mines Department, to Harry Kenrick, 20 July 1886 (telegram); Harry Kenrick to Under-Secretary, Mines Department, 20 July 1886 (telegram), Mines Department, MD 1, 86/2182, ANZ-W.

<sup>439</sup> Under-Secretary, Mines Department, to William Larnach, 21 July 1886, Mines Department, MD 1, 86/2182, ANZ-W.

<sup>440</sup> Memorandum by William Larnach, 17 September 1886, Mines Department, MD 1, 86/2182, ANZ-W.

would do the job well, he was reinstated and instructed to thank Wilson 'for the manner in which he has carried out the extra duties'.<sup>441</sup>

The following April, Wilson was asked to be the mining inspector for Ohinemuri to permit McLaren 'to devote a greater portion of his time to his own district, the Thames, where his services are greatly needed'.<sup>442</sup> In April 1888, after McLaren was retrenched as part of government cost cutting, the borough council unanimously regretted his removal because he had 'faithfully and without partiality fulfilled his duties'.<sup>443</sup> Three months later, Fraser, in complaining to the minister about officials being slow to prepare maps of mining claims, wrote that McLaren 'gave the greatest satisfaction by his correctness and promptitude'.<sup>444</sup> His last report to the Mines Department was submitted in November that year.<sup>445</sup> He then worked privately until being appointed engineer to the Thames County Council, on a split vote, in 1890.<sup>446</sup> The following year, he petitioned parliament that he had been 'discharged from the Government service without the usual leave of absence' and sought 'full compensation'. After Fraser gave evidence in his support, the petitions committee voted three to two that as there was a 'general rule' to grant three months' leave of absence on full pay upon retirement, he be granted this.<sup>447</sup> He was the council's engineer for 20 years before resigning in December 1910.<sup>448</sup>

#### MORE ATTACKS ON KENRICK AFTER 1880

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<sup>441</sup> Memorandum by William Larnach, 18 September 1886; Acting Under-Secretary, Mines Department, to J.M. McLaren [two letters], 21 September 1886, Mines Department, MD 1, 86/2182, ANZ-W.

<sup>442</sup> Acting Under-Secretary, Mines Department, to George Wilson, 14 April 1887, Te Aroha Warden's Court, General Correspondence 1887, BBAV 11584/3b, ANZ-A.

<sup>443</sup> Borough Council, *Thames Star*, 20 April 1888, p. 2.

<sup>444</sup> *Thames Star*, 18 July 1888, p. 2.

<sup>445</sup> J.M. McLaren to Under-Secretary, Mines Department, 6 November 1888, Mines Department, Index of Inwards Correspondence, MD 3/3, ANZ-W.

<sup>446</sup> *Thames Star*, 3 July 1890, p. 2; *Cyclopedia of New Zealand*, vol. 2, p. 868.

<sup>447</sup> Public Petitions Committee, Legislative Department, LE 1, 1891/11, ANZ-W; 'Report of Public Petitions M to Z Committee', *AJHR*, 1891, I-2, p. 10.

<sup>448</sup> *Observer*, 19 December 1910, p. 4.

In January 1881, a 'Heathen' suggested that Kenrick permitted one Paeroa publican, Francis Lipsey,<sup>449</sup> to renew his license whereas another application was declined because Kenrick 'was influenced by certain *brotherly feelings*', an implication of Masonic links. While there is no evidence that Kenrick was a Mason, Lipsey was a prominent one.<sup>450</sup> 'Heathen' wondered whether the publican who lost his license was punished for being a customer of Ehrenfried, which 'brought him under the displeasure of the autocratic Harry'.<sup>451</sup> 'Observer' wondered why Kenrick ignored his own precedent at Thames by ignoring a petition signed by 200 people asking that the hotel be kept open.<sup>452</sup> In mid-1881, Waihi residents reportedly considered he had treated a man convicted of sly-grogging too harshly: 'It was a breach of the law that might well have been overlooked'. As well, when a flaw in the police information was discovered, Kenrick went beyond his functions by correcting it.<sup>453</sup>

The following month, Kenrick was obliged to state that a rumour he had asked the government to remove Ehrenfried as a justice of the peace because he was so involved with licensing matters was 'entirely without foundation'.<sup>454</sup> Justice Department files do not reveal any such request. In June, a miner and contractor, William Sharpe McCormick,<sup>455</sup> had a letter published as an advertisement in the evening newspaper concerning a case about pegging out a claim. He considered that Kenrick had given one of 'his *peculiar judgments*', contrary to the evidence. 'We wanted the Warden to come on the claim and see for himself, but he would not; but nevertheless I think it was his bounden duty to do so', because his officials assisted rivals to jump claims. He disliked how Kenrick used his discretionary powers.<sup>456</sup> (McCormick was another example of the type of person who opposed Kenrick: in 1894 he would be convicted of raping a girl aged 15 and of

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<sup>449</sup> See *Ohinemuri Gazette*, 25 February 1903, p. 2.

<sup>450</sup> See *Auckland Weekly News*, 2 July 1870, p. 17; *Thames Advertiser*, 25 June 1873, p. 3; Company Files, BADZ 5181, box 23 no. 131, ANZ-A.

<sup>451</sup> Letter from 'Heathen', *Thames Advertiser*, 21 January 1881, p. 3.

<sup>452</sup> Letter from 'Observer', *Thames Advertiser*, 27 January 1881, p. 3.

<sup>453</sup> Waihi Correspondent, *Thames Star*, 2 June 1881, p. 2.

<sup>454</sup> *Thames Star*, 2 March 1881, p. 2.

<sup>455</sup> For his brief involvement in the Te Aroha rush, see Te Aroha Correspondent, *Thames Advertiser*, 20 December 1880, p. 3; *Thames Star*, 7 January 1881, p. 2, 8 January 1881, p. 2, 21 January 1881, p. 3.

<sup>456</sup> Letter from W.S. McCormick, *Thames Star*, 10 June 1881, p. 3.

attempted carnal knowledge of two girls aged under 12, all the daughters of a close friend.)<sup>457</sup>

Fraser's partisans continued to resent Kenrick; as an observer noted in 1882, his relations with 'a section of the people' were 'not of the happiest description'.<sup>458</sup> A Thames gossip writer claimed, in July 1883, that he had 'got a month's leave at an opportune time for pushing his claim to promotion during the session, and before his friends go out of office'.<sup>459</sup> There is no evidence to indicate that he had any political patrons; indeed in 1881 he complained about the government cutting his salary to the level of the other wardens.<sup>460</sup>

### BRASSEY FIGHTS ON

After Brassey wrote to the department at the beginning of February 1881 'calling attention to' his charges, he was sent a copy of the report of the petitions committee and informed that the government saw 'no reason for taking further action'.<sup>461</sup> Two days before this response was sent, Brassey had written again, claiming that Kenrick had caused unnecessary delay in hearing his cases; Kenrick's denial was sent to him.<sup>462</sup> Brassey used the opportunity created by Kenrick conducting the coroner's enquiry into the murder at Te Aroha<sup>463</sup> to complain in court that his case could not proceed.

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<sup>457</sup> Thames Magistrate's Court, Criminal Record Book 1893-1896, 196-198/1894, BACL 13736/37a; Supreme Court, Judge's Notebooks, Criminal Cases June-November 1894, pp. 154-174, 177-182, BBAE A304/1090, ANZ-A; Police Court, *Thames Advertiser*, 9 July 1894, p. 2, 12 July 1894, p. 2; Supreme Court, *New Zealand Herald*, 6 September 1894, p. 3, 8 September 1894, p. 3; *New Zealand Police Gazette*, 27 June 1894, p. 101, 11 July 1894, p. 109, 6 December 1905, p. 435.

<sup>458</sup> *Freeman's Journal*, 31 March 1882, p. 8.

<sup>459</sup> 'Thames Tittle Tattle', *Observer*, 28 July 1883, p. 6.

<sup>460</sup> Under-Secretary, Mines Department, to Harry Kenrick, 5 September 1881; Under-Secretary, Justice Department, to Harry Kenrick, 27 September 1881, Thames Warden's Court, Inwards Correspondence to Resident Magistrate and Warden, BACL 13388/1a, ANZ-A.

<sup>461</sup> Under-Secretary, Justice Department, to G.N. Brassey, 16 February 1881, Letterbook, pp. 671-672, Justice Department, J 5/37, ANZ-W [Brassey's letter has not survived].

<sup>462</sup> Under-Secretary, Justice Department, to G.N. Brassey, 1 March 1881, Letterbook, pp. 734-736, Justice Department, J 5/37, ANZ-W [Brassey's letter has not survived].

<sup>463</sup> See paper on the Te Aroha murder.

He claimed Kenrick 'must have known of the great inconvenience' caused to his client and argued that someone else could have acted as coroner. 'It was his intention to apply to a higher authority' to 'see if the manner in which the Resident Magistrate had of late been treating the district was to be allowed to continue'.<sup>464</sup> He then immediately complained in the press about the 'considerable inconvenience' created by 'our much respected' magistrate's absences:

It would appear that the Warden's duties are so multitudinous, and there is such a press of business at Te Aroha, coupled with the fact that he has been recommended horse exercise, that the public are to suffer inconvenience whilst he is quietly taking recreation and vegetating for a week or so at a time on the plains at Te Aroha, with a full staff of officials, under the plea of business to transact. The case before the Court this morning was one the hearing of which can only take place before the R.M. of the district. Mr Kenrick himself fixed the case for this morning, and I naturally made arrangements for the hearing, when to my surprise (although nothing new now-a-days with such an official) one of my witnesses, Dr Huxtable, called on me last night and informed me that he could not attend the Police Court this morning owing to his having to go to Te Aroha.

Kenrick had asked Huxtable to conduct a post mortem examination. Brassey claimed the police advised Kenrick he should not hold the inquest and that another doctor could do the post mortem, but 'the worthy R.M. spurned the idea, and said he should have either Dr Huxtable or Dr Kilgour'. He also claimed that Kenrick 'refused to consult' Wilkinson before leaving for Te Aroha, 'probably thinking to steal a march on that official, but proceeded post haste to the scene of the murder, leaving Mr Wilkinson behind to fish out information'. Brassey considered that either himself or Kilgour, the coroners for the district, could have conducted the inquest. To suit Kenrick's 'whims and fancies', business at the Thames court was not done.

It is really high time that the people looked into the matter, and Government took some steps to enquire into the continued absence of the Warden, and his arbitrary conduct, not to say his judgments. But perhaps the people prefer this absence, and to see him drawing £300 a year for horse feed and travelling expenses to Te Aroha and Coromandel than to see him present. At any rate,

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<sup>464</sup> *Thames Star*, 12 February 1881, p. 2.

for the convenience of business people here, if Mr Kenrick cannot attend to the duties of his office, some other stipendiary Magistrate should be appointed, and that the people should petition for without delay.<sup>465</sup>

The newspaper understood that ‘the authorities attacked have sent a copy’ of this letter to the government along with ‘a full report upon the circumstances’.<sup>466</sup> Kenrick had indeed written to it, enclosing the relevant press cuttings. The Under-Secretary of Justice responded that, ‘whilst your explanation is satisfactory, the Government cannot do otherwise than the Coroners Act has done, viz:- leave the holding of Inquests to the discretion of Coroners, who are supposed to act harmoniously’.<sup>467</sup>

Huxtable explained that when he saw Brassey ‘before anything was said about my going to Te Aroha, he informed me that my evidence in his case next day would not be required’.<sup>468</sup> Brassey responded that this statement was, ‘to say the least of it, a gross falsehood’, designed to shield ‘his bosom friend’, Kenrick. He believed Kenrick had probably advised Huxtable to ask to be excused from giving evidence, and in a final slight, claimed Huxtable had asked him to ‘eliminate a portion of the evidence’ in a case that ‘might tend to injure his practice’.<sup>469</sup> Huxtable then provided details refuting Brassey’s claims that he was required to give evidence. Brassey’s statements about the advice the police gave Kenrick was another of his ‘flights of fancy’ and the head of the local police had given him permission ‘to contradict this *in toto*’. He denied that Kenrick was his ‘bosom friend’.

So far, my acquaintance with that gentleman has extended to my visiting his house once professionally, and his calling once at mine professionally. As to Mr Brassey saying that I desired to suppress evidence, there is as much truth in this as in his previous statements. The boot is on the other leg. His forgetfulness is as wonderful as it is convenient.<sup>470</sup>

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<sup>465</sup> Letter from G.N. Brassey, *Thames Star*, 12 February 1881, p. 2.

<sup>466</sup> *Thames Star*, 16 February 1881, p. 2.

<sup>467</sup> Under-Secretary, Justice Department, to Harry Kenrick, 25 February 1881, Thames Warden’s Court, Inward Correspondence to Resident Magistrate and Warden 1879-1892, BACL 13388/1a, ANZ-A.

<sup>468</sup> Letter from C.H. Huxtable, *Thames Star*, 17 February 1881, p. 2.

<sup>469</sup> Letter from G.N. Brassey, *Thames Star*, 18 February 1881, p. 2.

<sup>470</sup> Letter from C.H. Huxtable, *Thames Star*, 19 February 1881, p. 2.

At which point the editor announced: 'This correspondence must now cease'.<sup>471</sup>

On the same day as this correspondence was terminated, Kenrick sent a copy of Brassey's original letter complaining about his case being delayed, along with the police response, to the Auckland Law Society.

The statements contained in the letter referred – are simply pure fabrications – without the slightest foundation in truth – The facts are simple – in the execution of my duty as Resident Magistrate of the District – I proceeded on the report and at the request of the Police, to the Aroha for the purpose of investigating a charge of murder preferred against a man in custody at the time – and as Coroner to hold an Inquest on the body of the murdered man.

I may mention that there was no Justice of the Peace residing in or near the locality – It will be seen that Mr Brassey who is also a Coroner at the Thames – disappointed apparently at not being called upon to act as Coroner – after making most scandalous and ungentlemanly expressions towards myself in the presence of the Constables – proceeds to embody a series of deliberate falsehoods in the letter – publishing the same in the Press with the full knowledge that I as a Government Officer am debarred from noticing the same.

Accordingly, he requested 'an opinion in the matter'.

Had this been the first occasion on which I had cause to complain of Mr Brassey's untruthful – ungentlemanly and unprofessional conduct I should probably have passed the matter by with the contempt it would deserve – but it is not so - for many months past I have been subjected to a systematic persecution on the part of Mr Brassey – taking the form of a series of Petitions to the Government emanating directly or indirectly from himself – and of letters to the Press as false as the one enclosed.

On investigation the Petitions have always been dismissed by the Government – the charges proving to have been unfounded – but the letters as in the present case – I have been unable to notice or contradict publicly – so that the falsehoods contained therein have passed for truths with many of the Public.

As for the 'inconvenience' complained of by Brassey, 'I may state that the case referred to by him had been settled on the previous day' by Brassey

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<sup>471</sup> *Thames Star*, 19 February 1881, p. 2.

and the solicitor for the other parties, and the only inconvenience was a delay of two days in recording the agreement. The other solicitor ‘thought it unnecessary to open and adjourn the Court but Mr Brassey insisted upon the opening – to enable him – using his own words uttered at the time in the office of the Clerk of Court – “To have another shot at Kenrick” ’. Brassey’s conduct was ‘unworthy of a member of so honourable a Profession’, and he hoped the society would take ‘cognizance of the matter’.<sup>472</sup> If it did, it made no public statement.

As counsel for the accused, John Procoffy, Brassey asked for permission to take an interpreter into his cell because he could not understand him. As the senior policeman at Thames said that Brassey ‘had brought with him a man who could not speak a word of Russian, and besides this was not necessary, as Procoffy was able to understand English well enough to be understood’, Kenrick declined the application.<sup>473</sup> This decision prompted an attack on him by Sir Frederick Clarence Dean, town clerk in the 1880s and a member of the Fraser ‘ring’. (Dean was another of Kenrick’s opponents to have feet of clay: at the end of the decade he fled to Norfolk Island after he was discovered to have been embezzling borough funds.)<sup>474</sup> Dean claimed Kenrick’s refusal to permit Brassey to visit Procoffy with an interpreter was ‘most monstrous. It may be law, but it certainly is not English justice’, for the accused should be treated as innocent until proved otherwise. ‘So far as this murder case has progressed, it has not been conducted as it would have been’ by any of the previous Thames magistrates. Dean opposed Kenrick trying Procoffy first as coroner and then as magistrate, for he could not be impartial at the second hearing.<sup>475</sup> In

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<sup>472</sup> Harry Kenrick to Secretary, Law Society, Auckland, 19 February 1881, Thames Warden’s Court, Receiver of Gold Revenue Letterbook 1878-1892, pp. 240-242, ZAAN 14143/1b, ANZ-A.

<sup>473</sup> *Thames Advertiser*, 23 February 1881, p. 2.

<sup>474</sup> *Waikato Times*, 9 July 1889, p. 2, 16 July 1889, p. 2, 17 August 1889, p. 2, 24 August 1889, p. 2; *Thames Star*, 16 August 1889, p. 2, 28 August 1889, p. 2; *New Zealand Police Gazette*, 17 July 1889, p. 133, 14 August 1889, p. 151, 28 August 1889, p. 161, 20 November 1889, p. 214; Supreme Court, *New Zealand Herald*, 3 September 1889, p. 3.

<sup>475</sup> Letter from F.C. Dean, *Thames Star*, 23 February 1881, p. 2.

June, Dean complained to the Mines Department 'as to Warden interfering with or attempting to control the actions of the Mining Inspector'.<sup>476</sup>

'Paul Pry' reported that Brassey had 'hinted that he was prepared with evidence to show' that Kenrick and the head of the police 'ought to change places with his client', and that 'a certain legal gentleman' had asked the government to pay his fees to defend Procoffy and wondered whether this was 'according to professional etiquette'.<sup>477</sup> Brassey had indeed requested payment, offering to charge half fees.<sup>478</sup> On the same day, Procoffy sent a telegram asking the Colonial Secretary, Thomas Dick, to retain Brassey as his lawyer.<sup>479</sup> The police inspector in charge of the case reported that Brassey 'was not sent for by' Procoffy but had visited him 'unsolicited', asked to be his solicitor, and 'wrote out the telegram to Minister of Justice to which he induced prisoner to put his mark. The other solicitors here I am informed complain not unreasonably of Mr Brassey's very unprofessional conduct as decidedly unfair to them'.<sup>480</sup> Rolleston commented to the Premier, Sir John Hall, who had also been contacted by Brassey,<sup>481</sup> that his contacting two ministers was 'very improper'. Hall responded, 'very', for the selection of counsel should be made by the magistrate,<sup>482</sup> but did agree to meet the costs of defending Procoffy if the case went to the Supreme Court.<sup>483</sup>

The day before Procoffy's trial commenced on 24 February, Kenrick informed the minister that he had received a subpoena to produce the

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<sup>476</sup> Town Clerk, Thames, to Under-Secretary, Mines Department, 7 June 1881, Register of Inwards Correspondence, Mines Department, MD 2/1, 81/611, ANZ-W [Dean's letter has not survived].

<sup>477</sup> 'Paul Pry', 'At the Corner', *Thames Star*, 23 February 1881, p. 2.

<sup>478</sup> G.N. Brassey to William Rolleston, 19 February 1881 (telegram), Justice Department, J 1, 81/914, ANZ-W.

<sup>479</sup> John Procoffy to Thomas Dick, 19 February 1881 (telegram), Justice Department, J 1, 81/914, ANZ-W.

<sup>480</sup> Inspector J.B. Thomson to Commissioner of Armed Constabulary, 20 February 1881 (telegram), Justice Department, J 1, 81/914, ANZ-W.

<sup>481</sup> G.H. Brassey to John Hall, 21 February 1881 (telegram), Justice Department, J 1, 81/914, ANZ-W.

<sup>482</sup> Memorandum by William Rolleston to John Hall, 21 February 1881; memorandum by John Hall, 22 February 1881, Justice Department, J 1, 81/914, ANZ-W.

<sup>483</sup> G.N. Brassey to John Hall, 22 February 1881 (telegram), 7 March 1881, Justice Department, 22 February 1881, Justice Department, J 1, 81/914, ANZ-W.

evidence obtained at the inquest and give evidence about it. The subpoena was ‘for the purpose of annoyance only’ and would cause much inconvenience to the justices of the peace.<sup>484</sup> He was told he must obey the summons, for ‘the law does not anticipate and therefore has not provided against the action of vindictive men’.<sup>485</sup> When the trial opened, he announced that the subpoena prevented his hearing the case, and explained why he had acted as coroner:

There seems to be an impression abroad that the coroner at an inquest cannot sit as Resident Magistrate, and hear the case. Here I would say that the duties of Magistrate in these cases are merely Ministerial, and not judicial. Hundreds of cases have been dealt with by the same Coroner and Resident Magistrate, and on one occasion I had to proceed 100 miles to hold an inquest on a murdered Maori woman. The Coroner’s jury returned a verdict of wilful murder, and I committed the accused for trial at the Supreme Court. I am only sorry that the onerous and unpleasant duties of this case should have fallen upon the Justices, as the proper person to hear it is a man who is paid by the Government for such work. I can only regret the work should have fallen to their lot.<sup>486</sup>

After Kenrick stepped aside, Brassey wished William Wilkinson removed from the Bench because his *Thames Advertiser* had criticized him.<sup>487</sup> An editorial in that morning’s edition had indeed opposed attempts to submit Kenrick to ‘contempt’ over the proceedings, for ‘any impartial person would arrive at the conclusion that there has been undisguised “method in all this madness”’. While it might have been better had Kenrick not acted as coroner, this did not imply that he would not be impartial; indeed his summing up at the inquest ‘was altogether against the theory that Procoffy was guilty’. The subpoena could serve ‘no good purpose’.<sup>488</sup> The newspaper had sent a reporter to check on the rumour that Procoffy was

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<sup>484</sup> Harry Kenrick to William Rolleston, 23 February 1881 (telegram), Justice Department, J 1, 81/914, ANZ-W.

<sup>485</sup> Memorandum by Under-Secretary, Justice Department, 23 February 1881; memorandum by Thomas Dick, 23 February 1881, Justice Department, J 1, 81/914, ANZ-W.

<sup>486</sup> Magistrate’s Court, *Thames Star*, 24 February 1881, p. 2.

<sup>487</sup> Magistrate’s Court, *Thames Star*, 24 February 1881, p. 2.

<sup>488</sup> Editorial, *Thames Advertiser*, 24 February 1881, p. 2.

‘handcuffed, and heavily ironed in the police cell’. He ‘of course found there was no truth’ in it, nor in the report sent to several newspapers that Kenrick had refused to allow Procoffy an interpreter.<sup>489</sup>

After protesting about Wilkinson, Brassey complained that Kenrick had refused his request to have an interpreter when interviewing Procoffy because it was ‘an unusual one – in fact he considers nearly all applications unusual. These things are a disgrace both to the Bench and the place’. The police explained an interpreter was not available and Wilkinson declined to step down, commenting that Brassey was ‘guilty of a most unwarrantable course’ in sending Kenrick a subpoena. Brassey responded by once more accusing Wilkinson of ‘a strong personal bias against me’. After this skirmishing, the hearing finally commenced.<sup>490</sup> Later, when Wilkinson complained about irrelevant evidence encumbering the case, Ehrenfried, chairman of the Bench, disagreed, for Brassey ‘should be allowed every latitude’ and had not ‘overstepped that limit’.<sup>491</sup> The wrangling between Wilkinson and Brassey drew condemnation from some observers.<sup>492</sup>

‘Paul Pry’ referred to ‘plenty of talk’ about the case. ‘One minute Natty is set down to be a hero for giving his assistance to Prokoffy free gratis for nothing, and the next Somebody says his generosity has a purpose – a little cheap popularity (never mind the late hours), but that he is rather over-doing the cross-examination’. His zeal was ‘over-running his discretion’, as, for instance, when he charged the police with coaching witnesses; had Brassey never done so himself?<sup>493</sup> The *Thames Advertiser* was angered by Brassey, preventing Kenrick sitting on the Bench, not calling him to give evidence, behaviour which was ‘altogether out of place’.<sup>494</sup>

When the case was referred to the Supreme Court, Brassey reminded the Premier of his promise to consider meeting the cost of his defence.<sup>495</sup> At his request, Ehrenfried supported him.<sup>496</sup> Hall, while willing to consider

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<sup>489</sup> *Thames Advertiser*, 24 February 1881, p. 3.

<sup>490</sup> Magistrate’s Court, *Thames Star*, 24 February 1881, p. 2.

<sup>491</sup> Magistrate’s Court, *Thames Star*, 1 March 1881, p. 2.

<sup>492</sup> Editorial, *Thames Star*, 1 March 1881, p. 2; letter from ‘A Lover of Justice’, *Thames Star*, 3 March 1881, p. 2.

<sup>493</sup> ‘Paul Pry’, ‘At the Corner’, *Thames Advertiser*, 28 February 1881, p. 3.

<sup>494</sup> Editorial, *Thames Advertiser*, 3 March 1881, p. 2.

<sup>495</sup> G.N. Brassey to John Hall, 7 March 1881, Justice Department, J 1, 81/914, ANZ-W.

<sup>496</sup> L. Ehrenfried to John Hall, 7 March 1881; E. Fox to John Hall, 12 March 1881, Justice Department, J 1, 81/914, ANZ-W.

this request 'favourably', made no promise that Brassey would be chosen as the counsel, as the selection would 'be made in the ordinary way' by the Minister.<sup>497</sup> He believed Procoffy should choose his counsel.<sup>498</sup> Brassey was chosen, and after complaining that the first offer of £10 10s was 'grossly inadequate' and asking for £50, received £34 10s 6d.<sup>499</sup>

On 5 June, Brassey wrote to the Justice Department 'again complaining of the conduct of Mr Kenrick' and asking for his dismissal.<sup>500</sup> A month later, he was informed that his charges had been submitted to Kenrick, 'who has given full and satisfactory explanations'.<sup>501</sup>

Also on 5 June, Brassey sent the minister a ten-page letter giving details of all Kenrick's wrong decisions, the latest a week previously, when Kenrick 'attacked' him in giving judgment. He continued to lose business through Kenrick's 'antipathy'. Because of this, and his 'unfitness', another petition was being organized at Thames seeking his removal. Kenrick was 'by no means liked upon the field', and was constantly interfering with Allom, the clerk of court, and McLaren, the mining inspector, 'in so absurd and dictatorial a manner'. Kenrick was 'in the habit of advising people as to what sort of action they should bring in the Courts presided over by him and as to what course of action they should pursue to the great loss to Solicitors practicing of fees and thereby prejudicing his own mind in favor of those he may advise'. He wanted either an enquiry so that he could produce evidence or Kenrick's removal to another district.<sup>502</sup>

Contacted by Kenrick, Allom insisted that Brassey 'has not my authority for making' these statements.<sup>503</sup> David Watson Pitkethley,

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<sup>497</sup> John Hall to E. Fox, 12 March 1881, Sir John Hall Papers, Letterbook 1881, p. 218, MS X911, Alexander Turnbull Library.

<sup>498</sup> John Hall to E. Fox, 12 March 1881, Justice Department, J 1, 81/914, ANZ-W.

<sup>499</sup> G.N. Brassey to William Rolleston, 3 April 1881, 25 April 1881; memorandum of Thomas Dick (the new Minister of Justice), 19 May 1881; memorandum of Under-Secretary, Justice Department, 21 May 1881, Justice Department, J 1, 81/914, ANZ-W.

<sup>500</sup> G.N. Brassey to Under-Secretary, Justice Department, Register of Inwards Correspondence, 81/1215, Justice Department, J 2/11; Under-Secretary, Justice Department, to G.N. Brassey, 14 June 1881, Letterbook, p. 599, Justice Department, J 5/38, ANZ-W [Brassey's letter has not survived].

<sup>501</sup> Under-Secretary, Justice Department, to G.N. Brassey, 19 July 1881, Letterbook, p. 748, Justice Department, J 5/38, ANZ-W.

<sup>502</sup> G.N. Brassey to Thomas Dick, 5 June 1881, Justice Department, J 1, 81/1324, ANZ-W.

<sup>503</sup> A.J. Allom to Harry Kenrick, 21 June 1881, Justice Department, J 1, 81/1324, ANZ-W.

manager of the Alburnia battery and a future member and chairman of both the county council and the hospital board,<sup>504</sup> made the same point, adding that Kenrick ‘gave a fair decision on the merits of the case’.<sup>505</sup> Richard Mills Hawkes, a Tapu publican,<sup>506</sup> repeated that no authority was given, and explained that he had given his case to another lawyer because he did not think Brassey would win it.<sup>507</sup> Kenrick sent copies of these letters to the minister, Thomas Dick, and pointed out that complaining about losing cases was ‘unusual, unprofessional and unfair for a Magistrate to be expected to meet’. He explained the cases Brassey had cited; if he did not appeal, the decisions must be correct. He denied ever having conversations with Brassey’s clients, for ‘in no single instance have I advised suitors in the Courts’. As for animus to Brassey, ‘I can only say that I have the strongest possible feeling of contempt for the mean, malicious untruthful conduct of that person’, but it did not influence any of his decisions. He had always been courteous to Brassey ‘even under considerable provocation’. As an attempt to hold a public meeting had failed, a petition was being organized instead. ‘Under exceptional circumstances’ he was trying to do his duties ‘to the best of my poor ability’, and felt he had the respect of the residents.<sup>508</sup> After the under-secretary advised Dick not to take any notice of Brassey’s complaints in future, he was instructed to tell Kenrick ‘his explanations are quite satisfactory’ and to tell Brassey that Kenrick ‘has given full and satisfactory explanations’;<sup>509</sup> when Brassey sought to obtain Kenrick’s letter and to provide evidence, Dick instructed that his telegram was to be ignored.<sup>510</sup>

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<sup>504</sup> See *Thames Star*, 23 April 1880, p. 2, 8 August 1885, p. 3, 8 May 1886, p. 2, 5 December 1889, p. 2, 27 December 1889, p. 2.

<sup>505</sup> D.K. Pitkethley to Harry Kenrick, 21 June 1881, Justice Department, J 1, 81/1324, ANZ-W.

<sup>506</sup> See *Thames Star*, 4 June 1878, p. 2; *Thames Advertiser*, 29 June 1881, p. 3; *New Zealand Herald*, 12 September 1922, p. 8.

<sup>507</sup> R.M. Hawkes to Harry Kenrick, 21 June 1881, Justice Department, J 1, 81/1324, ANZ-W.

<sup>508</sup> Harry Kenrick to Thomas Dick, 23 June 1881, Justice Department, J 1, 81/1324, ANZ-W.

<sup>509</sup> Under-Secretary, Justice Department, to Thomas Dick, 1 July 1881; memorandum of Thomas Dick, 11 July 1881, Justice Department, J 1, 81/1324, ANZ-W.

<sup>510</sup> G.N. Brassey to Thomas Dick, 9 July 1881 (telegram); Thomas Dick to Under-Secretary, Justice Department, 17 July 1881, Justice Department, J 1, 81/1324, ANZ-W.

On the same day as the letters to Kenrick were written, Brassey had a public notice published in the morning newspaper about the handling by 'our sapient Resident Magistrate', in his capacity as an agent of the Trust Commissioners under the Native Lands Frauds Prevention Act, 1870, of the purchase of Waiotahi A.

After the parties had assembled in the Resident Magistrate's room, and the Enquiry had commenced, Dr Kilgour, a well-known protégé of Mr Kenrick's, puts in an appearance. Mr Kenrick: Walk in, Dr Kilgour, I shall not be long. [Enter Dr Kilgour, who takes a seat in the midst of the Enquiry.] The Enquiry proceeds. Eventually a deed is submitted to the natives for signature (which, be it understood, the worthy R.M. had nothing whatever to do with but to take the signature of the natives "without expressing an opinion.") The R.M. looks at the deed, and says this is a deed which confers greater power than the natives intend, - will you be good enough, Mr Interpreter, to explain this? I explain the legal aspect of the deed, and am quickly informed of the "opinion" of the would-be man of the law that the opinion is different. If this is not a pretty state of affairs coming from a man who has not so very long since acted as a Clerk to the Court, to say nothing of what different positions he occupied before that, to dictate to a professional man, is beyond comprehension, and to say the least of it, out of place and uncalled for. But when, as is the usual course with natives, argument goes on, Dr Kilgour puts in his spoke as the guiding star of the R.M., and says:- "If you will allow me, gentlemen, it appears to me that nothing can be gained by *our* remaining here this afternoon, and I think you had better postpone the matter," or words to that effect, nothing could be more disgusting. Was Mr Kenrick wishing to leave to have to consult his friend Dr Kilgour as to the welfare of the district? Did he want to go to tea with Dr Kilgour? Or did they make an appointment to consult generally with regard to the probabilities of the success of their party in the forthcoming election for the House. There is no use denying the fact that both Kenrick and Kilgour are hand in glove, and the attentive doctor's presence at the office of the R.M. and Clerk of the Court (when the R.M. is away) is evidence of this fact. When these enquiries were left in the hands of Mr G.T. Wilkinson there was a fair and impartial enquiry, but when unfortunate purchasers of native lands are subjected to the crochets of Mr Kenrick's enquires, who is a new chum compared with Mr Wilkinson and Dr Kilgour, is permitted to take part in such enquiries, there is no knowing where these matters end. It is to be hoped that before long Government will

see their way to entrust these matters to some one possessing more competency than our worthy R.M.<sup>511</sup>

Kilgour immediately asked, 'What should we do without our Brassey, whose cheerful guffaw sets every laughing jackass within hearing on the broad grin, and who keeps us all alive in these dull times by his version of the amenities between the Bench and the Bar', and was glad to have 'the opportunity of testifying to the unusual merits of our friend Brassey'. He sarcastically referred to his 'mind so richly endowed' and the great 'imagination' which played 'a large part in the construction of those immortal works upon which his fame has been established, and which gains fresh lustre' from his description of this meeting in Kenrick's office. Kilgour had gone there 'in order to walk with him to Parawai', and sat through the slow proceedings waiting for him to be free. When 'a power of attorney in favour of Brassey was produced' it 'occasioned some comment from Mr Kenrick, wherewith B. was much displeased, and a warm discussion upon the merits of the document ensued'. When it was finally agreed that it must be translated into Maori, nobody present 'could or would perform that duty', preventing further progress; yet 'the talk still went on, to the manifest weariness of all concerned, excepting, I presume, friend Brassey'. Getting impatient, Kilgour's suggestion of adjourning the matter 'was eagerly seized, and in a few minutes the Court was clear'. As for Brassey's claims that Kilgour was in the magistrate's office when Kenrick was away, 'alas for the poet who pretends to describe mere facts nobody in those offices is aware of the doctor's visits, nor has he himself any knowledge of the circumstance; but what of that – Brassey has said it – 'tis enough'. Kilgour admitted to being Kenrick's friend

and glory in our shame. But what about the power of attorney drawn up in his own favour by our Nathaniel without guile, which was actually challenged by the audacious Kenrick, whose disgraceful suspicions of the import of a document drawn up by a professional man can hardly be stigmatised too severely; yet, strange to say, Kenrick's perverted views were endorsed by a legal practitioner; the power of attorney was found to be general, as well as special, giving a wide scope for future operations. In these circumstances the alteration required by the ridiculous Kenrick were perforce submitted to, by which our esteemed friend

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<sup>511</sup> Letter from G.N. Brassey, published as Public Notice, *Thames Advertiser*, 21 June 1881, p. 2.

was hoisted on to the horns of a dilemma of this kind. The mistake in question was made either designedly or not: if by design, then he exposed himself to the suspicion of enterprising ulterior objects; if otherwise, to a charge of professional ignorance.<sup>512</sup>

Brassey responded that Kilgour's guffaw, especially when he was acting in a judicial capacity, 'sets every laughing jackass within hearing on the broad grin'.

Nobody, perhaps, I may be permitted to say, has such flights of imagination or fancy as friend Kilgour, especially when he imagines that he and his friend Kenrick are going to rule the roost here. Not so long since the worthy Kilgour met another medico in the place, and said to him: "We are thinking of sending some on to Te Aroha to report upon the sanitary condition of the place;" – the "we" being, of course, himself and Mr Kenrick. "What fee would you, Doctor ----, feel disposed to accept to visit the place, and furnish a report if *we* asked you to do so?" I hardly need say that the medico addressed by friend Kilgour did not quite see what Kil. had to do with the matter, and declined the liberal offer.

He denied the power of attorney was a general one. After denying being involved in any swindles, he asked why Kilgour had left Geelong to live in Thames,<sup>513</sup> implying something discreditable had forced him to leave. Kilgour had indeed lived there at the end of the 1850s, and there was a court case against him in 1859;<sup>514</sup> as Fraser had lived there for some years,<sup>515</sup> presumably he was the source of this unexplained gossip. There was no response to this letter.

Possibly because of the tensions caused by Brassey, in November 1881 Kenrick was unable to attend a dinner for Volunteer officers because he had 'for some weeks been suffering from neuralgia and a low nervous complaint', leaving him with 'none too much strength to get through my daily work'.<sup>516</sup>

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<sup>512</sup> Letter from James Kilgour, published as Public Notice, *Thames Advertiser*, 22 June 1881, p. 2.

<sup>513</sup> Letter from G.N. Brassey, published as Public Notice, *Thames Advertiser*, 24 June 1881, p. 2.

<sup>514</sup> *Thames Star*, 21 July 1880, p. 2; *Thames Advertiser*, 21 September 1897, p. 2.

<sup>515</sup> *Cyclopedia of New Zealand*, vol. 1, p. 108.

<sup>516</sup> *Thames Advertiser*, 19 November 1881, p. 3.

## SOME OF KENRICK'S OPPONENTS LEAVE THAMES

Presumably because he blamed Kenrick for handicapping him, Brassey moved to Auckland in 1882.<sup>517</sup> Fraser presented him with 'a very handsome marble time-piece', inscribed from 'the citizens of Thames', at a farewell attended by 'a number' of his friends.<sup>518</sup> He continued to be abrasive with both solicitors and magistrates and even the Law Society, and was treated with contempt by a solicitor at one hearing.<sup>519</sup> Appointed coroner again, he was removed from this post in 1887.<sup>520</sup> In 1891 he went bankrupt.<sup>521</sup> He died in Auckland in 1896.<sup>522</sup>

After McIlhone left Thames, he ran a hotel in Queen Street in Auckland in 1883.<sup>523</sup> He became a popular and prominent Aucklander.<sup>524</sup> Occasionally he was in ill-repute: in 1897 he was in trouble over using improper language to a Salvation Army 'lass', and four years later was convicted of being drunk in Queen Street.<sup>525</sup>

Ehrenfried left for Auckland in 1885, having been humiliated two and half years earlier by foolishly revealing himself to be a cuckold by charging his wife's lover with attempted rape and losing the case.<sup>526</sup> Kenrick did not attend the banquet farewelling him and his wife, who was praised for her 'untiring, though unobtrusive, exertions' for the 'sick and needy'. The man who proposed the toast to Ehrenfried noted that he 'was not one of those who always moved along smoothly – he would make foes as well as friends'. Ehrenfried responded with a speech full of good feeling for Thames and its

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<sup>517</sup> *Thames Star*, 13 September 1882, p. 2; *Auckland Weekly News*, 15 February 1890, p. 19.

<sup>518</sup> *Thames Star*, 14 October 1882, p. 2.

<sup>519</sup> *Auckland Star*, 2 July 1888, p. 8, 9 July 1888, p. 5; *Observer*, 27 July 1889, p. 11, 15 February 1890, p. 7, 9 September 1893, p. 7, cartoon, 13 October 1894, p. 12, 26 January 1895, p. 18.

<sup>520</sup> *Thames Star*, 5 November 1887, p. 2.

<sup>521</sup> Advertisement, *Auckland Star*, 17 April 1891, p. 4.

<sup>522</sup> *New Zealand Herald*, 27 November 1896, p. 5.

<sup>523</sup> Advertisement, *Observer*, 3 November 1883, p. 13.

<sup>524</sup> For example, cartoons, *Observer*, 3 June 1899, p. 3, 25 July 1903, p. 5, 25 June 1906, p. 19, 23 November 1907, p. 16, 15 February 1908, p. 17.

<sup>525</sup> *Observer*, 10 July 1897, p. 18; Auckland Magistrate's Court, Criminal Record Book 1901-1902, folio 116, BADW 10254/34a, ANZ-A.

<sup>526</sup> Supreme Court, *Thames Star*, 26 January 1883, p. 2, 27 January 1883, pp. 2, 6.

citizens, concluding ‘that if there were any persons present whom, in moments when his temper was not under control, he had offended, that all old differences should be forgotten, that all past grievances should be forgotten, and that they might start afresh in friendship and good fellowship’.<sup>527</sup> He would die in 1897 as a respected member of the Auckland community, particularly because of his philanthropy to both Jew and Gentile.<sup>528</sup>

#### THE LAST ATTEMPT TO REMOVE KENRICK

In September 1885, in a parliamentary debate about the need to move wardens around periodically, Fraser took the opportunity to attack his successor. Because of the way Kenrick was ‘obstructing the work of’ the Thames local bodies he had recommended to the Goldfields Committee moving wardens, and ‘more particularly’ the removal of Kenrick from Thames. He was ‘dissatisfied’ that he ‘should be left and that others were removed against whom no complaints had been made. He hoped the matter would not rest in its present position, and that exceptions would not be made in the case of some individuals who are more favoured than others’.<sup>529</sup>

The *Thames Advertiser* considered ‘it would be a matter of surprise to a very large number of Thames people were they to learn there is so much dissatisfaction’ with Kenrick. ‘We believe that we are expressing the general opinion when we say that no better or abler man, or one who has acted in a more earnest, straightforward manner than Mr Kenrick, could easily to procured for the position; in fact, most Thames people are perfectly satisfied he should remain amongst us’. Whilst ‘a small section of the community’ might want Kenrick removed, there had been no official complaints. It trusted Fraser ‘has not been made a catspaw of by anyone’.<sup>530</sup> The following day, its editorial noted that claims that the local bodies had complained about Kenrick ‘was most severely criticized’, for nobody could think of any complaints, unless any had been made privately from officials ‘personally opposed’ to him. It seemed that Fraser had ‘libelled’ the local bodies and

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<sup>527</sup> *Thames Advertiser*, 4 September 1885, p. 3.

<sup>528</sup> *Thames Star*, 26 February 1897, p. 2, 1 March 1897, p. 2; *Cyclopedia of New Zealand*, vol. 2, pp. 332-333.

<sup>529</sup> Speech by William Fraser, *New Zealand Parliamentary Debates*, vol. 57, 1 September 1885, p. 401.

<sup>530</sup> *Thames Star*, 7 September 1885, p. 2.

‘stated what is not true’. If officials had complained, ‘the scheme has not worked as they intended, for the very Warden whom the recommendation was made to displace, is almost the only one not removed’.

Mr Kenrick has held the position of Warden for a number of years on this field, but he has not been charged with dabbling in shares; he has held the responsible position of Trust Commissioner for native lands, but he has not been charged with having any transactions in that defiling thing – native land. In short, he has conducted himself in such a manner as to win the confidence of the community generally, and though there are many who differ from his rulings and decisions on occasions, we are sure the public of the Thames will condemn in no measured terms any underhand or unfair attempt to remove him from this district.<sup>531</sup>

When Kenrick asked the borough council for copies of any complaints it had made about him so that he could see if there were any grounds for Fraser’s statement,<sup>532</sup> no member could recall any complaints. Dean, the town clerk, ‘thought that something of the kind had been done at the time of a certain reduction by Government of £40 from Borough revenue’, presumably a garbled recollection of public houses being closed in 1880, and also when Ehrenfried was mayor, but he would have to check the minutes. All councillors wanted Kenrick retained, one describing him as ‘one of the best officers in the public service’. Kenrick was to be informed if Dean could not find anything.<sup>533</sup>

A visitor to Thames mentioned the controversy in a private letter:

Folks here are very indignant at Fraser’s action in trying to get Kenrick removed. The Local Bodies deny that they ever made any complaints about him, in fact Kenrick is the best Warden they ever had, but the Fraser and Ehrenfried parties do not like him because he nipped some swindle; and shut up some Pubs.<sup>534</sup>

On the same day, both Thames newspapers wrote editorials on the controversy. The morning one noted that the removal of Kenrick had been ‘agitated’ for ‘not a thousand miles from the Borough Chambers, where

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<sup>531</sup> Editorial, *Thames Advertiser*, 8 September 1885, p. 2.

<sup>532</sup> *Thames Advertiser*, 9 September 1885, p. 3.

<sup>533</sup> *Thames Advertiser*, 11 September 1885, p. 3.

<sup>534</sup> W.G. Mair to Gilbert Mair, 13 September 1885, Mair Family Papers, folder 8, MS 93, Alexander Turnbull Library.

happily the final decision did not rest'. It hoped 'summary justice will be done upon the authors of a wicked intrigue for banishing a good, honest, and capable man'.<sup>535</sup> The evening newspaper congratulated the department for not moving him to another district, because he had 'mastered all the details of the work connected with the large area he has had control over, and has given general satisfaction in the discharge of his arduous duties'. Were Kenrick to be removed, 'his successor would have a very toilsome and questionably satisfactory duty to perform' in acquiring the necessary knowledge.

There are so many conflicting interests in our neighbourhood; the mining law is mixed up with native land and its variety of titles; and the land generally coming within the jurisdiction of the Warden in his capacity as Commissioner for one thing or another indicating various branches of his duty entail a more than ordinary special knowledge of his work. Beyond all these things, we have little hesitation in saying that as far as general satisfaction goes, the present holder of the judicial power in our district has ever proved himself worthy of his position. We would deprecate any unwise interference with departmental law either by petition or resolution of a public meeting.

It had 'little doubt that all the agitation' would be 'so much energy wasted'.<sup>536</sup> When 'Libra' claimed that Kenrick's 'peculiar character' had caused him to hate those who were 'not sufficiently humble and subservient to him and his', the editor of the *Thames Advertiser* suggested that if he attended that evening's meeting 'he will probably find his assertions rebutted'.<sup>537</sup> This public meeting, convened by Kilgour amongst others,<sup>538</sup> to protest at his possible removal was 'thronged', nearly 500 attending.<sup>539</sup> One newspaper described it as 'a monster meeting, representing all classes of the mining and business communities'; the building 'was thronged in floor and gallery'.<sup>540</sup> It received a telegram from Karangahake miners wanting him retained. Even George Harcourt, a battery owner, accountant and legal

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<sup>535</sup> Editorial, *Thames Advertiser*, 14 September 1885, p. 2.

<sup>536</sup> Editorial, *Thames Star*, 14 September 1885, p. 2.

<sup>537</sup> Letter from 'Libra', with editorial comment, *Thames Advertiser*, 17 September 1885, p. 3.

<sup>538</sup> *Thames Advertiser*, 15 September 1885, p. 2.

<sup>539</sup> *Thames Star*, 18 September 1885, p. 2.

<sup>540</sup> *Thames Advertiser*, 18 September 1885, p. 3.

manager,<sup>541</sup> who described himself as Fraser's 'right hand man', spoke in favour of Kenrick.<sup>542</sup> (Again as an indication of the moral calibre of some of those who normally supported Fraser, in the following year Harcourt admitted embezzlement.)<sup>543</sup> Speakers in favour of Kenrick were applauded, critics were abused, and all but one person voted for the resolution that he remain at Thames, which was to be sent to the government. When a clergyman started to express his feelings of 'scorn and indignation' about Fraser's statements, he was stopped by the chairman because Fraser was not present to defend himself. He continued nonetheless by stating that when Kenrick arrived at Thames 'an effort was made to prevent his settlement here – (a voice: "Oh, no!") – but it was crushed by the spirited action of the inhabitants'.<sup>544</sup> When William Rowe, after claiming he esteemed Kenrick 'highly, and believed he had endeavoured to do his duty righteously', said he 'had been here long enough', there was 'uproar'. His claim that Kenrick was influenced 'by the narrow circle formed around him' provoked more uproar. About a dozen hands were raised to support the principle of moving wardens around 'except under extreme circumstances'. A lawyer praised Kenrick's impartiality: 'He had lately heard stories in the street about men having been sent to prison without being allowed to call evidence, but he defied anyone to prove there was any truth in them. (Mr Dean: Burns versus White).' James Mackay 'doubted whether they would ever get a better Warden', and three rangatira spoke in his support.<sup>545</sup> As authorized by the meeting, its chairman requested the government to retain Kenrick.<sup>546</sup> Afterwards, 'Justice' wrote that he would have liked the chairman to have permitted people to express their 'feelings of virtuous indignation against the evil doer', Fraser, who for reasons of 'evil expediency' wanted Kenrick removed because he was 'unbiased by personal feelings, untrammelled by friendly considerations, or uninfluenced by rings, societies, or coteries of any sort'.<sup>547</sup> A *Thames Advertiser* followed up this theme, writing that it might 'suit the wishes of a select few to obtain for this

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<sup>541</sup> See *Thames Advertiser*, 11 May 1878, p. 3, 20 May 1878, p. 3, 8 April 1880, p. 3; *Thames Star*, 2 July 1880, p. 2, 28 April 1882, p. 2, 7 November 1882, p. 2.

<sup>542</sup> *Thames Advertiser*, 18 September 1885, p. 3.

<sup>543</sup> Police Court, *Thames Advertiser*, 13 September 1886, p. 3, 17 September 1886, p. 2.

<sup>544</sup> *Thames Advertiser*, 18 September 1885, p. 3.

<sup>545</sup> *Thames Star*, 18 September 1885, p. 2.

<sup>546</sup> *Thames Advertiser*, 21 September 1885, p. 2.

<sup>547</sup> Letter from 'Justice', *Thames Advertiser*, 19 September 1885, p. 3.

district' a warden 'who would traffic in mining shares and native land speculations'. Instead, a man with an intimate knowledge of the district was required.<sup>548</sup>

Thames and Ohinemuri Maori also objected to Kenrick's removal.<sup>549</sup> Public meetings at Tapu and Paeroa also supported Kenrick.<sup>550</sup> One speaker at Tapu said that one fault brought against Kenrick was that 'he had made few friends' in Thames; 'well, perhaps not, that is, of the sort who wished to benefit by his friendship. But he held that such a charge was entirely to Kenrick's 'credit', and the meeting showed that he had 'friends all over the goldfield'.<sup>551</sup>

At Te Aroha, a public meeting 'largely attended by all classes of the community' revealed 'perfect unanimity of opinion' that a strong effort should be made to retain Kenrick, voting unanimously that his removal 'would be most injurious to the interests of the district, as by his impartial and just decisions he has gained the entire confidence of the inhabitants'.<sup>552</sup> The chairman commenced the meeting by stating that 'they all knew him as a just and good man, who always did his duty fearlessly and in a straightforward manner, and used his authority for the best interests of the place'. John Gibbons, formerly a battery owner at Thames who became a leading sawmiller and timber merchant,<sup>553</sup> said he had been 'acquainted with the Thames gold field since its opening and referred in strong terms to matters that had taken place on that gold field in the years gone by, the holding of private meetings before cases were heard, etc, etc'. To lose Kenrick 'would be nothing less than a calamity'.<sup>554</sup>

A subsequent petition, after stating 'extreme regret' at the proposal to remove Kenrick, declared that

any change made at the present time would militate greatly against the advancement of this district, and of the Hauraki

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<sup>548</sup> Editorial, *Thames Advertiser*, 21 September 1885, p. 2.

<sup>549</sup> *Thames Advertiser*, 17 September 1885, p. 2.

<sup>550</sup> *Thames Advertiser*, 19 September 1885, p. 3, 22 September 1885, p. 3.

<sup>551</sup> *Thames Advertiser*, 19 September 1885, p. 3,

<sup>552</sup> Te Aroha Correspondent, *Thames Advertiser*, 16 September 1885, p. 3; *Waikato Times*, 17 September 1885, p. 2.

<sup>553</sup> See *Thames Star*, 29 January 1900, p. 3; *Observer*, 13 December 1902, p. 4, 7 July 1906, p. 4.

<sup>554</sup> *Te Aroha News*, 19 September 1885, p. 2.

Goldfields generally. On these fields a new era in mining is now being inaugurated, and of the various requirements of the different localities Mr Kenrick has acquired from long experience that intimate knowledge which it is absolutely necessary a Warden having the charge of these districts should be possessed. Mr Kenrick has also won for himself by his upright and impartial administration the respect and goodwill of every member of this community, and his removal just now would be almost universally regretted as a calamity to the district.<sup>555</sup>

It was expected every adult male at Te Aroha, Waiorongomai, and Quartzville would sign it, 'as for every part of the goldfield and among all classes the removal of the Warden at the present time would be a cause of sincere regret'.<sup>556</sup>

The *Te Aroha News* believed 'very general regret' would be felt if he was removed. 'He has ever shown himself a most painstaking and consistent official in the discharge of his duties amongst us, courteous and obliging, and is deservedly held in high esteem'.<sup>557</sup> At the 'many' protest meetings held by Maori and Pakeha

scarcely a dissentient voice has been heard. True, some have expressed a wish in opposition to the generally expressed public feeling, but the number has been so few as scarcely to be worth recognition. Very rarely indeed had any man holding such an important position as Mr Kenrick received such hearty and universal expressions of confidence and approval from all classes of society. He is a gentleman of more than ordinary abilities, conscientious, straight-forward, and impartial in the discharge of his duties, and his removal would be a great loss to the district.<sup>558</sup>

A special meeting of the borough council met on 21 September to consider a request from Kenrick for a copy of any complaints made against him by it. Dean produced a letter written in May 1880 by the then-mayor, Ehrenfried, successfully asking the government to include a clause in the Municipal Corporations Act 'to put an end to the powers over Borough streets and roads the present Warden claims to have. No other Warden interfered in these Borough matters, and the Council feels this interference

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<sup>555</sup> *Thames Advertiser*, 16 September 1885, p. 3.

<sup>556</sup> *Waikato Times*, 17 September 1885, p. 2.

<sup>557</sup> *Te Aroha News*, 12 September 1885, p. 2.

<sup>558</sup> Editorial, *Te Aroha News*, 26 September 1885, p. 2.

most keenly'. When Dean proposed sending a summary of this letter to Kenrick, all but one councillor agreed that there had been no complaints by the council. The chairman, aware that there was 'considerable feeling' between Kenrick and Fraser and who 'wanted to avoid the appearance of taking sides', said that if Kenrick and Ehrenfried 'had any differences they should settle it between themselves'. A councillor who 'was certainly unfavourable' to removing Kenrick but thought an impression that he was unco-operative had prompted Ehrenfried's letter did not obtain a seconder for his amendment making this point.<sup>559</sup>

A miner then explained that although he had 'a strong desire' to speak at the meeting, he refrained because many knew of his 'mining business connection' with Fraser

and would suppose that I was rising in vindication of his conduct, whereas the contrary was the true fact. No miner on this field has been brought before Warden Kenrick for a breach of the mining regulations oftener than I have, and no miner has had adverse judgment recorded against him oftener than I have; but in all judgments, whether for or against, I must admit that Warden Kenrick's interpretation of the Mining Acts was, after I had duly considered his summing up, the only correct one. It would be a great loss to all miners in the peninsula were his removal insisted on. A more upright, impartial, and painstaking judge you seldom meet on a bench.

To prove that Fraser had no cause for complaint, he explained how Kenrick had tried to help him avoid forfeiture of the Cambria despite there being 'no extenuating circumstances', an illustration of Kenrick being 'willing to temper justice to the miner'. His removal 'must not be thought of'. As for Fraser's statement in parliament, 'no one has been more surprised than myself at his remark. I have endeavoured to find some cause for it, but have entirely failed'. Fraser must have been 'led astray and made a cat's paw by someone' who had 'tried this game once before' and believed himself more fitted to be warden;<sup>560</sup> clearly Brassey was meant. A columnist did not approve of the chairman refusing to allow criticism of Fraser: 'why should an M.H.R. be allowed to vent his personal spleen on the floor of the House,

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<sup>559</sup> Borough Council, *Thames Advertiser*, 22 September 1883, p. 3; Borough Council, *Thames Star*, 21 September 1885, p. 2.

<sup>560</sup> Letter from E.R. Edwards, *Thames Advertiser*, 23 September 1885, p. 3.

and made an attack on a defenceless Government officer, who had no “right of reply”’, and no response allowed at the meeting.

I understand that the reason the Warden has maintained the respect of all classes of the community so long is because he has maintained his self-respect. You do not see him “nobblerizing” [drinking] with any of the plaintiffs or defendants after a trial; he keeps himself so exclusive as almost to be taxed with pride, but no one can tax him with unjustness in verdicts. He had often been painfully just, if that can be understood – that of giving a decision in the demands of law that has been painful to himself; only very high, conscientious minds could feel that pain in giving a decision.

He suggested that Fraser, when he next visited Thames, be asked to explain himself at a public meeting.<sup>561</sup> This did not happen.

#### MORE SNIPING

In November that year, Dean claimed that Kenrick had acted illegally over a dangerously sited powder store.<sup>562</sup> After the case was tried and the owners of the store fined, Kenrick made a statement to the court:

It was not often that he paid any attention to correspondence which appeared in the Press, but from a letter recently published it was made to appear that he had something to do with the granting to defendant of an authority to store powder. Few occurrences at the Thames surprised him, but he was really astonished when he read the letter in question. If it were not that it was so absurdly written, and so contradictory in terms, that a school-boy of the fourth form ought to have been whipped for having penned it, he might have taken some other notice of it. As it was, he would at present treat the document with the contempt it deserved, but whether he would take further steps in the future was another question. He need scarcely say that the statements made were not only slanderous, but absolutely without foundation,

as he proceeded to prove.<sup>563</sup>

<sup>561</sup> ‘Echoes’, *Thames Advertiser*, 23 September 1885, p. 3.

<sup>562</sup> *Thames Advertiser*, letter from F.C. Dean, 17 November 1885, p. 3, 23 November 1885, p. 3, 25 November 1885, p. 3.

<sup>563</sup> *Thames Advertiser*, 23 November 1885, p. 3.

After Kenrick's death, a Thames correspondent who had known him for eight years praised his life and career:

He was a clear-headed man, and the person would be bold indeed who would impugn his uprightness or conscientiousness. True, I know of about two who did not speak favourable of him; but the archangel would not satisfy them, and detraction on their part would be regarded by most as an excellent certificate of character.<sup>564</sup>

### KENRICK AND TE AROHA MINING

The *Thames Advertiser* applauded Kenrick's first report, in late October 1880, on Hone Werahiko's discovery.<sup>565</sup> He had 'acted with that caution which only a long experience could dictate in making his investigations, and if persons are misled after perusing his very careful note', it would be 'no fault of his'.<sup>566</sup> Kenrick warned that 'he could not say he had seen any payable reef or leader', did not think there was any justification for a rush, and wanted to avoid raising 'undue expectations'.<sup>567</sup> There were some grumbles after he made a visit to the find without being accompanied by miners.<sup>568</sup>

On the afternoon of the day before the field opened, Kenrick convened a meeting to explain his plans. 'Every effort had been made to obviate as far as possible the confusion and scramble that was inevitable'. After guns were fired to indicate pegging could commence, officials would record details of parties competing for ground adjacent to the Prospectors' Claim. 'If any excitable individual should so far forget himself as to use actual violence to prevent any one pegging, then that individual would most certainly lose both his claim and his liberty'. He would not fine such offenders but imprison them, and 'the police had instructions promptly to arrest every offender'. He hoped their behaviour would 'give him reason to be proud' of being the first warden of the field. He would try to settle disputes as quickly

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<sup>564</sup> Thames Correspondent, *New Zealand Herald*, 2 August 1886, p. 5.

<sup>565</sup> See paper entitled 'The Discovery of Gold at Te Aroha and its Consequences: January to October 1880'.

<sup>566</sup> Editorial, *Thames Advertiser*, 27 October 1880, p. 2.

<sup>567</sup> *Thames Advertiser*, 27 October 1880, p. 3; *Thames Star*, 27 October 1880, p. 2.

<sup>568</sup> Pigeongram, *Thames Star*, 1 November 1880, p. 2; see also *Thames Advertiser*, 27 October 1880, p. 3.

as possible, and asked them ‘to believe that his decision would be impartial, and given after a fair and careful consideration of their claims. He did not expect to satisfy: an archangel could not do that’. Asked what principles would guide him in resolving claims ‘that were all equal’, he said ‘they would learn when the disputes came before him. He would then give his decision, but not his reasons. The former, some of them at any rate, would agree with; the latter would possibly be cavilled at by all’. Asked whether he ‘would give any preference to those who had done work or reported a discovery’, Kenrick replied that, ‘other things being equal, he thought this ought to weigh with him. This did not appear to be appreciated by a good number present, who thought that lots ought to be drawn by every miner who pegged in time’. Kenrick responded that, if miners could agree amongst themselves, ‘he would be glad to give the claim to the successful party, but that he had no power to direct this course to be pursued’. He also explained that he wanted to ‘discourage as much as possible speculation’ in business sites, and, ‘when all things were equal, and the dispute lay between a business man and one who could not prove a bona fide intention to use the section for business purposes’, the site would go to the former. Again, steps had been taken to prevent violence when pegging out sites in the township. He then ‘dissolved the meeting by wishing them all golden claims’.

A ‘large number’ of miners who did not consider his statements ‘satisfactory’ held their own meeting immediately afterwards. A prominent legal manager, Roderick McDonald Scott,<sup>569</sup> after being voted to the chair, stated that because Kenrick’s answers to his questions were ‘wholly unjust’ and ‘inconsistent’, the ‘same weight might not be attached to them as if he had been a Warden of experience’. Scott professed himself ‘to some extent surprised’ that he was ‘so ignorant of goldfields law’. A motion opposing giving preference to those who had prospected previously was carried unanimously and presented to Kenrick by a delegation. He responded that ‘their business was one not requiring an answer, and therefore he would not give them one’. It was rumoured a report of the meetings would be sent to the minister.<sup>570</sup> The *Thames Advertiser* warned miners against being misled by ‘plausible utterances of individuals known for their hostility’ to Kenrick, who was trying to be fair to genuine businessmen and prospectors.<sup>571</sup> No

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<sup>569</sup> See *Thames Star*, 14 June 1905, p. 2; *Observer*, 17 June 1905, p. 17.

<sup>570</sup> *Thames Advertiser*, 26 November 1880, p. 3.

<sup>571</sup> *Thames Advertiser*, 27 November 1880, p. 2.

report was sent to the minister, probably because of the smooth opening of the field and Kenrick's quick solving of all disputes.

After the initial rush, Kenrick urged claimants to have surveys made so that he could sort out disputes. As miners were pleased with this advice, they left the field, allowing Kenrick to make 'tracks in big jumps to his own claim, which he thought no man could dispute, viz, a much needed draught of the mountain stream. On arriving at the flat he found as much difficulty in obtaining an hour's respite as his hard worked clerks'.<sup>572</sup> As an example of his quick settling of disputes, immediately after the opening the rival claims to ground adjoining the Prospectors' Claim were arranged 'in a satisfactory manner' through his 'intervention'.<sup>573</sup> Four days later, it was reported that through his involvement 'nearly all the disputes in regard to ground pegged out' had been 'amicably settled by the amalgamation of the interests of the different parties'.<sup>574</sup> In the first case in the warden's court, between parties with overlapping claims, the matter was left for Kenrick to decide. 'He divided the claim into 35 shares, and gave the defendants three of them, a decision which satisfied all concerned'.<sup>575</sup> By the beginning of December, he was 'gaining in popularity every day'.<sup>576</sup>

Kenrick's first official report after the opening was written on 6 December and published later that month. After explaining the numbers involved and how he had overcome opposition to the opening by some Ngati Rahiri, he gave his opinion of the prospects based on an inspection of 'some thirty claims' with George Wilson, then underviewer at Thames and soon to be the mining inspector. They believed it would be 'a permanent goldfield' of 'very large extent', going beyond its existing boundaries. 'I have spoken with more than 80 miners who have either taken up claims or are scattered over the field prospecting. In every instance they concur with me in thinking the indications most promising'. Several well-defined reefs found at Te Aroha, Tui, and Waiorongomai were believed to be payable. In the majority of claims, work had either commenced or was about to commence, and 'the miners – many being experienced miners – speak hopefully of their prospects', proving their beliefs were genuine by doing 'hard, practical

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<sup>572</sup> *Waikato Times*, 27 November 1880, p. 2.

<sup>573</sup> *Thames Advertiser*, 27 November 1880, p. 3.

<sup>574</sup> *Thames Advertiser*, 1 December 1880, p. 3.

<sup>575</sup> *Thames Advertiser*, 2 December 1881, p. 3.

<sup>576</sup> *Auckland Weekly News*, 4 December 1880, p. 9.

work'. There had been delays in settling titles near the Prospectors' Claim, but these disputes were now resolved.

I have taken advantage of the new regulations to refuse the numerous applications made to me for protection – thus compelling the claims to be fully manned and worked. Though some dissatisfaction existed at first when this rule was enforced, I believe that the good sense of the miners has convinced them of its necessity. I need scarcely point out the advantages to the field of having the claims *proved* before calling on the outside public to invest their money. The difference between the old and new rules is simply the difference between speculation and *bona fide* work.

He provided details of work being done in some claims.<sup>577</sup>

One anonymous opponent, claiming a desire to protect people from placing 'more reliance on his report than I think it worthy of', rejected it. After denying the accuracy of the number of genuine miners given as participating in the opening, he denied Kenrick's arrangements had enabled him to resolve 'at once upon the ground' all disputes about priority of pegging and manning. 'No decision whatever was come to on the ground; in fact the whole proceedings were indeed unsatisfactory, and no conclusion whatever was arrived at', and the problems were not all settled. As for Kenrick's claim that he had forced an obstructive Maori to retract 'certain statements' on threat of imprisonment, the Maori 'did not retract, and at the present time is as obstructive as ever, and is of the opinion that Warden Kenrick was foolish to threaten him with imprisonment when he ought to know that he had no power to do so. I wonder what the Minister of Justice or the Native Minister will think of this?' He believed Wilson would not confirm Kenrick's opinion of the prospects, and considered it would have been 'more prudent' for Kenrick to have refrained 'from expressing an opinion as to the stability of a district, the value of which has yet to be proved. Statements like this have had (already) a very prejudicial effect, both at the Thames and Auckland, as I am aware that, at present, the Aroha goldfield is looked upon with doubt'. Kenrick's citing examples of 'most promising' finds of loose stone and lines of reefs read 'like the production of a new chum; as I am prepared to prove that some of the loose stones he speaks of were picked up by him at the suggestion of one of the parties accompanying him, he well knowing that it had been placed there'.

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<sup>577</sup> Harry Kenrick to Minister of Justice, 6 December 1880, printed in *Thames Star*, 15 December 1880, p. 2.

Quite apart from this involvement in fraud, he should not have believed miners' claims of payable reefs. Kenrick was hallucinating by claiming 'his refusal of protection' compelled 'claims to be duly manned and worked, as I know of claims which have been registered for over 14 days, and up to the present not an hour's work has been done'. No work had been done on most, and 'very few' were fully manned'; work ceased in some as soon as applications for licenses were made.<sup>578</sup>

Kenrick did not bother to respond. When accused of advising Henry Ernest Whitaker<sup>579</sup> about where the bridge was likely to be built, to enable him to obtain adjacent allotments, the *Thames Star* denied this story, which had been concocted in Thames by his opponents.<sup>580</sup>

Kenrick always held high hopes for the field, especially after Waiorongomai was discovered, as illustrated in his December 1883 speech at the banquet celebrating the opening of the battery. 'Ever since he had first inspected' the discovery, 'he had great faith in its payable and permanent character', and he expected the field to be 'large, permanent, and payable'. Because of its 'precipitous nature', the ground was 'admirably suited for mining, doing away with the necessity for winding machinery'.<sup>581</sup> His 31 years of mining experience backed his 'most unwavering faith'.<sup>582</sup> In the subsequent strike over wage cuts, despite the danger that speaking to the miners might be 'misconstrued elsewhere' it was 'his duty in the interest of the goldfield to speak to them on this matter without expressing his opinion of the rights or wrongs'. He feared the strike would be 'unfortunate for the field' as well as for both parties. 'He reminded them that one advantage possessed by the Aroha over the Thames and adjoining goldfields, was that it was a new district, and in the event of any new discoveries all working men had the same chance of putting in their pegs and participating therein'.<sup>583</sup> Although he was applauded, his advice that the strikers accept the inevitable was not heeded.<sup>584</sup>

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<sup>578</sup> Letter from 'Spectator', *Thames Advertiser*, 21 December 1880, p. 3.

<sup>579</sup> See paper on Harry and Charles: Henry Ernest Whitaker and Charles Stanislaus Stafford.

<sup>580</sup> Te Aroha Correspondent, *Thames Advertiser*, 6 January 1881, p. 3; *Thames Star*, 7 January 1881, p. 2.

<sup>581</sup> *Thames Star*, 7 December 1883, p. 2.

<sup>582</sup> *Te Aroha News*, 8 December 1883, p. 3.

<sup>583</sup> *Te Aroha News*, 12 January 1884, p. 2.

<sup>584</sup> See paper on the strike at Waiorongomai in 1884.

Kenrick's interest in the field was much appreciated. When celebrating the opening of the Waiorongomai battery, Josiah Clifton Firth declared that 'they had to congratulate themselves' that Kenrick was 'at the head of affairs, as his long experience in mining matters, and his wise administration had been of great service – (applause)'.<sup>585</sup> In 1885, Kenrick encouraged miners to acquire more skills,<sup>586</sup> chairing Professor James Black's Te Aroha lecture.<sup>587</sup> His urging miners to support the Thames School of Mines was 'carried with acclamation' at a subsequent meeting, and his suggested names for representatives on the provisional committee were adopted.<sup>588</sup> He was also chosen to represent the district on it and was elected unopposed as a vice-president.<sup>589</sup> As an example of his assistance, when the government permitted the council to spend any balances from subsidies on mining tracks Kenrick immediately contacted Wilson: 'Will you see to this. I will endorse your action so that no time may be lost. Let those interested know of this grant'.<sup>590</sup>

After his death, one prominent Waiorongomai miner, Peter Ferguson,<sup>591</sup> recalled him as 'the model Warden, universally liked and respected'.<sup>592</sup> A local correspondent wrote that 'the miners placed in him the most implicit confidence, and looked upon him as a guide and a benefactor'.<sup>593</sup> Another one stated that 'in no part of the Hauraki goldfields was he held in so high esteem', especially by miners, who regarded him with 'the greatest respect', for 'the interest he took in everything relating to their welfare' created 'a feeling almost akin to affection'.<sup>594</sup>

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<sup>585</sup> *Thames Star*, 7 December 1883, p. 2.

<sup>586</sup> See paper on prospectors' and miners' skills.

<sup>587</sup> *Te Aroha News*, 5 December 1885, p. 7.

<sup>588</sup> *Te Aroha News*, 12 December 1885, p. 2.

<sup>589</sup> Te Aroha Correspondent, *Waikato Times*, 24 December 1885, p. 2; *Thames Advertiser*, 31 December 1885, p. 2.

<sup>590</sup> Under-Secretary, Mines Department, to Harry Kenrick, 20 May 1886; Harry Kenrick to George Wilson, 26 May 1886, Te Aroha Warden's Court, General Correspondence 1886, BBAV 11584/3a, ANZ-A.

<sup>591</sup> See paper on Peter Ferguson and his New Era.

<sup>592</sup> *Te Aroha News*, 14 July 1888, p. 2.

<sup>593</sup> Te Aroha Correspondent, *Waikato Times*, 3 August 1886, p. 2.

<sup>594</sup> Te Aroha Correspondent, *New Zealand Herald*, 2 August 1886, p. 5.

Whilst Kenrick correctly stated he had no financial interest in the field,<sup>595</sup> he encouraged others to invest. In July 1882, with a representative of the ‘mining capitalists of Victoria’ he attended a meeting of shareholders in Firth’s Auckland office. He ‘explained the conditions upon which land was taken up for mining purposes, and for leases, the security taken by the Government for working the ground, and that provided by the Government for the miner and holder’, convincing the representative that ‘the tenure was quite safe to ensure the investment of capital’ in Waiorongomai.<sup>596</sup> Also in that year, he interested William Morgan, a solicitor living in India who was either his father-in-law or his brother-in-law,<sup>597</sup> to invest. A shareholder in ‘several of the richest Indian mines’ with ‘considerable experience in gold-mining’, Morgan visited Thames and Te Aroha in March. The press assumed he obtained his knowledge of Thames mines, in which he was reportedly investing, from Kenrick.<sup>598</sup> Morgan purchased interests in one Te Aroha claims and two Waiorongomai ones, the latter being converted into scrip shares in two companies.<sup>599</sup> In the same year, he invested in a Waitekauri company, and two years later in a Coromandel one.<sup>600</sup>

#### HELPING TO DEVELOP THE TE AROHA DISTRICT

Kenrick had high hopes for the district. In December 1883 he prophesied that ‘in the not far distant future’ the ‘grand old hill which had for ages looked down on a wilderness would do so on smiling homesteads and reclaimed swamps, fertilised by the life given out from its own veins’.<sup>601</sup> A lawyer, Joshua Cuff,<sup>602</sup> who had settled in Te Aroha in March 1882,<sup>603</sup>

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<sup>595</sup> *Thames Star*, 7 December 1883, p. 2.

<sup>596</sup> *Auckland Weekly News*, 29 July 1882, p. 9.

<sup>597</sup> See *Waikato Times*, 14 March 1882, p. 2; Death Certificate of Adelaide Kenrick, 19 September 1903, 1903/4809, BDM; *A Return of the Freeholders of New Zealand...* (Wellington, 1884), p. M 60.

<sup>598</sup> *Waikato Times*, 14 March 1882, p. 2.

<sup>599</sup> Te Aroha Warden’s Court, Register of Te Aroha Claims 1880-1888, folio 254, BBAV 11567/1a; Register of Licensed Holdings 1881-1887, folios 3, 6, BBAV 11500/9a, ANZ-A; *New Zealand Gazette*, 13 July 1882, p. 961, 10 August 1882, p. 1101.

<sup>600</sup> *New Zealand Gazette*, 20 July 1882, p. 988, 21 February 1884, p. 360.

<sup>601</sup> *Thames Star*, 7 December 1883, p. 2.

<sup>602</sup> See *Cyclopedia of New Zealand*, vol. 1, p. 1281.

and who had known Kenrick in Gisborne,<sup>604</sup> confirmed Kenrick's optimism. Cuff said that before he came to Te Aroha he wrote to Kenrick, 'as a friend, asking what he thought of the prospects of the place', to be told that even 'if an ounce of gold never comes out of the hill, the district is bound to go ahead'.<sup>605</sup>

After his death the *Te Aroha News* recalled Kenrick 'for years' working 'hard and untiringly in promoting the general prosperity of the place'.<sup>606</sup> Right from the early days of settlement, his assistance was appreciated. For instance, in May 1881 the *Waikato Times* correspondent complaining about the inconvenience of irregular court hearings added that 'not a word' could be said against Kenrick. 'All have experienced his perfect willingness to submit to any amount of overwork and sacrifice of his own comfort, in the performance of not only his strict duties, but any further acts of cheerful and kindly assistance in the promotion of Te Aroha's interests that he had in his power'.<sup>607</sup> When a teacher was appointed in the following month, 'too much credit' could not be given to him for the 'action and interest' he had taken.<sup>608</sup> Shortly afterwards, when the government granted money for roads, he considered that thanks were due to Kenrick 'for his exertions in support of more than one useful measure like this'.<sup>609</sup> After Kenrick's death, the correspondent wrote that his advice and assistance was 'never sought in vain', and 'whatever of importance' the inhabitants could 'claim as a community' was 'in a great measure due to him'.<sup>610</sup>

Kenrick also had a role in religious and social life. In December 1880, he was unanimously elected as vicar's warden for the Church of England.<sup>611</sup> In 1885, without being asked, he offered the use of the courtroom to the

<sup>603</sup> Te Aroha Warden's Court, Register of Applications 1880-1882, folios 89-90, 154, BBAV 11505/3a; Register of Licensed Holdings 1881-1887, folios 18, 20, 21, BBAV 11500/9a, ANZ-A; *New Zealand Gazette*, 23 March 1882, p. 490, 27 April 1882, p. 646; *Thames Advertiser*, 5 May 1882, p. 2.

<sup>604</sup> See *Thames Star*, 22 March 1881, p. 2; *Thames Advertiser*, 14 May 1881, p. 3, 7 May 1883, p. 2.

<sup>605</sup> *Te Aroha News*, 8 November 1884, p. 2.

<sup>606</sup> Editorial, *Te Aroha News*, 1 January 1887, p. 2.

<sup>607</sup> Te Aroha Correspondent, *Waikato Times*, 14 May 1881, p. 2.

<sup>608</sup> Te Aroha Correspondent, *Waikato Times*, 21 June 1881, p. 3.

<sup>609</sup> Te Aroha Correspondent, *Waikato Times*, 7 July 1881, p. 2.

<sup>610</sup> Te Aroha Correspondent, *Waikato Times*, 3 August 1886, p. 2.

<sup>611</sup> *Thames Advertiser*, 16 December 1880, p. 3.

Social Club and Debating Society.<sup>612</sup> His obituary in the *Te Aroha News* noted that on his last visit

he was busily engaged in arranging for the purchase from the native owners of some forty five acres at the rear of the Domain to which it is to be added, and he also stoutly urged upon Government that the recreation ground which runs right to the top of the hill be also added thereto. He was exceedingly sanguine that a good future was in store for Te Aroha, spared no trouble to advance its interests, and his memory will long be cherished in the district.<sup>613</sup>

### KENRICK AND MINING LAW

When Kenrick died, William Larnach, the Minister of Mines, minuted that 'the Country has lost perhaps its most able Warden'.<sup>614</sup> According to one obituary, Kenrick 'soon acquired a complete knowledge of the laws of the Hauraki gold mining district' and during his seven years 'his decisions were unquestioned' except in only one case.<sup>615</sup> According to the *Observer*, Kenrick, 'one of the ablest and most widely-respected' Hauraki wardens,

became recognized as a weighty authority upon mining law. One of his earliest judgments revolutionized the principle which had been considered to be at the basis of the pegging-out system from the opening of the gold fields. It was at first ridiculed by the lawyers as unsound, but eventually the Warden's ruling was proved to have discovered a serious flaw in the mining law of the colony, and new legislation had to be introduced to remedy it.<sup>616</sup>

The *Thames Advertiser* wrote that several governments made use of Kenrick's 'technical knowledge and general information for a variety of purposes, sometimes he settlement of a difficult dispute, again the practical application of an obscure law or regulation, frequently the drafting of important clauses in Acts of Parliament relating to gold-mining'. The

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<sup>612</sup> *Te Aroha News*, 25 July 1885, p. 7.

<sup>613</sup> *Te Aroha News*, 21 August 1886, Supplement, p. 3.

<sup>614</sup> Memorandum by Minister of Mines, 2 August 1886, Mines Department, MD 1, 86/1815, ANZ-W.

<sup>615</sup> *Te Aroha News*, 21 August 1886, Supplement, p. 3.

<sup>616</sup> *Observer*, 19 December 1903, p. 5.

politicians could not have found ‘a safer guide’.<sup>617</sup> As an example of this role, in July 1885 Larnach informed parliament that when visiting the district he ‘had the advantage of Mr Warden Kenrick’s company, and I found his advice and guidance of the greatest value’.<sup>618</sup> The following March, Kenrick assisted the parliamentary draftsman prepare the consolidation of mining statutes.<sup>619</sup> The resultant legislation, the Mining Act of 1886, was submitted to parliament three days before his death.<sup>620</sup>

### KENRICK AS MAGISTRATE

Kenrick’s reputation at Te Aroha was of an ‘honourable and courageous’ man devoted to justice and duty whatever the ‘clamour’.<sup>621</sup> A local correspondent wrote, in 1883, that he had shown ‘far-seeing judgment’, holding ‘the scales of justice fairly and with scrupulous impartiality’.<sup>622</sup> Another, three years later, wrote that ‘he was regarded as the embodiment of spotless integrity’.<sup>623</sup> An obituary, after referring to the ‘golden opinions’ he gained when magistrate at Gisborne, stated that in Hauraki his reputation was greatly enhanced ‘no less by a laborious application in the discharge of his duties than by a guarded conduct in his official relations, whereby he was enabled to enter upon the examination of all cases which came before him with a mind free from bias and with a determination to do justice to the best of his ability’.<sup>624</sup> The *Te Aroha News* obituary extolled his virtues at length:

As a Magistrate he was conspicuous for his impartiality, sound judgment, integrity, and independence. He possessed an acute and analytical mind, eminently capable of weighing and testing evidence, and deciding technical points of legal nicety, which his native decision of character enabled him to do promptly and

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<sup>617</sup> *Thames Advertiser*, 2 August 1886, p. 2.

<sup>618</sup> *Waikato Times*, 28 July 1885, p. 3.

<sup>619</sup> *Thames Advertiser*, 5 March 1886, p. 2.

<sup>620</sup> *New Zealand Parliamentary Debates*, vol. 56, 28 July 1886, p. 290; ‘The Mining Act, 1886’, *The Statutes of New Zealand* (Wellington, 1886), pp. 485-578.

<sup>621</sup> *Te Aroha and the Fortunate Valley, or, Pioneering in the Thames Valley*, ed. F.W. Wild (Te Aroha, 1930), p. 347.

<sup>622</sup> Te Aroha Correspondent, *Thames Advertiser*, 27 October 1883, p. 3.

<sup>623</sup> Te Aroha Correspondent, *Waikato Times*, 3 August 1886, p. 2.

<sup>624</sup> *Thames Advertiser*, 2 August 1886, p. 2.

readily. As a public servant he was indefatigable in the discharge of his duties, intelligent and conscientious, courteous, and kindly in his disposition, considerate of the feelings of others, and always willing to assist those in need of counsel or advice. He possessed in a striking degree a combination of qualities, which peculiarly fitted him for the discharge of his judicial functions, and which won him the confidence of the government, the firm attachment of his subordinates, and the esteem and admiration of the general public.<sup>625</sup>

At Coromandel, a lawyer speaking on behalf of solicitors and public ‘spoke in very feeling terms’ of the loss they felt, speaking of him ‘in the highest terms as an upright and painstaking judge’.<sup>626</sup> A Thames correspondent wrote that ‘everyone, no matter how humble’, had found him ‘freely accessible, and anxious to assist in righting a wrong, or assisting towards a desired end’.<sup>627</sup> One Thames resident recalled that ‘no one ever went to him who was not assisted by his counsel and advice, the poor being treated with the same courtesy as the richest and most influential men in the place’. Socially, ‘he did not mix much with people, keeping to himself’,<sup>628</sup> one reason no doubt for his reputation for impartiality. At Paeroa, he was ‘looked up to on all sides as the essence of justice’.<sup>629</sup> According to the *Thames Star*, ‘he was of a most just and impartial nature, and his decisions have always given general satisfaction’, endearing him to the residents, as those who brought disputes for him to settle ‘could rest assured that such would be decided without outside influence in any way affecting the result’,<sup>630</sup> a jibe at his predecessor. On that same point, a borough councillor declaring that ‘a more upright or just man could not be found in the whole colony, while he was the most impartial Magistrate who ever presided over a Thames Court, which had gained for him the respect of all classes’. Another said it was ‘improbable that a gentleman of such integrity would be again obtained, as men of such character were indeed rare’, and a third said that ‘although he had been in many parts of the world, he had never met a

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<sup>625</sup> Editorial, *Te Aroha News*, 7 August 1886, p. 2.

<sup>626</sup> *Auckland Weekly News*, 4 September 1886, p. 14.

<sup>627</sup> Thames Correspondent, *New Zealand Herald*, 2 August 1886, p. 5.

<sup>628</sup> *Thames Star*, 23 August 1886, p. 2.

<sup>629</sup> Paeroa Correspondent, *Thames Star*, 2 August 1886, p. 2.

<sup>630</sup> *Thames Star*, 31 July 1886, p. 2.

more impartial gentleman'.<sup>631</sup> When Kenrick's widow died, 17 years after him, newspapers recalled his popularity.<sup>632</sup>

He was compared favourably with his successor, Henry Aldborough Stratford, whose judgment was often criticized. For instance, in 1887 a visiting reporter was told by miners that Stratford was 'an old shellback – a species of sea-lawyer, I presume. Quite a number of people wish he was back in his shell'. There was 'considerable dissatisfaction' with his decisions, 'and the miners say he is not the right pet for the hole'.<sup>633</sup> Seen as unapproachable, Stratford 'suffered in contrast with his predecessor'.

Mr Kenrick was not the man to haul down a book from the shelf and say he was prohibited from giving advice. He was essentially the friend and counsellor of his people, and never afraid to open his mouth to those who sought his advice; he was a peacemaker, and the foe of litigation.... Mr Kenrick's room was easily found and the door was always open.<sup>634</sup>

#### KENRICK AND MAORI

In 1885, the Minister of Justice explained that one reason Kenrick was not being transferred to another district was because 'he was alleged to be a most useful officer in connection with the Native Department'.<sup>635</sup> He was, for instance, asked by Wilkinson to attend a King Country meeting two months later that would, it was hoped, open that district for prospecting.<sup>636</sup>

A man who first met him when he was magistrate and Trust Commissioner for Maori land at Gisborne wrote that he 'shone' in the latter role, for to protect Poverty Bay Maori 'against designing men and against themselves required much tact and firmness'.<sup>637</sup> In 1882, he was appointed a Trust Commissioner under the Native Lands Fraud Prevention Act.<sup>638</sup> An obituary stated that 'all his acts' in this capacity 'were performed in the

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<sup>631</sup> *Thames Star*, 2 August 1886, p. 2.

<sup>632</sup> *Ohinemuri Gazette*, 21 September 1903, p. 2; *Thames Star*, 21 September 1903, p. 2.

<sup>633</sup> For example, 'Quaintan Queer', 'Trip to Thames', *Auckland Weekly News*, 19 November 1887, p. 8

<sup>634</sup> Thames Correspondent, *Auckland Weekly News*, 28 January 1888, p. 20.

<sup>635</sup> *New Zealand Parliamentary Debates*, vol. 57, 1 September 1885, p. 400.

<sup>636</sup> *Te Aroha News*, 26 December 1885, p. 2.

<sup>637</sup> Thames Correspondent, *New Zealand Herald*, 2 August 1886, p. 5.

<sup>638</sup> *New Zealand Gazette*, 1 June 1882, p. 791.

same efficient and conscientious manner that marked the discharge of his magisterial duties'.<sup>639</sup> Another reported that those familiar his work in this capacity described it in 'complementary terms'.<sup>640</sup>

Kenrick protected Maori from signing promissory notes and the like when under the influence of alcohol by insisting on their signatures being witnessed.<sup>641</sup> He acted promptly when he discovered evidence of fraud. In February 1883, after being informed that some signatures of owners of an Ohinemuri block were not of those purporting to have made them, he informed the Native Minister and the Minister of Justice that one rangatira had signed the names of three people who were not present, another had signed the name of a man who had been dead for two years, and another 'signed the name of his dead wife'. Sergeant Albert Russell, the clerk of court,<sup>642</sup> was not aware that two of the signatories were dead, but the interpreter, John William Richard Guilding, was, and had made Russell his 'tool'. Because Russell was 'unfit to be entrusted with' his 'responsible office', he sought his dismissal. Whilst Russell performed his other duties 'fairly well', in a Maori district the clerk of court was 'almost the only available person before whom natives can be brought to have their signatures attested – after the exposé that has taken place I do not think that the power should be left in Mr Russell's hands'.<sup>643</sup> Russell's superiors agreed, and he was transferred.<sup>644</sup> Because of the fraud, Kenrick refused to approve the certificate of ownership of the block, and because Guilding had admitted 'having certified to an interpretation and signatures that were never made', he considered that he had 'shown his unfitness to be entrusted

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<sup>639</sup> *Te Aroha News*, 21 August 1886, Supplement, p. 3.

<sup>640</sup> Thames Correspondent, *New Zealand Herald*, 2 August 1886, p. 5.

<sup>641</sup> *Thames Star*, 6 June 1881, p. 2.

<sup>642</sup> See *Auckland Weekly News*, 14 February 1907, p. 23.

<sup>643</sup> Harry Kenrick to Minister of Justice, 6 February 1883; Harry Kenrick to Native Minister, 6 February 1883, Thames Warden's Court, Receiver of Gold Revenue Letterbook 1878-1892, pp. 275-277, 279-280, ZAAAN 14143/1b, ANZ-A.

<sup>644</sup> Albert Russell to Harry Kenrick, 30 March 1883, Thames Magistrate's Court, Inward Correspondence to Magistrate and Warden 1879-1896, BAAC 13388/1a, ANZ-A; *Waikato Times*, 1 May 1883, p. 2.

with a License as an Interpreter'.<sup>645</sup> After an investigation during which Kenrick was asked for his opinion, Guilding was dismissed.<sup>646</sup>

That Kenrick did not approve of some allegedly traditional behaviour was illustrated by his comments about a case of wife beating. 'He was sorry to learn from the constable's evidence that the natives still adhered to the old notion they could do whatever they liked with their wives, and he advised defendant to rid himself of this idea as soon as possible, as Maori women had as much right to protection as their Pakeha sisters'.<sup>647</sup>

As an indication of the government's faith in his skill over Maori land issues, in 1885 he headed a three-man commission into the leasing of several Maori reserves, including at Greymouth.<sup>648</sup> Those purchasing Maori land may have felt that Kenrick was too punctilious in defending Maori interests, one lawyer, for instance, claiming that he was 'giving us a lot of trouble' over one block by 'raising trivial objections'.<sup>649</sup>

Approval of Kenrick was illustrated in September 1885 when the possibility of his being moved to another district prompted Maori throughout Hauraki to object to this possibility.<sup>650</sup> Those attending the land court in Thames held a meeting at which rangatira from Thames and Ohinemuri expressed 'their personal esteem for' Kenrick 'and their unqualified approval of the line of conduct he has pursued during his term of magistracy'. A petition would set out the reasons why he should remain. A newspaper reporting this meeting noted he was 'deservedly popular' with

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<sup>645</sup> Harry Kenrick to Native Minister, 6 February 1883, Thames Warden's Court, Receiver of Gold Revenue Letterbook 1878-1892, p. 277, ZAAAN 14143/1b, ANZ-A.

<sup>646</sup> Under-Secretary, Mines Department, to Under-Secretary, Justice Department, 15 March 1883, Justice Department, J 1, 83/998, ANZ-W; Under-Secretary, Justice Department, to Harry Kenrick, 24 March 1883 (telegram), Thames Warden's Court, Inward Correspondence to Resident Magistrate and Warden 1869-1892, BACL 13388/1a, ANZ-A; *New Zealand Gazette*, 5 April 1883, p. 420.

<sup>647</sup> Police Court, *Thames Advertiser*, 13 July 1881, p. 3.

<sup>648</sup> *Te Aroha News*, 15 August 1885, p. 2, 3 October 1885, p. 2; 'Native Reserves at Arahura, Greymouth, Nelson, and Motueka', *AJHR*, 1886, G-4.

<sup>649</sup> Jackson and Russell to W.A. Graham, 5 October 1882, Letterbook no. 25, p. 287, Jackson and Russell Papers, MS 360, Library of the Auckland Institute and War Memorial Museum.

<sup>650</sup> *Thames Advertiser*, 18 September 1885, p. 3; editorial, *Te Aroha News*, 26 September 1885, p. 2.

Maori.<sup>651</sup> Wirope Hoterene Taipari and two other rangatira opposed his removal at a meeting attended by Maori and Pakeha in Thames.<sup>652</sup> After his death, a Te Aroha correspondent wrote that Ngati Rahiri would 'feel his loss. Their position under his administration was vastly improved to what it was under a former regime, and their attendance' at a memorial meeting 'evinced their desire to express their sympathy'.<sup>653</sup> At this meeting, George Lipsey, as spokesman for Ngati Rahiri,<sup>654</sup> 'spoke feelingly of the irreparable loss to Te Aroha and of the high esteem in which Mr Kenrick was held by the Europeans as well as the Natives of this district'.<sup>655</sup>

When Kenrick's body arrived by boat at Thames, Taipari was one of those to meet it and escort it to the courthouse, and was a pallbearer in the funeral procession the following day.<sup>656</sup> Kenrick had 'especially desired' that Maori be present, and 30 were included in this procession; large numbers of others attended and at the cemetery his coffin was carried to the grave by Maori 'who had specially pleaded to be allowed that last privilege'.<sup>657</sup> Taipari and two other rangatira were appointed to the committee collecting subscriptions for a memorial to him.<sup>658</sup> The following year, Rewi Mokena referred to his taking 'a warm interest in the welfare' of Maori.<sup>659</sup> His daughter, Mrs Clara Titipa Wirepa, born two years before Kenrick's death,<sup>660</sup> clearly reflected family and tribal traditions when talking about him in 1930. According to her account, when he was dying in Auckland, his mother said she wanted him buried there (she meant his wife; his mother was long dead. As his wife was not at his deathbed either,<sup>661</sup> she must have expressed this wish afterwards). He replied, 'Yes, I know, but my heart is in Hauraki with my Maori people and the gold miners, let them bury me', and

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<sup>651</sup> *Thames Advertiser*, 17 September 1885, p. 2.

<sup>652</sup> *Thames Star*, 18 September 1885, p. 2.

<sup>653</sup> Te Aroha Correspondent, *Thames Advertiser*, 3 August 1886, p. 2.

<sup>654</sup> See paper on his life.

<sup>655</sup> *Te Aroha News*, 7 August 1886, p. 2.

<sup>656</sup> *Thames Star*, 2 August 1886, p. 2, 3 August 1886, p. 2.

<sup>657</sup> *Thames Star*, 3 August 1886, p. 2.

<sup>658</sup> *Thames Star*, 23 August 1886, p. 2.

<sup>659</sup> *Waikato Times*, 19 December 1886, p. 3.

<sup>660</sup> Church of Latter Day Saints, Record of Members, Early to 1919: Te Aroha Branch, no. 98; Record of Children Blest in the Te Aroha Branch of the New Zealand Mission, no. 28, LDS Archives, Hamilton.

<sup>661</sup> See *New Zealand Herald*, 2 August 1886, p. 5.

his wishes were followed. Over-generalizing, she believed that it was ‘through his instrumentality that the Pakeha and Maoris lived amicably ever since’.<sup>662</sup>

## DEATH

On 29 July 1886, Kenrick sent a telegram from Auckland to the Mines Department informing it that he ‘was prostrated by a very acute attack of peritonitis with congestion of the liver’. Although this had confined him to bed, he expected being ‘in harness again’ shortly.<sup>663</sup> Two days later, in a black-bordered column, the Auckland correspondent of the *Thames Star* telegraphed that ‘your respected Warden’ was ‘lying very ill at the Auckland Club, so ill that little hopes are entertained of his recovery’. Later, he telegraphed that he had died. ‘Universal regret is experienced here at the sad occurrence’.<sup>664</sup>

The death certificate recorded ‘acute enteritis’, meaning inflammation and obstruction of the intestines.<sup>665</sup> An Auckland newspaper understood that his stoppage of the bowels ‘to be one of those unfortunate cases with which medical science has so far failed to find an adequate means to cope’.<sup>666</sup> By contrast, a writer in the quirky *Hauraki Tribune* blamed his death on the draughty public hall in Paeroa.<sup>667</sup> Aged only 51, he left nine children, four boys and five girls, the youngest aged 11.<sup>668</sup>

Kenrick had been ‘somewhat indisposed’ before catching the steamer on 24 July, and that during the trip ‘his symptoms became aggravated’.<sup>669</sup> He had gone to Auckland to catch a boat to Coromandel, and on Sunday, the day after his arrival,

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<sup>662</sup> *Te Aroha News*, 22 December 1930, p. 4.

<sup>663</sup> Harry Kenrick to Under-Secretary, Mines Department, 29 July 1886 (telegram), Mines Department, MD 1, 86/1815, ANZ-W.

<sup>664</sup> Auckland Correspondent, *Thames Star*, 31 July 1886, p. 2.

<sup>665</sup> Death Certificate of Harry Kenrick, 31 July 1886, 1886/3468, BDM; *Black’s Medical Dictionary*, 36 ed., edited by C.W.H. Havard (London, 1990), pp. 248, 372-374.

<sup>666</sup> *Auckland Star*, 31 July 1886, reprinted in *Thames Advertiser*, 2 August 1886, p. 2.

<sup>667</sup> *Hauraki Tribune*, n.d., cited in *Thames Advertiser*, 10 May 1890, p. 2.

<sup>668</sup> Death Certificate of Harry Kenrick, 31 July 1886, 1886/3468, BDM; *Te Aroha News*, 7 August 1886, p. 2.

<sup>669</sup> *Thames Advertiser*, 2 August 1886, p. 2.

complained of great pains in his loins and stomach. He attributed it to a cold caught on board the steamer, he having kept on deck without a great coat. During Sunday night he suffered great agony, and slept none. On Monday morning he got up for breakfast, but could not touch food. The cramp and pains in his stomach continued, so much so that he had to take to bed, and consult Dr Haines, who at first thought it was colic in the stomach, and during Monday gave him medicine, but without much relief to the sufferer, Monday night passing without sleep. All this time the stomach refused to keep food; although only liquids were given, they were thrown off. Tuesday showed that matters were more serious than at first contemplated, the bowels evidently being congested. Every attention was given by the doctor ... and ... friends, yet little improvement was made, and yesterday afternoon it became apparent that the case was very serious, proving to be stricture, or folding of the smaller bowels.... This morning showed that the patient was very weak, and now little hopes are entertained of his recovery.<sup>670</sup>

When his condition 'somewhat improved' on 28 July, 'so that his family might not be alarmed' Kenrick wrote to his wife that his illness was 'not of a dangerous nature'.<sup>671</sup> He told very few about it, 'and requested visitors from the Thames not to let his state be known, in case his family might be rendered uneasy'. A Thames correspondent understood that, 'although sometimes far from well, he made light of it, his spirit and will being indomitable'.<sup>672</sup> Only on the morning of his death was 'the alarming news of his hopeless state' telegraphed to Thames and arrangements made to bring his family to Auckland. He died before they could leave Thames.<sup>673</sup>

His family chartered a steamer to return his body to Thames, where it was met by 'a vast number of persons' who followed the hearse to the courthouse, which was open on the morning of the funeral 'to give the public an opportunity of paying a last tribute of respect'. The borough council passed a vote of condolence to his widow, and in court a solicitor 'made a touching reference' to him which was echoed by the justices of the peace.<sup>674</sup> His death had 'thrown such a profound gloom over all classes' that it was

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<sup>670</sup> Auckland Correspondent, *Thames Star*, 31 July 1886, p. 2.

<sup>671</sup> *Thames Advertiser*, 2 August 1886, p. 2; *New Zealand Herald*, 2 August 1886, p. 5.

<sup>672</sup> Thames Correspondent, *New Zealand Herald*, 2 August 1886, p. 5.

<sup>673</sup> Auckland Correspondent, *Thames Star*, 31 July 1886, p. 2; *Thames Advertiser*, 2 August 1886, p. 2.

<sup>674</sup> *Thames Star*, 2 August 1886, p. 2; *Auckland Weekly News*, 7 August 1886, p. 20.

‘the one topic of conversation’, the ‘almost irreparable loss the goldfields have sustained’ being ‘universally acknowledged’.<sup>675</sup> Throughout the night before the funeral, volunteers watched by his body, and early in the morning ‘a great number of persons of all classes and of both sexes, both Europeans and Maoris, came to pay a last respect’, and ‘many beautiful floral offerings were laid upon the coffin by persons from every class in the community, from the choicest wreath to the single bunch of violets’. All local and national government offices, schools, hotels, and shops closed at one o’clock for the funeral.<sup>676</sup>

Kenrick’s will requested that his executors ‘bury my body at the Thames among the men who have always treated me with kindness and ready sympathy and further desire that my funeral may be of the most simple and inexpensive character’.<sup>677</sup> Although buried in the place requested, his request for simplicity was over-ruled. People attended from Te Aroha and other outlying districts.<sup>678</sup> ‘Fully 2000 persons’ representing ‘all classes’ participated in the procession. Miners and Maori, who Kenrick ‘especially desired should be afforded every facility to be present, swelled the cortege in very large numbers. A pleasing feature in the procession was the presence of so many children from the public schools, together with their teachers’.<sup>679</sup>

First came the volunteers, headed by the band, about 130; then the hearse, followed by three carriages containing the relatives of deceased and officials of the Courts; next the justices of the peace and lawyers, Mr Miller and Mr Lush representing the Law Society; four coaches with borough councillors; then the police, and next forty representative miners and thirty Maoris. Following these were about six hundred persons four deep; forty scholars of the Kauaeranga School brought up the rear.<sup>680</sup>

The day before his death, when told by his doctors that his case was ‘hopeless’, Kenrick sent for a solicitor and made his will.<sup>681</sup> In it he hinted

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<sup>675</sup> *Thames Star*, 2 August 1886, p. 2.

<sup>676</sup> *Thames Star*, 3 August 1886, p. 3; *Auckland Weekly News*, 7 August 1886, p. 30.

<sup>677</sup> Will of Harry Kenrick, Probates, BBAE 1568/1569, ANZ-A.

<sup>678</sup> *Te Aroha News*, 7 August 1886, p. 2.

<sup>679</sup> *Thames Star*, 3 August 1886, p. 2.

<sup>680</sup> *Auckland Weekly News*, 7 August 1886, p. 30.

<sup>681</sup> *New Zealand Herald*, 2 August 1886, p. 5.

that the government should grant his family some monetary recognition of his long service, a hint that was ignored. He did not have much to leave: a house at Thames,<sup>682</sup> freehold land with a house on it on the North Shore at Auckland, some freehold allotments at Greymouth, and a boat. Everything apart from his law books was left to his wife. 'I am not able to give any bequest to my sons beyond my best wishes for their future welfare.... My estate being small I have made the provision that the whole of it must go to my children' should his wife remarry.<sup>683</sup> His estate was valued at £2,407 14s 7d.<sup>684</sup>

### REMEMBERING KENRICK

Kenrick's successor, Henry Aldborough Stratford, discovered he was 'revered by the whole mining community'.<sup>685</sup> A Thames correspondent recorded that the 'shock' of his unexpected death 'cast a deep gloom over the community'. The 'universal expression of opinion' indicated that 'he was regarded universally with the profoundest respect and esteem. We all seem to have lost in him, not only a friend, but a father'.<sup>686</sup> The *Thames Advertiser* announced the death of this 'much esteemed and respected' man 'with profound sorrow and with a sense of almost personal bereavement'. The 'loss to his family and to the community, whose interests he guarded with such conspicuous ability and honesty, cannot be made up; but his memory will be held in affection and honour, and will serve as a beacon light to illuminate the steps of his successors'. As he was to be buried in Thames, residents would be able to show 'the last tokens of respect to an upright and able magistrate, an honourable and kind-hearted man, and a tender husband and father'.<sup>687</sup> That his private life was as 'admirable' as his public one was indicated by the *Te Aroha News*, which described him as 'a firm and constant friend, a man of warm sympathies and kindly impulses; liberal and enlightened in his views, generous and charitable in his opinions of others - in his domestic relations singularly happy - honoured and

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<sup>682</sup> For its value, see *Thames Advertiser*, 10 May 1889, p. 2.

<sup>683</sup> Probates, BBAE 1568/1569, ANZ-W.

<sup>684</sup> Testamentary Register 1886-1892, folio 3, BBCB 4208/16, ANZ-A.

<sup>685</sup> H.A. Stratford to Under-Secretary, Mines Department, 7 April 1887, Thames Warden's Court, Letterbook 1886-1893, p. 89, BAEL 14458/2b, ANZ-A.

<sup>686</sup> Thames Correspondent, *New Zealand Herald*, 2 August 1886, p. 5.

<sup>687</sup> *Thames Advertiser*, 2 August 1886, p. 2.

beloved'.<sup>688</sup> He had many friends, another obituary recorded, and several gave him 'every attention' when he was on his deathbed.<sup>689</sup> The *Thames Star* wrote that news of his death caused 'a profound sensation', Kenrick

having endeared himself to all the residents of the Thames, who could not but admire and respect him for the fair and impartial manner in which he performed his multifarious and onerous duties. In addition to this, however, he was of a most generous and obliging disposition, being always courteous to those who required his attention, while his liberality to any charitable object is well known ... throughout the whole Coromandel Peninsula.<sup>690</sup>

Its columnist described him as 'a most valuable and conscientious servant' of the government, 'one who had the interests of the district ever uppermost in his mind, and who never spared himself in the discharge of his onerous duties. To the very last his thoughts were of the miners especially'. He left 'an unblemished record' as a public servant, and was 'a good man in every relation of life, and endeared to his family and his many friends'.<sup>691</sup>

At Te Aroha, news of Kenrick's death 'cast a gloom over the whole district. It is seldom indeed that such general and sincere regret is felt', a correspondent wrote. 'On every hand are heard expressions of sorrow, for among all classes the deceased gentleman was held in the highest esteem, and there is scarcely a member of this community who does not feel as if he had lost a personal friend'. His tribute ended by stating that 'rarely has a familiar quotation been more truthfully applied than in this instance, "we ne're shall look upon his like again" '.<sup>692</sup> The *Te Aroha News* reported 'profound and universal grief', for 'every man in the community felt that he had lost a friend, and the district a warm and steadfast advocate and ally. He was in the highest sense a popular man'. The 'loss sustained by the whole of the goldfields is deeply felt, and the expressions of sorrow and regret are as sincere as they are universal, while the sympathy for the bereaved family in their unspeakable grief is widespread and heartfelt'.<sup>693</sup>

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<sup>688</sup> Editorial, *Te Aroha News*, 7 August 1886, p. 2.

<sup>689</sup> *New Zealand Herald*, 2 August 1886, p. 5.

<sup>690</sup> *Thames Star*, 31 July 1886, p. 2.

<sup>691</sup> 'What Everybody Says', *Thames Star*, 7 August 1886, p. 3.

<sup>692</sup> Te Aroha Correspondent, *Waikato Times*, 3 August 1886, p. 2.

<sup>693</sup> Editorial, *Te Aroha News*, 7 August 1886, p. 2.

At Te Aroha, a large public meeting expressed their grief and conveyed sympathy to his widow.<sup>694</sup> James Mills, a future mayor,<sup>695</sup> in moving the resolution 'was sure that everyone in this district felt that in losing the services of Mr Kenrick the goldfield had lost a true friend'. His 'impartiality' and never 'allowing his decisions to be influenced by outside interference' along with 'his courtesy to all seeking his help or advice, and his universal charity' were praised.<sup>696</sup> At a meeting of the Piako County Council, councillors spoke of him 'in eulogistic terms'.<sup>697</sup>

At Greymouth, his 'many sterling qualities' were recalled, his friends describing him as 'a sincere and steadfast friend to all who had the right to call him friend, as well as being a man with a finely endowed mind and great versatility'. A few months before his death, he revisited the town as a royal commission into the Greymouth Native Reserve, 'and the clear, sound, and comprehensive ideas expressed by him in his report showed his knowledge, shrewdness, and impartiality in dealing with this most intricate question'.<sup>698</sup>

When 'a certain solicitor made a most disgraceful remark' about Kenrick on the day he died to an old miner and Maori land agent, John Blain,<sup>699</sup> 'the old man put his fist straight out from the shoulder to that lawyer's face, and gave him a blow which he remembered for some time afterwards'.<sup>700</sup>

One B.F. produced a long 'In Memoriam' that was printed in the *Te Aroha News*. Amongst its turgid lamentations were references to him as 'a good man' whose 'honest manhood' was 'cast in virtue's mould'.

The state he nobly served, nor feared to tread  
The uphill path where Duty plainly led;  
Nor frown nor smile could tempt his feet to stray  
When Reason urged and Honor showed the way.  
No fear could shake, no prejudice could blind

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<sup>694</sup> *Te Aroha News*, 7 August 1886, p. 2.

<sup>695</sup> See paper on his life.

<sup>696</sup> *Te Aroha Correspondent*, *Thames Star*, 4 August 1886, p. 3.

<sup>697</sup> Piako County Council, *Te Aroha News*, 7 August 1886, p. 3.

<sup>698</sup> *Grey Argus*, n.d., reprinted in *Inangahua Times*, 4 August 1886, p. 2.

<sup>699</sup> See *Thames Advertiser*, 22 April 1873, p. 3, 18 August 1876, p. 3, Magistrate's Court, 14 June 1884, p. 3, District Court, 5 August 1885, p. 3, 12 March 1890, p. 2, 26 September 1895, p. 2.

<sup>700</sup> *Auckland Star*, 1 October 1895, p. 2.

His honest judgment, or mislead his mind.  
 He held the balance in his firm right hand,  
 And weighed out justice at no man's command.  
 The wrong redressed, the right he made prevail,  
 For justice ever filled the sacred scale.  
 Alike for all, without distinction made,  
 He lived, he toiled, he lent his constant aid.

And so on, at length; in death he remained a model for future generations.<sup>701</sup> At Thames, Kenrick was recalled as 'a gentleman – using the word in no conventional sense', and as 'upright and fearless'.<sup>702</sup>

Shortly after his death, a public meeting in Thames 'largely attended by all classes of the community' agreed that a memorial should be erected 'in recognition of his virtue and impartial judgments', and a committee was chosen to decide on its nature. One speaker said there were 'few people throughout the Peninsula who did not know' Kendrick, 'who was justly respected by all classes. Socially speaking, he did not mix much with people, keeping to himself; but in his public capacity no one ever went to him who was not assisted by his counsel and advice, the poor being treated with the same courtesy as the richest and most influential men in the place. (Hear, hear)'. To collect subscriptions, limited to one shilling per person, 38 Thames residents were appointed, along with 23 miners in all the other Hauraki mining districts (three from Te Aroha and Waiorongomai) plus two Aucklanders closely associated with mining. Those chosen included all the clergymen of Thames, leading mine managers, representatives of the School of Mines, county council, and borough council (including his predecessor, and enemy, William Fraser, in his capacity as mayor), the local member of parliament, leading businessmen, and three rangatira.<sup>703</sup> Within less than two months, the Kenrick Memorial Fund had raised about £50, and in December a monument to be erected over his grave was chosen in Auckland: it was 'of American marble, and is massive yet chaste in design'.<sup>704</sup> The inscription read:

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<sup>701</sup> B.F., 'In Memoriam: Harry Kenrick, Obiit. July 31, 1886', *Te Aroha News*, 21 August 1886, p. 3.

<sup>702</sup> Weston, p. 78.

<sup>703</sup> *Thames Advertiser*, 23 August 1886, p. 2; *Thames Star*, 23 August 1886, p. 3.

<sup>704</sup> *Thames Advertiser*, 19 October 1886, p. 2; *Thames Star*, 29 October 1886, p. 2; *New Zealand Herald*, 12 November 1886, p. 5, 16 December 1886, p. 4.

In loving memory of  
**HARRY KENRICK**  
 for seven years  
**WARDEN**  
 and  
**RESIDENT MAGISTRATE**  
 Thames Goldfields  
 who was called home July 31st 1886 aged 51 years.  
 “He showed his faith by his works.”  
 This memorial was erected by the people of Thames as a token of  
 respect for a worthy man and an upright Judge.  
 He Whakamaharatanga Ki a<sup>705</sup>

(The Maori phrase, correctly recorded here, means ‘a memorial to’.)<sup>706</sup>  
 At Te Aroha, nearly a year after his death an English oak was planted in  
 the domain in his memory as part of the Queen’s Jubilee Celebrations.<sup>707</sup>

### CONCLUSION

A couple of months before his unexpected death, a Thames journalist  
 wrote a thoughtful assessment of ‘our respected Warden and Resident  
 Magistrate’:

Being something of a martinet, his advent as looked upon with  
 considerable suspicion by the several officials connected with the  
 Government service here; and these gentlemen for some  
 considerable time felt ill at ease, and believed themselves to be  
 suffering a kind of mild persecution. Accustomed to the *bonhomie*  
 style of his predecessor, they could not understand the strict order  
 insisted on by the new power. This arose more from the Change  
 than from any real Cause; but being capable officers they soon  
 found that the new Warden had no feeling in the matter, save  
 that of doing his duty, and the result is that these very officers  
 not only have now no fault to find with their superior, but really  
 respect him. His nature is not such as to engender affection in his  
 subordinates: respect him they will, but regard him with  
 affection, never. His conduct throughout unfavorable  
 circumstances has always been characterized by a desire to deal  
 fairly and uprightly with all parties. No man can be entirely free  
 from forming, or being the cause of forming coteries or circles, and  
 generally the best men are, through their very good-nature, the

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<sup>705</sup> Plot 0799, Shortland Cemetery.

<sup>706</sup> Tom Roa to Philip Hart, 24 July 2013, email.

<sup>707</sup> *Te Aroha News*, 25 June 1887, p. 3.

most liable to form such associations. Mr Kenrick has been singularly free from this. Although courteous and obliging, he will rarely, if ever, be found going further. Occasionally in his judgments he is prone to follow the course of some judges in accompanying the sentence with advice, and this in cases where the full sentence [that] has been imposed somewhat exceeds the bounds of fair play. As a Warden he will be respected, and his decisions generally depended on. As R.M. his judgments are according to his lights, and honestly given. Personally, a self-contained man: bitter and continuous in his dislikes, having little sympathy for an opponent. Shrewd and cautious, his feelings are easily hidden. Phrenologically, the mental qualities predominate, and become easily accustomed to routine or order. A fair man: a valuable executive officer, possessing the enviable qualities of being trusted by Government, and regarded with confidence by the mining community.<sup>708</sup>

That Kenrick was so widely and sincerely mourned was sufficient response to all the sniping criticisms he had had to endure from self-interested opponents. The latter were a regrettable background to his many years of devoted public service, which sadly was terminated prematurely. He was a just man unfairly attacked by his moral inferiors.

### *Appendix*

*Figure 1:* The staff of Kenrick's first sawmill, at East Oxford: Kenrick is fourth from the left, Malcolm Christie Collection; used with permission. [Lancelot Watson, *The Story of Oxford 1852-1832* (Christchurch, 1932), reproduces this photograph on p. 20 with a full list of the workers.]

*Figure 2:* Sketch of 'Harry Kenrick, Esq., R.M. and Warden', *Thames Star*, 19 May 1886, p. 2.

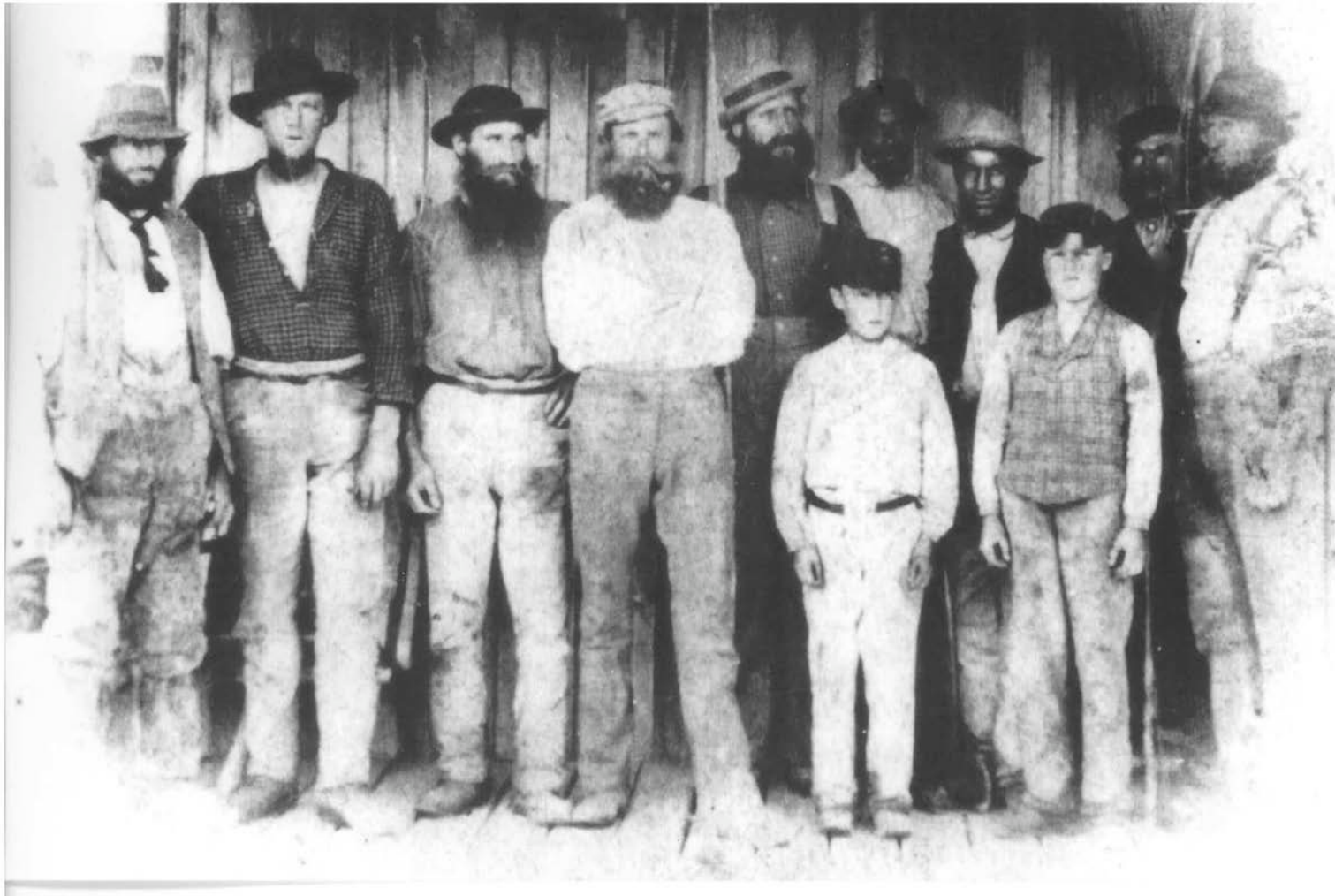
*Figure 3:* Harry and Adelaide Kenrick, Malcolm Christie Collection; used with permission.

*Figure 4:* Their five daughters (apart from the one who died in infancy): from left, Mabel, Lillian, Meta, Lena, and Ethel. Probably photographed at the wedding of Lillian Laura in 1892 (see *Thames Star*, 23 April 1892, p. 2). Malcolm Christie Collection; used with permission.

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<sup>708</sup> 'Junius', 'Our Portrait Gallery', *Thames Star*, 19 May 1886, p. 2.





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R.M. AND WARDEN.**

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