

## CHAPTER 6

# **THE MAJOR ELEMENTS OF GOVERNMENT LAND PURCHASING POLICY IN THE ROHE POTAE (AOTEA BLOCK) IN THE 1890S**

The following is a brief outline of what appear to be the main elements of Government land purchasing policy in the Rohe Potae during the 1890s. The main elements are addressed separately. It is important to note however that in practice they were inextricably linked and possibly more effective in combination.

### **6.1 SECRET PURCHASING OF INDIVIDUAL INTERESTS IN LAND**

The Government was committed to land purchasing in the Rohe Potae by the late 1880s. The possibility of leasing was apparently no longer considered a serious option by this time. This policy was reflected in the advice of the Native Department Under-Secretary, T W Lewis, just before purchasing officially began. He recommended to the Native Minister that purchasing should begin immediately, but made no mention of leasing.<sup>1</sup> Lewis acknowledged that the owners did not want to sell land and suggested policies that were intended to break down this resistance. He believed that making a breakthrough with purchasing was crucial and once this was achieved, then owners would be unable to resist the pressure for widespread sales: 'once the ice is broken, they will come in'. Lewis also recommended purchasing should begin in several blocks at once, because while owners in one block might refuse to sell, some owners in another block might be willing. As money got into circulation, he believed that 'emulation' would then 'form a strong inducement'. In other words he believed that once a 'need' for cash was established, then land sales would follow.

Lewis was essentially advocating tactics of secret purchasing of individual interests in land. This policy was in contravention of the stated wishes of chiefs to have a public, managed process, controlled at a hapu or group level. The buying up of individual interests was a direct attack on the authority of the chiefs and on the ability of hapu and iwi to make decisions on the management of land. It was a tactic

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1. Telegram from Lewis to Native Minister, 18 December 1889, MA 13/78, NLP 89/332

obviously designed to undermine the known determination of the vast majority of owners to resist pressure to sell land.

Secret purchasing allowed land purchase officers a great deal of leeway in the tactics they might choose to employ, in order to secure individual interests. The Government had repeatedly assured chiefs that, in contrast to private parties, it was committed to protecting Maori interests. In allowing purchasing to go ahead, the Government might have been expected to have a responsibility to ensure that the activities of its officers were beyond reproach. However, secret purchasing, by its nature, worked against this. In his instructions, Mitchelson seemed to acknowledge this. Apart from confirming the broad outline of the policy suggested by Lewis, he stated that the Government would rely on Wilkinson's 'prudence, zeal and ability for results'.<sup>2</sup>

In effect, the instructions provided the land purchase officer with overall guidelines for purchasing individual interests. The detailed tactics were then up to the discretion of the officer, although he could and often did seek advice and authority on various points. As will be seen, in many cases, particularly in the early years when progress with purchasing still seemed very slow, many tactics suggested by land purchase officers were approved by senior officials and Government Ministers.

Some of these tactics, especially where higher approval was sought, are evident from official records. It is clear for example, that officers used their links to Maori communities and their extensive local knowledge, to exploit and even create dissension in order to make purchases from disaffected individuals. For example, W H Grace advocated this tactic in early 1890. He suggested that efforts should be made to purchase interests in the Mohakatino-Parininihi 1 block. He knew that the Ngati Maniapoto owners in this block were all leading men and if they sold their interests it would be 'the very thing that will cause the people to become dissatisfied and make them sell other blocks'. It would cause jealousy and, 'It will break the ice and I am sure lead to the selling of those blocks which the Govt are more desirous of acquiring'.<sup>3</sup>

Wilkinson disagreed with Grace over the wisdom of purchasing in the Mohakatino-Parininihi block for other reasons, but he did believe that exploiting disputes and dissatisfaction was a very effective means of gaining entry into purchasing in a block. For example, he later suggested purchasing in the Otorohanga block, because he knew that 'some of the owners are quarrelling amongst themselves which will probably result in some of them selling in order to annoy the others'.<sup>4</sup> In some cases the land purchase officers appear to have been reflecting widely held Pakeha prejudices about Maori ability to act cooperatively and their initial optimism turned out to be false. However, it is clear that the Native Land Court process did sharpen many areas of conflict and officers were quick to exploit or create situations where disputes would assist purchasing.

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2. Memo from Native Minister Mitchelson to Lewis, 20 December 1889. The instructions were sent by telegram from Lewis to Wilkinson on 21 December 1889 and followed up with a letter of further instructions on 28 December 1889, correspondence on NLP 89/332 and attachments on MA 13/78

3. Memo from W H Grace attached to Wilkinson memo, 10 March 1890, MA 13/78, NLP 90/51

4. For example, telegram from Wilkinson to Lewis, 19 March 1890, MA 13/78, NLP 90/69

Wilkinson and other purchase officers also tended to target particular individuals from the list of owners, whom they knew from local knowledge, might be most tempted to sell secretly. Some individuals might only be listed out of aroha for example, and might have little direct connection to the particular block. They might be tempted to take cash in return for a secretly given signature, especially if they did not even live in the district. Other owners might have a shaky interest in a block, that was liable to be overturned or reduced through further court action. For example, they may have been included in a list because their spouse had an interest. They might be tempted to sell early in the process while the land purchase officer could still assume that their interests were equal. In this way they might get more than later determinations found them entitled to, and the Crown would bear the cost of any loss. This could be a difficult tactic as the Crown did stand to lose, but Wilkinson obviously thought that at times, the value of acquiring some shares was worth the risk. He could also support the sellers in court to try and have their shares determined as being worth as much as he paid or more. Wilkinson also appears to have singled out owners who had married into and aligned their interests to the Pakeha community. They often retained little attachment to keeping their traditional land interests and as they often lived outside their traditional communities, they could also sell secretly with little risk of community censure. This often appeared to be true of Maori women married to Pakeha men.<sup>5</sup> As will be seen, land purchase officers were also assisted in purchasing individual interests, when the Government paid bonuses for signatures and bonuses for chiefs who assisted with gaining signatures.<sup>6</sup>

It seems likely that purchase officers also indulged in some of the more unsavoury land purchase tactics already well known among private purchase agents in other districts, in order to obtain individual signatures. It is clear that senior officials did not want to know about, or ‘acknowledge’ these tactics, although they did little to prevent them. It is more difficult to pick up these tactics from official records, particularly on a brief investigation. Wilkinson also appears to have been far too astute to reveal much in his reports. Occasionally however, some evidence can be found. Indebtedness to storekeepers was obviously a well tried tactic. It was slightly more complicated under Crown preemption in the Rohe Potae. This was because the prohibition on private dealing prevented land from being transferred straight to a storekeeper for debts. However the practice of purchase officers recommending credit for owners, who then paid off debts in cash with their purchase money, was still possible. As already shown, W H Grace had been involved in this type of activity in the Taupo area in the mid to late 1880s.<sup>7</sup> In 1890, Wilkinson noted that some Maori in the Rohe Potae were already using their spare cash or making ‘arrangements with storekeepers and others’ to buy sheep flocks.<sup>8</sup>

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5. For example, re sales from outside the district, see MA-MLP, box 39, NLP 95/428; re Maori women now living in the pakeha community selling shares, for example, Jane Kendall of Raglan, see MA-MLP, box 41, NLP 96/140

6. For example, correspondence re Wharepuhunga block, MA-MLP, box 61, NLP 1901/95 and attachments

7. MA-MLP, box 26, NLP 89/240 and attachments

8. Memos Wilkinson to Lewis, 10 March 1890, and 27 March 1890, MA 13/78, NLP 90/51, 90/60 and attachments

This suggests storekeepers had an important role in providing credit in the district. It is probably no accident that Ellis, the local storekeeper in the Rohe Potae, was one of the original participants in the discussions on possible purchasing tactics leading to Lewis's advice to Government in 1889. His presence was regarded as acceptable by senior officials and the Native Minister.<sup>9</sup> Not all storekeepers managed to get around the difficulties in transferring land for debts and there was obvious pressure on Government to overcome this problem. Evidence of this pressure further suggests that Rohe Potae storekeepers were using debts to try and force transfers of land. For example, in 1890, an Otorohanga storekeeper still unsuccessfully pressed Government in the hope that recent legislation would allow him to take a Native section in the town, in return for debts.<sup>10</sup>

The other activities of W H Grace in the Taupo area have already been described. These included using bribery to alter evidence given to court, acting in league with certain individuals having interests in land to undermine the efforts of the majority to not sell, and paying bonuses for assistance with purchasing.<sup>11</sup> There is evidence of many of the same tactics in the Rohe Potae as will be seen in the purchases described in more detail. Although the same level of corruption is not immediately evident from official records concerning the Rohe Potae, disclosed by the Taupouiatia Commission, the same individuals, particularly the Graces and Moons, were also operating to promote land sales in the Rohe Potae. It seems highly possible that they were using many of the same tactics that were revealed at Taupo.

Even when purchasing tactics used in other districts were rejected, the reason for this was often because they had not proved effective, or they had proved counter-productive by attracting too much criticism, rather than because of any apparent consideration of Maori interests. For example, when Wilkinson was involved in discussions of possible purchasing tactics after early failures in the Rohe Potae, he discounted W H Grace's suggestion of paying in advance of purchase because it had not only proved ineffective - 'That system of land purchase has been tried in years past in the Thames and other districts with most unsatisfactory results' - but it had also been generally condemned.<sup>12</sup> This was apparently a reference to the system used in other blocks of making payments before any purchase deeds were signed. Instead, in the Rohe Potae, Wilkinson was always supplied with a purchase deed on receiving approval to begin purchasing in a block. Wilkinson then collected individual signatures on the deed (or in some cases to the several deeds produced for one block).

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9. Telegram from Lewis to Native Minister, 18 December 1889, MA 13/78, attachment to NLP 89/332

10. See MA-MLP, box 59, NLP 1900/137

11. MA-MLP, box 26, NLP 89/240 and attachments

12. Wilkinson memos to Lewis, 10 March 1890 and 27 March 1890, MA 13/78, 90/60, NLP 90/51 and attachments

## **6.2 THE SELECTION OF LAND TO BE PURCHASED**

The Government had assured Ngati Maniapoto chiefs that it was only interested in buying their ‘surplus land’. However, the Government was never really clear about who would decide what was surplus or how this might be determined. Initially, the Government appears to have been most interested in land close to the railway line that was also suitable for European farming. This was generally land in the Waipa valley, although there was interest in land right along the railway route. To a lesser degree, there was also interest in land around Kawhia, where the harbour provided sea transport. There was also interest in locations that had other commercial possibilities, for example, limestone deposits and the Waitomo caves. Wilkinson’s early reports reflect the policy of selecting suitable land for purchase. For example, they contain indications of the quality of land for settlement and its proximity to the railway line. There is some indication also that Maori land was regarded as ‘surplus’, if it was ‘free’ of Maori settlements, cultivations, or tapu areas.<sup>13</sup> This was a very eurocentric view of Maori land needs. It conveniently, but unrealistically, limited Maori to ‘needing’ only very defined areas of land while overlooking the actual pattern of traditional Maori resource use. This view also left little room for Maori to use land for new economic opportunities. For example, it took little account of possible Maori land needs for engaging in large scale leasing of land or for new economic ventures such as tourism. As an example, it is clear that even when purchasing first began in the district, the Government was anxious to acquire the Waitomo caves for tourism purposes. It was just as clear that Maori owners wanted to retain them, possibly for the same reasons. In his determination to acquire the caves, Native Minister Mitchelson approved paying the authorised price for the land the caves were on, plus an additional £500 for the caves themselves. He indicated he would be prepared to go even higher than this in order to secure the caves.<sup>14</sup> It is clear that from very early on in purchasing, there was likely to be a conflict between Maori and Government view of what was ‘surplus’ Maori land. The Government may have reasoned that this did not matter when all sales were ‘voluntary’. However, the aggressive, secret nature of much of the Government’s purchasing policy appears to raise issues of how ‘freely’ many sales were made.

The Government intended that land purchase officers would select land for purchase that was most suitable for farming settlement. Wilkinson had to seek authority for example, before he could begin purchasing in a block. In 1890, Mitchelson also instructed that, if necessary, the purchase price was to be raised so that purchase officers could discriminate between good and bad land in negotiations.<sup>15</sup> The policy of selecting the best land for settlement appears to have been undermined, however, by the contradictory policy of buying anywhere in the district in order to force further sales. For example, in 1890, land purchase officers Wilkinson and Grace admitted that they had so far failed to purchase any individual interests. As a result, they advocated buying in ‘any block within Rohepotae that

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13. For example, Wilkinson memo of 24 October 1889, MA 13/78, NLP 89/332 and attachments

14. Lewis to Native Minister, 18 December 1889; reply, 20 December 1889, MA 13/78, NLP 89/332

15. Instructions from Native Minister to Lewis, 17 April 1890, MA 13/78, NLP 90/60

can be purchased'.<sup>16</sup> This was based on the assumption that once the ice was broken (and hapu authority undermined) then widespread selling would start. This meant that in reality, land purchasing was often based on whether or not land was in a legal position to be purchased, regardless of the suitability of the land. The decision to purchase early in the court process also had implications for what land was purchased. Again, this decision was made to force sales, but the result was that land purchase officers were buying shares, rather than land actually marked out on the ground. The actual location of the land and even the quantity, might not be fully known until much later when the court got around to making the relevant determinations. This again meant that there was often a tenuous link between the purchasing process and the actual land purchased.

This policy may have been regarded as a temporary inconvenience to the Crown, as it was widely assumed that once the expected flood of sales began, more suitable land could then be bought up. There were important long term implications for Maori owners however. Secret sales of individual interests scattered throughout the district, clearly undermined attempts by Maori owners to manage land rationally and to economic advantage. Large areas of land otherwise suitable for leasing for sheep farming, might end up broken up by pockets of Crown land. Secret purchases of individual interests also raised uncertainties about what land could be leased.

### **6.3 MANIPULATION OF THE NATIVE LAND COURT PROCESS**

By 1890, the first blocks of Ngati Maniapoto land in the Rohe Potae had reached the stage in the Native Land Court process where they were legally able to be purchased. However, much of the district, was still in a great variety of stages in the Native Land Court process. It is also clear that in the Rohe Potae, as Wilkinson had reported, the whole process was slowed by the reluctance of Maori owners to go any further through the Native Land Court process than was absolutely necessary to gain some form of settled title.<sup>17</sup> They were well aware that the more defined and individualised ownership became, the easier it was for land purchase officers to target and pressure individuals to sell. As blocks passed through more of the Land Court processes, there was also more opportunity for the owners to incur debt and be forced to sell land. When Wilkinson reported on blocks that might be ready for purchase in late 1889, he in fact found only seven blocks that were both reasonably close to the railway line and had title far enough advanced to be ready for purchase.<sup>18</sup> Even in March 1891, Wilkinson was obliged to report that interests still remained undefined in more than three-quarters of the area passed by the court since it began sittings on internal divisions in the district in 1888.<sup>19</sup> The slow pace of definition of interests continued throughout the 1890s. Even by 1907, the Stout–

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16. Correspondence, MA 13/78, NLP 90/51, 90/60

17. AJHR, 1890, G-2, p 3

18. Wilkinson to Lewis US ND, 24 October 1889, and attached tracing, MA 13/78, NLP 89/332 and attachments

19. Wilkinson to Native Department Under-Secretary, 26 March 1891, MA 13/78, NLP 91/65

Ngata commission reported that the Native Land Court was still active in subdividing blocks within the district, and had plenty of work still ahead of it.<sup>20</sup>

By the late 1880s, the Government was unwilling to delay purchasing any longer however, even if this meant purchasing as soon as was legally possible. The Government was under considerable pressure from settlers to have land made available for settlement and was concerned to be seen to be meeting this demand. The Government was also under pressure from Pakeha who wished to move into the area and deal with Maori land themselves. The Crown may have felt it was necessary to move quickly if it was to maintain an effective monopoly on land dealing in the district. Advice from officials was also very much in favour of beginning purchases quickly, although for those who combined native agent duties with those of land purchasing, such as Wilkinson, the impartiality of this advice is open to question. The sense of urgency in beginning purchasing is clear in official records of the time. The Government had been waiting impatiently for land to pass through the court process and had been collecting information necessary for purchasing since at least 1886, when the Native Land Court first began sitting in the district. There is also a strong sense of urgency in the communications between officials and Ministers as purchasing began, and in the first years of trying to make some progress. The importance attached to the process can be seen in the close relationship between officials and Ministers in trying to get purchasing started and even in the extensive use of telegrams. This was an expensive medium at the time, (and apparently became more effective due to the main trunk railway construction). However, it provided a remarkably rapid flow of information between Wellington and Otorohanga for the time, often with a turnaround of only one to two days.

In pursuit of this policy, Lewis advised the Native Minister that purchasing should begin as soon as land had passed through the court enough to be in a position to be legally dealt with. He also advised that efforts should be made to ‘push on’ with blocks that still needed subdivision surveys completed before they could be purchased.<sup>21</sup> Land could be ‘legally dealt with’ as soon as title was determined, but this was often still very early in the Land Court process. At this stage, it was quite possible that an individual’s relative interests were still not defined or specifically located within a block and this was a situation Maori preferred. Lewis was critical however, that the court process could enable title to be settled without defining interests. He recognised there were potential problems for the Crown in purchasing before interests were defined and suggested ways these might be overcome. He advised that where relative interests were not yet determined, they should be regarded as equal for the purpose of purchasing. He felt this policy would be most helpful to purchasing. This was because owners who felt they were entitled to a larger than equal share would then have an incentive to assist the court in determining relative interests. In addition, this policy would take the responsibility of trying to make such decisions away from purchase officers. He was concerned that if they did try, they might stir up jealousy and dissatisfaction and this antagonism would further hinder purchasing. In advising that blocks not yet ready

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20. Stout–Ngata report, AJHR, 1907, G-1b, p 3

21. Lewis to Native Minister, 18 December 1889, MA 13/78, NLP 89/332

for purchasing should be ‘pushed on’, Lewis was also acknowledging the potential for manipulation by officials that was inherent in the court process.

Shortly after advising the Minister to begin purchasing before interests were defined, Lewis was able to discuss the issue with the Chief Judge of the Native Land Court and with Judge Mair. As a result, he was able to confirm his belief that the recent Native Land Court Act 1888, section 21, (operative from 30 August 1888) required the Native Land Court to determine relative interests of the respective owners at the time the orders were made. His advice was that the court’s previous omission to do this did not make the orders invalid. However, when it began sitting again at Otorohanga, it had been agreed that it would at once begin to determine and apportion relative interests of owners in all blocks where orders had been made to date. Lewis asked Wilkinson to inform owners of this and to request them to send in lists of owners showing relative shares as soon as possible.<sup>22</sup> Lewis seemed to be remarkably optimistic in assuming owners would be willing to assist in this way. In fact, they continued to show a decided reluctance to have relative interests defined. Lewis also seemed to believe that the 1888 legislation would solve the problem of having interests defined. He appeared to believe that the tactic of purchasing ahead of such definitions would therefore only need to be temporary. In fact, the evidence of the 1890s appears to show that the 1891 commission seemed to have judged the matter more accurately, by describing the clause Lewis relied on as the ‘climax of absurdity’ and the task set the court as ‘indescribably hopeless’.<sup>23</sup> The situation was probably not helped by Government policy of purchasing in all possible blocks. This virtually ensured purchasing would get ahead of court determinations on interests. Nevertheless, the court’s inability to move rapidly enough for the needs of purchasing was a constant source of frustration to officials throughout the 1890s.

The possible risks to the Crown of purchasing so early in the Native Land Court process were recognised from the time Native Minister Mitchelson issued his first instructions to begin purchasing. If the Crown decided to go ahead and purchase shares before interests were defined it was actually purchasing a theoretical acreage. Land purchase officers simply took the estimated acreage of the block and divided it by the number of individuals known to have an interest. This average was then multiplied by the price per acre, to give the value of a share. Purchasing officers assumed each individual had an equal share. Until further court determinations were made, it was not possible to be accurate about either the quantity of land represented by the shares or exactly where the land represented by the share might turn out to be located on the ground. If the purchased shares were later deemed to be unequal, or if the early estimated acreage was revised on a more accurate survey, the Crown could end up having paid more for a share than it needed to. On the other hand it could also end up making a profit. The Crown also ran the risk of ending up with poor quality or inaccessible land. The Crown was also wary of creating dissatisfaction among owners through the early purchase of interests. Lewis believed that this dissatisfaction could lead to further antagonism

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22. Memo to Wilkinson, 28 December 1889, MA 13/78, NLP 89/332 and attachments

23. Report of 1891 commission on native land laws, AJHR, 1891, sess ii, G-1

towards purchasing. Purchase officers were instructed to carefully warn sellers that all their interests in land ended when they sold their shares. Nevertheless, officials were concerned that if, for example, owners sold on the basis of equal shares and were later found to have a relatively higher interest, they might come back seeking more money to recover the balance and become dissatisfied when this was refused.<sup>24</sup>

Initially, Mitchelson appears to have agreed with Lewis that purchasing should go ahead as soon as legally possible, and if interests were still undefined they should be assumed to be equal.<sup>25</sup> Ministers and senior officials continued to have qualms about the possible risks to the Crown, however, and intermittently voiced concern about the tactic. For example, Native Minister Mitchelson issued apparently contradictory instructions in early 1890 that all blocks in the Rohe Potae had to be surveyed and the owners defined, before any negotiations were entered into.<sup>26</sup> Lewis apparently also had occasional second thoughts about the tactic. However, when it seemed that such tactics were necessary if purchasing was to succeed, particularly the first breakthroughs in purchasing, then such qualms were generally overcome. For a long time Government officials and Ministers also expected the court to soon catch up with definitions and make the tactic redundant. In August 1890, for example, Wilkinson reported his concern that sellers might become dissatisfied and antagonistic to further selling if they discovered that interests they had sold were really worth more on determination, but the Crown would not pay the balance. However, Lewis replied that purchasing should go ahead anyway. He agreed there was some risk in purchasing undefined shares but he hoped that this would soon be settled by the court.<sup>27</sup>

In May 1890, the Government was also warned of the risks of buying possibly unequal shares before they were defined, by J H Edwards, a lawyer who had represented some owners in court. He advised the Native Minister that it would be much better and safer to all sides, if all the interests were individualised before they were purchased.<sup>28</sup> Lewis advised the Native Minister that indeed it was very desirable that relative interests should be defined in Rohe Potae blocks before the Crown purchased them. He believed Mr Wilkinson did not need to delay purchases waiting for such definition, but he should take the necessity into account, otherwise endless disputes would occur. This was seen and approved by the Native Minister on the same day. The next day Lewis wrote a memorandum to Wilkinson, informing him that the Minister considered it very desirable that relative interests in Rohe Potae blocks should as far as possible be defined before purchase, and requesting him to press matters in that direction. Meanwhile it was not considered necessary to delay or suspend land purchase operations.<sup>29</sup>

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24. Wilkinson telegram, 8 August 1890, NLP 90/248, MA 13/78

25. Instructions from Native Minister Mitchelson to Lewis, 20 December 1889, MA 13/78, NLP 89/332 and attachments

26. Instructions from Native Minister to Lewis, 17 April 1890, MA 13/78, NLP 90/60

27. Wilkinson telegram, 8 August 1890; Lewis reply, 18 August 1890, MA 13/78, NLP 90/248

28. J H Edwards to Native Minister, 27 May 1890, MA 13/78, NLP 90/173

29. Note on file cover by Lewis, 3 June 1890; reply by Minister, 4 June 1890, MA 13/78, NLP 90/173

For the moment, the Government decided that it was too much of a risk to buy minors' interests before they were defined. It was clear that the court would almost certainly not define them as equal. In advising on this, Lewis noted that the purchase of adult shares also carried a risk. He felt it was necessary to run that risk however, because, as he explained, it was so desirable to make progress in the district.<sup>30</sup> However, even with the policy regarding purchasing minors' shares, the Government was ready to make exceptions if this meant completing a purchase. In January 1891, Sheridan, the officer in charge of the Land Purchase Department, decided that although it was general policy not to buy the shares of minors, Wilkinson could do so in a case where such a purchase would complete title for the Crown. As Sheridan noted, 'We will always strain a point under such circumstances'.<sup>31</sup>

In September 1891, Lewis, perhaps becoming concerned at the length of time the court was taking in defining interests, advised the new Native Minister, A J Cadman, to exercise caution in purchasing before interests were defined, because of the possible risks to the Crown. However, Cadman was eager to achieve some success and overruled the advice. He instructed that Wilkinson should begin purchasing undefined shares in the Turoto block: 'The Court will soon sit there again and we can afford to run some little risk in purchasing at that price'.<sup>32</sup>

In spite of the risks, there were also some decided advantages to the Government in purchasing before interests were defined. If the Government could buy a whole block at an early stage it could avoid any further involvement in the Land Court process of definitions and partitions for that block. As already noted, at this stage, the Government might also more easily buy up individual interests of those who had little interest in the block or a possibly shaky claim. Before interests were defined, such individuals stood to gain more money while the Crown was assuming all interests were equal. The offer of cash also appealed to those who might need cash to develop or protect other land of more value to them. Selling early in the process also allowed those who did sell, to avoid the costs of surveys that non-sellers had to bear. It was also apparently easier for the Government to purchase interests from owners when they were still seemingly far removed from an actual piece of land. At this stage the Government was offering significant amounts of cash for what were really theoretical shares, much the same as company shares. There was no actual piece of land specifically attached to them, except that they were located somewhere within the larger block. The sale was not a matter of knowing the exact boundaries of a piece of land and a public process of transferring that land for money. Rather it was a secret process of being offered what were significant amounts of cash, for what seemed to be a very theoretical notion of a share.

If the Government did manage to buy up some individual shares at an early stage, it then had a recognised interest and some control in other court stages, through which the land might go. It could apply for example, to have its interests cut out,

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30. Wilkinson to Lewis, 5 August 1890; reply by Lewis, 6 August 1890, approved by Native Minister, 6 August 1890, in MA 13/78, NLP 90/248

31. Telegram from Sheridan in reply to Wilkinson, 21 January 1891, MA 13/78, NLP 91/13

32. A J Cadman to Lewis, 26 September 1891, MA-MLP, box 43, NLP 97/66 and attachments

thereby forcing further subdivisions. It could also take part in various out-of-court arrangements. The Government also then had a vested interest to act in the Native Land Court on behalf of sellers. For example, it had an interest in ensuring sellers' interests were determined to be equal to or greater than that originally assumed, as this would prevent loss and possibly gain a profit for the Crown. As can be seen, at every stage there were opportunities and incentives for knowledgeable Government officials to use and manipulate the court processes to further the aims of land purchasing.

As far as hapu were concerned, Government purchasing at such an early stage in the court process was effectively interference in the process of settling their title to land. This was unwelcome and was strongly criticised by Ngati Maniapoto leaders. Wilkinson referred to this in 1890 when he advised the Crown to delay having interests defined for a while, to defuse the antagonism he could see building up: 'they having frequently expressed their opinion that Govt was too hasty in commencing to purchase land before the numerous interests and shares were defined'.<sup>33</sup> Such interference at a very early stage in the court process threatened to undermine hapu authority before there had even been a chance to make deliberations and reach agreement on the future management of the land in question. There was also concern about interference at a stage when inter-hapu disputes, already exacerbated by the court process, might still not have been fully resolved, or agreements with particular individuals or families fully decided. This made it much easier for purchase officers to pick off disgruntled owners and those who might have more interest in land elsewhere.

Ngati Maniapoto leaders also felt that such purchasing was a breach of an agreement they had with the Government not to interfere in the process before title was settled. Ward cites a report of a meeting between Ngati Maniapoto leaders and Ballance in 1887 where Ballance was reported as maintaining that the Government would not purchase any land in the Rohe Potae until subdivisions had been made.<sup>34</sup> In March 1890, Wilkinson reported on a complaint by the chief Hauauru, that the Government was breaking this agreement. Hauauru understood that the agreement meant that the Government would not begin purchasing until each hapu had their land title settled, subdivided and surveyed into separate blocks. Wilkinson, however, took a different view. He reminded his superiors that he had been to every meeting between Ngati Maniapoto leaders and the Government regarding the Rohepotae block since 1883. He denied that he had ever heard any Minister propose or agree to Hauauru's understanding of the arrangement. Wilkinson claimed such an arrangement would mean endless delay and unlimited and unnecessary expenses. Instead, he claimed that Ministers had always advocated the definition of individual interests of owners, as to the area or value of each.<sup>35</sup> This appears to be another example of where Ngati Maniapoto and Government turned out to have vastly different interpretations of what previous agreements had meant.

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33. Wilkinson memo, 6 August 1890, MA 13/78, NLP 90/255

34. Alan Ward, 'Whanganui ki Maniapoto', report commissioned by the Waitangi Tribunal, 1992 (Wai 48, doc A20), p 81, citing the *New Zealand Herald*, 27 January 1887

35. Wilkinson to Under-Secretary, 27 March 1890, MA 13/78, NLP 90/60

It is very difficult to ascertain all the ways in which the Native Land Court process was manipulated in the interests of purchasing, without further more exhaustive research. It seems clear from even brief research, however, that as previously indicated, there were many opportunities that knowledgeable officials were able to take advantage of. Purchasing very early in the court process, before interests were defined was important, but it was not the only example. There were also obvious opportunities in the timing of hearings of applications, partitions of Crown interests, and through participation in out-of-court agreements. In fact even by 1891, as already described, the manipulation of the court process by officials was a cause of serious concern in Maori evidence to the Native Land Laws commission.<sup>36</sup>

One example occurred during the purchase of the Wharepuhunga block in 1891, when Wilkinson referred to a trip he had made to collect signatures. He had been obliged to cut it short because Lawrence Grace who had been helping him, had other pressing work. Grace was assisting in compiling a list of owners in another block for the court.<sup>37</sup> It seems clear from this that officials and other interested parties were actively involved in the court process right from when title was first determined.

Wilkinson was also probably even more effective than other land purchase officers because he was astute enough to realise that he had to manipulate the process without causing overwhelming antagonism. For this reason he sometimes tactically held back and let matters calm down for a while before he pushed on again. He also appears to have placed great importance on his ability to make advantageous out-of-court deals and this too would have been threatened if owners became too antagonistic. Much of his effectiveness was apparently due to his shrewdness in pushing the Native Land Court system along without provoking a total backlash.

#### **6.4 ENCOURAGING DEBTS AND COSTS TO FORCE SALES**

Government officials, Wilkinson in particular, were convinced that a need for cash would be the main reason that would force Rohe Potae leaders to sell their land. This would be achieved by either forcing owners into debt, or creating a perceived need for cash. This was evident in Lewis' original advice to the Native Minister in 1889. He argued that buying up even small interests here and there would be crucial because it would mean that money would get into circulation. This would in turn create a desire among others for cash and then 'emulation' would 'form a strong inducement' for other individuals to sell their interests.<sup>38</sup> Wilkinson agreed. In March 1890 he took part in discussions on possible purchasing tactics after having to admit that early efforts had failed. He agreed that the low price being offered could well have been a factor in the failure, but was convinced that the 'real reason'

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36. AJHR, 1891, sess ii, G-1, p xiii

37. Memo from Wilkinson, 21 September 1891, MA-MLP, box 61, NLP 91/311, 1901/95

38. Lewis to Native Minister, 18 December 1889, MA 13/78, NLP 89/332

was because at the time, Maori owners in the district were ‘not actually in want of money’.<sup>39</sup> Wilkinson pointed to the money they could make from the cutting and sale of flax to the mills, selling rabbit skins, going to Thames and other places to dig Kauri gum, and from the occasional sales of cattle, pigs and hides to meet their immediate wants. At the same time he believed that they had not developed any great requirement for cash. There were few European settlements in the area and therefore no feelings of emulation to live and dress like Europeans. Wilkinson believed that Maori attempts to create sustainable sources of income as an alternative to selling land, for example through developing sheep farming, were doomed to failure. He disagreed with W H Grace about beginning purchasing in the Mohakatino–Parininihi block. He noted that this block was actually outside the Rohe Potae. If the owners sold interests in it they would not be breaking the chiefs’ policy not to sell land within the Rohe Potae. At the same time, the sale would give them cash required for developing sheep farming and for other purposes without then having to touch their Rohe Potae lands. Wilkinson preferred to wait patiently and appear to be purchasing casually, until the need for money forced sales in the district.

There are many examples of reports from Wilkinson during the 1890s, where he obviously decided to try purchasing in a block when he knew that owners were in financial difficulties due to court and other costs. For example, in 1890 he reported that applications for subdivisions in one block had resulted in disagreements among owners. One hapu was likely to have to sell land in order to have enough money to fight an important principle in the Native Land Court because it would involve other more valuable interests they had in other blocks. He advised that he be given authority to purchase in the block in order to take advantage of the situation.<sup>40</sup> He also knew for example, that the costs of surveying land fell on the non-sellers in a block. He used this to encourage those with few interests to sell them and avoid the survey costs.

Wilkinson remained convinced that the need for cash would be a prime motivation for selling land right through the decade. In 1897, he was still suggesting means whereby a need for cash might be created among owners, and as a result they might be induced to sell some land. In 1897, he suggested that a few roads built near where the principal owners in a block lived might overcome problems in what was proving to be a difficult purchase. The roads ‘would create a desire in the Native mind to acquire buggies, waggons, and horses for use on same’.<sup>41</sup> He believed that increasing the price offered would make little difference. Instead:

Want of money only will make them sell . . . So long as they do not require money, an increase in price has with very few exceptions, no other effect than to show an increased desire on our part to acquire the land quickly, which, in itself, is detrimental to land purchase. As soon as any of the owners require money they will sell, regardless of price.

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39. Wilkinson to Lewis, 10 March 1890, NLP 90/51; 27 March 1890, MA 13/78, 90/60 and attachments

40. Wilkinson to Lewis, 17 June 1890, MA 13/78, NLP 90/173

41. Wilkinson memo, 5 October 1897, MA-MLP, box 44, NLP 97/145 and attachments

In 1899 Wilkinson was still arguing that want of money was more important than price:

The price given for a Block does not influence the owners to sell in Rohepotae so much as is generally imagined. It is the want of money that is the great factor in causing Natives to sell land here.<sup>42</sup>

The reluctance to sell land can be seen in the way it was sold. Wilkinson explained that the owners would sell off their least valuable land first, and would not sell the balance until they had to. They 'will not sell so long as they have other lands not so valuable to dispose of'.

The creation of 'want' and a need for cash were key factors for Wilkinson and for the Government. A major means of achieving this was through the Land Court process which as the 1891 commission had pointed out, caused land owners to unavoidably incur substantial costs. There were substantial costs associated with hearings and with necessary processes such as surveys, before title could be determined. The process also encouraged further litigation which was very costly. Attempts to rectify mistakes and perceived injustices arising out of these processes, through petitions to parliament for example, were also expensive. Even petitions generally required expensive legal assistance, if they were to be presented in a suitable format and worded in a manner that required serious consideration.

The *Pouakani Report* for example, has described in some detail the way survey charges were used to acquire large areas of land.<sup>43</sup> Surveys were a required part of the process of gaining title from the Native Land Court and the costs of surveys could be made a charge against the land. It is clear that in the Rohe Potae large areas of land were acquired by the Crown in payment of survey costs. Maori owners were also obliged to pay survey costs regardless of whether the surveys were really required or had to be repeated because of errors. As noted in the *Pouakani Report*:

If the Crown had accepted Maori proposals to work out the areas to be sold and administer their lands themselves, then there would not have been a need for so many surveys of subdivisions.

The practice of charging interest on survey costs compounded the problem, 'especially when the Crown as sole purchaser delayed some transactions when finances were short'.<sup>44</sup>

It is clear costs involved in the Native Land Court process, including survey charges, were also an important means of alienating land in the Aotea (Rohe Potae) block. In 1891, for example, purchasing had begun in the Wharepuhunga block. In an attempt to assist with purchasing progress, senior Government officials sought advice from their colleagues in the Native Land Court on what costs could be charged against the block. The Registrar of the Auckland Native Land Court agreed that unpaid court fees for hearings in the Rohe Potae block over the previous five years should be apportioned over the whole district with a part of them to be

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42. MA-MLP, box 60, NLP 1901/6

43. Waitangi Tribunal, *The Pouakani Report 1993*, Wellington, Brookers, pp 205–207

44. *Ibid*, p 243

charged against the Wharepuhunga block. He informed Lewis that a statement was being prepared for the purpose. He also noted a survey lien of £562 10s 0d registered against Wharepuhunga. However, Lewis acknowledged that the owners had already paid part of this and the amount had to be corrected.<sup>45</sup>

It was also in the Government's interest to maintain legislative measures that placed financial pressure on Maori land owners. The issue of rating of Maori land clearly fell into this category. Rating was clearly becoming an issue of major importance in the Rohe Potae by the turn of the century. It is beyond the scope of this report to do any more than highlight rating as an issue of importance in the Rohe Potae. Further in depth investigation of the issues associated with rating are being covered in a separate report to the Waitangi Tribunal by Tom Bennion. It is clear that Wilkinson was well aware of the advantage of legislative measures that might force debts and therefore sales. For example, in 1894, in commenting on prices, he acknowledged that if the price set was too low and there were lots of owners, then the share price for an individual might be so low that there was no inducement to sell. His preferred alternative was to have yet more legislation that might force owners to sell, such as the Betterments Bill, currently being considered, where all native lands were likely to be taxed for railways.<sup>46</sup>

## **6.5 RESERVES POLICY FOR SELLERS**

The Government had repeatedly assured Ngati Maniapoto chiefs that there would be no pressure for them to sell land they might require for their present or future needs. This had been confirmed for example in the letter the Government sent to chiefs in June 1889. This informed the chiefs of the Government intention to begin purchasing, and promised them that sufficient reserves would be made for them when any land was purchased.<sup>47</sup> This policy might have been expected to provide some protection for Maori owners in the district. However, it seems apparent from official records, that right from the beginning of purchasing, the policy was designed more to assist purchasing than to protect Maori interests.

Lewis explained the advantages he saw in creating reserves in his 1889 memorandum to the Native Minister.<sup>48</sup> He believed that providing reserves for sellers would encourage owners to sell. Reserves would also be important when the Crown purchased before interests were defined. In these cases, the provision of reserves might help reduce the risk the Crown was taking by providing sellers with an inducement to fight in court when their shares were defined. The more land their shares were defined to represent, the more reserves they were entitled to, and in the process the Crown was less likely to suffer a loss from having purchased their

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45. Memo from Auckland Native Land Court and annotations regarding payment of survey lien, 9 September 1891, MA-MLP, box 61, NLP 91/295 attached to NLP 1901/95

46. Wilkinson to Sheridan, 7 September 1894, MA-MLP, box 44, NLP 94/241, attached to NLP 97/145

47. Letter sent to Ngati Maniapoto chiefs under signature of Native Minister, 26 June 1889, MA 13/78, NLP 89/184

48. Lewis to Native Minister, 18 December 1889, MA 13/78, attachment to 89/332

interests. Otherwise, the sellers had nothing to lose by supporting the non-sellers when the interests were defined.

This cynical use of reserves was approved of at ministerial level when instructions to begin purchasing were issued in late 1889. The Native Minister informed Lewis that the suggested allowance for a 10 per cent reservation was confirmed and was to be embodied in the purchase deed. The Government would decide however, where the reserves would be located.<sup>49</sup> When the instructions were clarified further, Lewis explained to Wilkinson that reserves were really intended for large blocks under purchase, and ‘if considered undesirable or unnecessary in any purchase should not be made’.<sup>50</sup> He did not make it clear who was to have the discretion in deciding this. However, records show that in sensitive purchases at least, Wilkinson appears to have prudently sought the advice of senior officials on this. Removing the provision for reserves from a deed was very straightforward. A new deed was not even necessary. For example, a covering memorandum from the land purchase officer was at times considered sufficient.<sup>51</sup>

In policy discussions concerning reserves there appears to have been very little consideration of Maori interests. Instead, the policy was used primarily to assist purchasing. Further evidence of this seems apparent from the way decisions were made on reserves. In the early stages of a purchase, reserves were often made for sellers in large blocks. However, once interests had been defined, and the purchase officers had penetrated what was originally the non-seller portion of a block (resistance obviously having broken down) then reserves were often not allowed. For example, when the Government began purchasing in the non-seller Wharepuhunga 2 block, after interests had been defined, reserves were not included.<sup>52</sup>

Government instructions also insisted that Government rather than Maori, would choose the location of any reserves. This also meant that Maori interests and requirements for those reserves would be subordinated to the interests of European settlement. For example, purchasing began in the Wharepuhunga block in 1890 and Crown interests were cut out in 1894. In December 1894, surveyors began work cutting up the Crown owned part of the block and marking out roads. One of the original sellers, Hitiri Te Paerata, wrote to the Native Minister at this time asking for his 10 per cent seller reserve to be made at Hingaia where he now lived, or at Tututawa. The location of the reserve had apparently already been discussed by Wilkinson and Survey Department officials without reference to Hitiri Te Paerata and the reserve had been located on a map at least, at a different place, Kahikatea. The chief surveyor strongly recommended that the proposed location be kept and the wishes of Hitiri Te Paerata effectively ignored, as there was ‘so little’ good land in the Crown award.<sup>53</sup>

In later years, many of the issues that commonly arise from reserves made out of general purchases of Maori land began to appear. For example, these included the

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49. Native Minister Mitchelson to Lewis, 20 December 1889, MA 13/78, NLP 89/332 and attachments

50. Correspondence between Lewis and Wilkinson, January 1890, MA 13/78, NLP 90/11 and attachments

51. Lewis to Wilkinson, 24 February 1891, MA 13/78, NLP 91/13

52. MA-MLP, box 61, NLP 94/82 attached to 1901/95

53. Correspondence, December 1894 to February 1895, MA-MLP, box 61, NLP 94/414 attached to 1901/95

delays and uncertainties in having reserves made on the ground, and whether or not verbal promises were made about reserves (such as their location) at the time of purchase in order to assist with a sale. It also seems likely that the Crown policy of purchasing in the district before interests were defined, would have added to this uncertainty. In many cases sellers would not know the actual size of a reserve until interests were defined and this and the actual location of the reserve on the ground might not be known for many years. Reserves were also made on the basis of 10 per cent of the share that each individual sold. This meant reserves were allocated to individuals and this again undermined any intentions to use land on a hapu basis.

In many cases, Maori owners also appeared to have paid for their reserves because if the price had to be raised, the allowance for reserves was then often dropped in order to compensate. Sometimes this was done with Maori agreement. For example, if a block was offered for sale to cover expenses, the owners often preferred cash to reserves, so as to protect their remaining land by settling as many debts as possible.<sup>54</sup> At other times however, the Crown insisted that there be no reserves in order to compensate for what it regarded as a high purchase price.<sup>55</sup> The Crown also sometimes offered what it regarded as a high purchase price, but left out reserves in order to compensate for it. For example, in the Turoto block in 1891, Wilkinson suggested that if the price had to be raised to encourage sales, then reserves could be omitted. This was agreed to after consultation with the Minister.<sup>56</sup> Wilkinson soon found the whole system of reserves irritating and in 1893 advised that the Government should stop including them as part of sales. He argued that the owners preferred money and wanted an easy form they could fill in to take money in lieu of reserves.<sup>57</sup>

It seems clear that as reserves were originally intended to assist purchasing, they were never seriously considered in terms of providing for future Maori land needs. They were simply regarded as another commodity that could be bought when required. As such, Wilkinson later made efforts to buy up reserves and it seems that survey liens were also imposed on reserves, again forcing debt and sales.<sup>58</sup>

The issue of reserves raises the associated issue of whether there was any attempt to consider whether Maori were being left landless. From the evidence in records of the 1890s it seems that little more than lip service was paid to this issue. The Native Land Court tended to ask only land purchase officers if owners had land elsewhere, and of course they had a vested interest in not inquiring too closely. In addition, they usually replied in terms of whether owners had other interests in land. This was quite different from whether they actually had sufficient land on which to live. As the Crown was buying ahead of interests being defined, land purchase officers often could not be sure of what an owner's interests might actually be in terms of

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54. For example, Lewis to Wilkinson, 24 February 1891, correspondence re Kopua 1 block - no reserves allowed - may be considered covered by increased purchase price from 3/6 to 4s, MA 13/78, NLP 91/13

55. For example, correspondence, April to May 1891, MA 13/78, NLP 91/61 attached to 90/255

56. Correspondence re Turoto block, 1891, MA-MLP, box 43, NLP 97/66 and attachments

57. Wilkinson to Sheridan, 2 October 1893, re purchase of Wharepuhunga, MA-MLP, box 61, NLP 93/170 in NLP 1901/95 and attachments

58. For example, memo to Commissioner Crown Lands New Plymouth, 24 November 1890, re reserves just north of Mokau River and lodging survey liens against reserves, MA-MLP, box 60, NLP 1901/6 and attachments

location or even acreage. Replies were often limited to an officer's personal knowledge and it could simply be assumed that an owner had interests in another district. For example in 1895, when Wilkinson was asked about the truth of a claim that an owner had no other land than that being purchased, he replied he believed that was true for the Rohe Potae but he did not know about Taranaki.<sup>59</sup>

## **6.6 ESTABLISHING A PURCHASE PRICE**

The Crown might also have been expected to acknowledge an obligation to protect Maori interests when setting the purchase price for land in the Rohe Potae. The Crown had created a virtual monopoly situation for itself in the Rohe Potae through the Native Land Alienation Restriction Act 1884. This prohibited all private dealing in Maori land through sales or leasing. As a result, the Crown was able to set low prices with little fear of competition and maintain low prices by greatly restricting alternative sources of income from land, such as through leasing. When alternative sources of income failed, Maori were increasingly forced to sell land to pay debts. In the Rohe Potae there was effectively only one purchaser, the Crown. Given this huge advantage, it seems that there was considerable obligation on the part of the Crown to pay fair prices. However, the evidence suggests that this was not a serious consideration during the 1890s.

The resumption of Crown preemption in the Rohe Potae, through the 1884 Act, was explained to Maori as a protection they had requested from the worst abuses of private purchase agents and land speculators. Throughout the 1890s, politicians insisted that continued Crown preemption in the district would protect Maori from the unscrupulous land grabber and land shark and that it would ensure a reasonable price was paid for Maori land.<sup>60</sup> However, there is clear evidence in the official records of the 1890s that the Government took advantage of the monopoly situation it had created to assist with land purchase tactics by forcing prices down, withholding information about the real value of land, refusing to pay for resources on the land such as timber, and by creating a situation conducive to its programme of purchasing, regardless of Maori interests.

The Government was in a situation where it had a substantial vested interest in making a profit from its purchasing of Maori land cheaply to on-sell to European settlers at a profit. Profits from the on-selling of Crown land were intended to offset the construction costs of the main trunk railway and the costs of servicing the railway loans. Profits would also help pay the costs of making the land ready for settlement such as the Crown share of surveys and necessary developments such as roads before land was on-sold. Low prices would also reduce the risks inherent in the Crown policy of purchasing before interests were defined. By the same token, the Crown had a vested interest in discouraging Maori land from being developed, as this might force prices up. This meant that it was also against Crown interests for

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59. letter from Te Mamutoheroa to Minister of lands 18.5.95 and Wilkinson's comment in NLP 95/244A in MA-MLP box 38

60. For example, R J Seddon, NZPD, 1894, vol 86, p 374

alternative forms of land use other than selling to succeed. The Crown therefore had embarked on policies that clearly ran counter to the wishes of Ngati Maniapoto leaders to lease rather than sell land.

There is evidence that the Government was well aware of the advantages of the monopoly it had created and was concerned about potential threats. In October 1889, for example, just before formal purchasing began, the Government received word that Maori were negotiating with a Captain Arthur for the lease or occupation, possibly on a partnership basis, for the best part of the Kinohaki block in the Rohe Potae. Mr Wilkinson was instructed to see both sides and inform them that this would be an evasion if not a breach of the law and could not be allowed: 'Such negotiations will I fear much hamper our land purchase operations and tend to increase prices beyond what is reasonable'. Wilkinson investigated and found that Captain Arthur was probably Captain Rutherford, who was trying to make arrangements with the owners to run sheep on the block on partnership terms. The owners were to get a percentage of the sheep for looking after them. However, this was not strictly breaking the prohibition on private dealing in land as there was nothing in the way of a lease or a grant of occupation for the land 'unless by the sheep'.<sup>61</sup> The matter was therefore apparently dropped.

Government officials were always vigilant about potential threats to the government monopoly, but they were not always able to stop them. There were always individuals who were willing to take risks for a profit and some of them had very powerful patrons in Government. The Government also had to be careful not to create too much antagonism by harrying Europeans, or it might create a backlash that would remove the monopoly altogether. Officials were therefore often circumspect in dealing with those who evaded the prohibition as long as they remained relatively small in numbers and did not pose a significant threat to purchase operations. Therefore it is clear that in some instances Maori were able to avoid the prohibitions and try alternative enterprises in cooperation with European entrepreneurs. However, the prohibition in dealing made these enterprises very limited, both in extent, and in the type of European entrepreneurs who were involved. Many of those who were willing to evade the legal restrictions, were also willing to evade any obligations they entered into with Maori owners and take advantage of the murky legal situation to do so. The restrictions meant that many alternative enterprises never had a real chance. However, some of the concerned official references to them do reveal the possibilities for Maori owners that the Government monopoly was effectively limiting.

It is clear that in the Rohe Potae the Government was determined to use its monopoly to insist on setting prices that in general were based on the agricultural or pastoral value of land, and to refuse to acknowledge additional values of resources such as timber, or minerals such as coal or limestone. Although this held prices down, it also restricted economic opportunities for Maori owners. For example, there is evidence that Auckland businessmen were interested in possible limestone quarrying for farming purposes in the Te Kuiti area, from at least the late 1880s. The Government agreed that a quarry site would be set aside for farmers

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61. Correspondence, October 1889, MA 13/78, attachments to NLP 89/326

when the land was purchased but it made efforts to ensure that the Maori owners did not know of the value of the limestone land. It was concerned that this might force land prices up. It also seems to have assumed that the quarry should be in European rather than Maori ownership. The Government took some time in trying to buy up the land. In the meantime a European seized the opportunity and opened a quarry on the land in 1898, paying royalties to the Maori owners. Government officials were dismayed that the owners would now realise the value of the land and gave some urgency to purchasing.<sup>62</sup> Similarly in 1897, the Government turned down a proposal to begin buying in a block that had bush which was being milled and for which the owners were paid a royalty. The amount it was prepared to pay per share would be lower than the owners were then getting in royalties.<sup>63</sup> Although the Crown would not recognise resources such as timber in setting a price to buy, it did recognise the value when the land was on-sold. For example, Wilkinson objected to Maori owners near Taumarunui selling totara timber from their land to a private investor as this would lower the value of the land when the Crown bought the blocks.<sup>64</sup>

The Government also appears to have placed its own interests in holding prices down, ahead of other Maori attempts to develop and improve land. For example, the Government refused to buy sections with improvements in townships in the Rohe Potae on the grounds that it was only interested in buying land for farm settlement. However as the owners pointed out, the prohibition on private dealing meant that owners had no other way of realising a profit on this land.<sup>65</sup> It was also in the Government's interest to refuse to assist in developing Maori land in order to keep prices down. Once Maori land was purchased by the Crown, the survey office would mark out necessary roads which would then be constructed in the interests of settlement. However, the Government generally refused to make roads on Maori land for Maori use, unless the road happened to be required as part of roading for European settlement. There is evidence of the Survey Department pressing for urgency in purchasing for example, because roads under construction were coming too close to Maori held land. In 1897, the survey office compiled a list of blocks where urgency was required in purchasing. Against some of the Pukeiti subdivisions it was noted that the purchase of these was urgent as 'the main road is approaching these blocks; they ought to be secured before it reaches them'.<sup>66</sup>

As early as 1891, the implications of Crown preemption as it was being imposed in the Rohe Potae, had become a major issue for Ngati Maniapoto. When the 1891 native land laws commissioners visited Otorohanga in April 1891, this was the major issue Ngati Maniapoto representatives wanted to discuss. Speakers made it clear that they were not willing to discuss other matters concerning land administration until the Government restrictions, particularly on leasing were lifted. They were not seeking a free market in land selling. However, they made it

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62. Correspondence, MA-MLP, box 61, NLP 1901/66 and attachments

63. Correspondence, MA-MLP, box 43, NLP 97/66 and attachments

64. Correspondence, MA-MLP, box 48, NLP 98/46

65. Correspondence, 1890–1891, re sale of land and improvements in Otorohanga township, MA-MLP, box 29, NLP 90/105

66. MA-MLP, box 44, NLP 97/145 and attachments

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clear that they wanted to control their lands themselves, in their own way, and having the right to deal with whoever they wished.<sup>67</sup> Wilkinson was characteristically caustic in his 1891 report on the district to the Native Department:

They, therefore, as much as told the commissioners that they had better first get Government to remove the restriction, and then come to them to ascertain their views with regard to the new Native-land laws.

Wilkinson also noted that the same matter had been put to Native Minister Cadman on his visit to the King Country in April 1891:

the one matter on which the Natives laid the most stress, and concerning which they appeared to be unanimous, was that Government should remove the restriction against private purchase of land within the Rohepotae or King-country block.<sup>68</sup>

The Stout–Ngata commission also reported on this in 1907. That commission reported that, given the evidence, it had to assume that the Crown set its price for purchasing Rohe Potae lands on the surface value of the land based on its agricultural and pastoral possibilities. It found no evidence of any allowance for such factors as millable timber. The commission also noted that the restriction against private dealing operated indirectly as a deterrent to the proper utilisation and settlement of their own lands by Maori owners as they had no Europeans among them of their own choice that they could learn from.<sup>69</sup>

The Stout–Ngata report also commented on the effects of the Crown monopoly on purchasing. Parliament had reserved to the Crown the right to purchase, ‘on such terms as might be agreed upon between the Crown and the owners’. However, ‘This was a fiction’. In practice, the Crown bought on its own terms. It had no competition to fear, the owners had no standard of comparison such as rents from leased land or profits from farming and they had been reduced by the costs of litigation and surveys and by the lack of any other source of revenue ‘to accept any price at all for their lands’. The price was:

in our opinion, below the value. It was the best possible bargain for the State. It was in accordance with the will of Parliament, and it opened up a vast territory to the land-seekers. The Executive, no doubt, conceived it was furthering the interests of general settlement, even if it rated too low the rights of the Maori owners and its responsibility in safeguarding their interests.<sup>70</sup>

It is clear that right from the beginning of purchasing, the Government also used prices to offset the risks it was taking in its purchasing policies aimed at enticing individual secret sales of interests, against the wishes of the majority of Maori owners. From the time Lewis first advised that purchasing should begin in 1889, he advised that the price should be set lower than what even Government officials

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67. Minutes of evidence, AJHR, 1891, sess ii, G-1

68. AJHR, 1891, sess ii, G-5, pp 2–6

69. Stout–Ngata commission report, AJHR, 1907, G-1b, pp 3–4

70. Stout–Ngata report, AJHR, 1907, G-1b, p 4

thought was a reasonable value, in order to offset possible Crown losses from its purchasing policies.<sup>71</sup>

Lewis reported in 1889, that Hursthouse, the Government surveyor in the area, had estimated that land within a reasonable distance of the railway, within five to six miles, was practically as valuable or even more valuable than land through which the railway travelled. Hursthouse believed the land was worth about 5 shillings per acre. Lewis knew that the Maori owners were likely to regard this price as too low, especially given the publicity about the value of the land for settlement and even Government assurances to Maori about the effect of the railway on land values. He thought they would probably expect five or six times more. Lewis preferred to keep the price low however because of the risks the Government ran in purchasing before interests were defined, or, 'owing to possible contests as to the relative shares'. He suggested a price of three to four shillings per acre be tried as an experiment, although he acknowledged that this might mean more delays in purchasing. He also proposed a 10 per cent reserve for sellers, which he felt would effectively raise the price per acre but would have other benefits.<sup>72</sup>

The Native Minister responded by setting an outside price of five shillings per acre for land to be purchased.<sup>73</sup> Wilkinson thought this meant he could offer anything up to five shillings per acre, according to the suitability of the land. However, Lewis was still determined to hold the price as low as possible. He instructed Wilkinson to try and buy land in the authorised blocks for 3s 6d per acre, with no distinctions as to the quality of land. If this was unsuccessful, then he agreed that the price might have to be raised.<sup>74</sup> Owners were therefore being required to bear the cost of the risk the Crown was taking in its purchase policies.

The Native Minister was mindful of the need to achieve success in making some progress in purchasing however and in 1890, he instructed that, if necessary, the purchase price was to be raised so that purchase officers could discriminate between good and bad land in negotiations.<sup>75</sup> However, the policy of buying before interests were defined tended to favour setting a price for a whole block, regardless of the quality of land. This was because when the purchase was made, the actual land represented by the interests purchased was still not located on the ground. This policy also encouraged setting a lower price, to reduce the risk of possibly having Crown interests located on poorer ground. The Crown then relied on the ability of the land purchase officer to manipulate the court process so its interests were in fact defined as advantageously as possible.

There was flexibility with prices when the Government chose, but this was also generally in support of Government interests. For example, the Government might raise the price in a block for a limited period to entice sellers, or it might raise it for the last remaining interests in a block to close a purchase. For example, the Government raised the price in the Pirongia blocks for a limited period to

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71. Lewis to Native Minister, 18 December 1889, MA 13/78, NLP 89/332

72. Lewis to Native Minister, 18 December 1889, MA 13/78, NLP 89/332

73. Instructions from Native Minister Mitchelson to Lewis, 20 December 1889. MA 13/78, NLP 89/332 and attachments

74. Correspondence, January 1891, MA 13/78, in attachments to NLP 90/11

75. Instructions from Native Minister to Lewis, 17 April 1890, MA 13/78, NLP 90/60

encourage sales.<sup>76</sup> In 1895, Sheridan also agreed as a matter of expediency that a higher price could be paid to close the purchase of the Kopua block, but it was not to be regarded as a basis for adjoining lands.<sup>77</sup> Similarly in 1892, Wilkinson asked for instructions on what price to pay for land in a Whakairoiro subdivision. It was good land, similar to other blocks where four shillings was being paid but the Government was purchasing in nearby blocks at 3s 6d and he did not want to force those prices up. He was instructed and was successful in purchasing at 3s 6d.<sup>78</sup>

Maori owners were also made to pay where the court process had increased purchase costs for the Government. For example, in 1896, the surveyor general recommended a lower price for Whakairoiro 5 because it was 'such a ridiculous shape'.<sup>79</sup> The surveyor general also wanted lower prices to be paid where blocks had been subdivided into many small pieces, although in many cases this was the result of the Crown having moved to cut out interests. For example, the Crown first began purchasing in the original Turoto block in 1891 and before partition paid four shillings per acre. In 1897, nearby land was selling for six shillings per acre but the surveyor general did not want the price to be more than five shillings per acre because the blocks were now divided into such small pieces.<sup>80</sup>

Ironically, it was often the very good quality of some land that convinced the survey office that a lower price should be set. This was directly related to the purchasing of interests before they were defined and the shares located on the ground. The argument was that the non-sellers were bound to want the good land in a block and the Crown should pay less to cover the risk that its interests might be located in a relatively poor area of the block. For example in the Wharepungua block purchase, the surveyor's report in 1890 showed some of the land was very good and under intensive cultivation by the Maori owners. It was therefore recommended that the price should be set at 2s 6d, rather than the 3s 6d per acre the land might be worth, as the non-sellers would undoubtedly want to claim the best land.<sup>81</sup>

The usual procedure in setting prices, was for Wilkinson to find a new block where he might have some chance of purchasing, or one that had passed sufficiently through the court process for purchasing to begin. He would then ask for authority to purchase and a price to be set. Sometimes he would suggest a price himself. The Survey Department would then be consulted and usually had the final say in setting at least the outside price he could pay, although he might often be asked to try for less. The survey office might conduct a reasonably thorough survey on the ground, or simply decide on a price based on the known location of the land without such a check. In the early years of the 1890s especially, Ministers were also closely involved in setting prices and therefore in underlying policy decisions. They often

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76. Re Pirongia blocks, MA-MLP box 59, NLP 1900/125

77. MA-MLP, box 38, NLP 95/249 attached to NLP 95/244A

78. Correspondence, 1892, MA-MLP, box 41, NLP 96/134

79. Reply from Percy Smith, 8 June 1896, to Wilkinson's request for price, 11 May 1896, MA-MLP, box 41, NLP 96/134 and attachments

80. Note of SG, 3 May 1897, on Wilkinson memo, 18, 24 March 1897, MA-MLP, box 43, NLP 97/66 and attachments

81. MA-MLP, box 61, NLP 90/259 attached to NLP 1901/95

appeared to be willing to go higher than the price officials set if necessary, because they were under political pressure to achieve success with purchasing. It is clear therefore that officials were consciously endeavouring to buy at the lowest possible prices, even when a higher price would have been politically acceptable.<sup>82</sup>

The use of price setting to assist with other purchasing policies and to compensate for risks taken, meant that after a few years, there was a wide variation in prices being paid for land. Prices often varied widely in land that was of similar quality or even in blocks adjacent to each other. By 1894, this appears to have caused the Government to review the prices being paid and to consider guidelines that would result in more consistent prices in future. Wilkinson was asked for his advice and his report reveals in more detail the way officials valued Maori land for purchasing purposes at the time. In effect, Maori had been forced most unwillingly into the Native Land Court process, because it transformed and individualised their title so that it could be purchased. Now however, all the costs and difficulties associated with purchasing through this process, were used as a reason to automatically value Maori land at a lower price.

Wilkinson noted what appeared to be a ‘considerable incongruity’ between the prices being paid for various blocks in the Rohe Potae.<sup>83</sup> He suggested that now the Government had bought, or was in the process of buying so many blocks, it would be a good idea to rationalise prices by increasing or decreasing them as seemed necessary. Wilkinson argued that paying big prices for blocks to achieve a sale could be a mistake as it caused dissatisfaction among those who were paid less for land which it could be argued was just as good. His experience was that where the Crown only acquired some interests in a block, the best land was almost always claimed by those who had not sold, and it was difficult to disprove their evidence of ownership. He claimed that if an inspection were made, then it would often be found that the worst land was represented by the shares of those who had sold. In that case, he suggested the remedy was to pay a high price for a short period. This would encourage those who were going to sell ‘but who are merely postponing the “evil day” when they must sell to hurry up and sell at once’. Those who did not sell during that time might not sell anyway. The reduction would then even out prices and reduce possible discord.

Wilkinson’s comments are revealing in that he appears to be acknowledging that the Crown was taking part in a process that could supply relatively poor quality land, in order to break down hapu authority. However, this does also point to the importance of officials being able to manipulate the Native Land Court process, and of being able to muster sufficient evidence and witnesses before the court, to ensure that the Crown was not left with the poorest land. The importance of out-of-court arrangements also become more clear, in avoiding the necessity for the court to make an inspection on the ground.

In a further memorandum suggesting how prices might be rationalised, Wilkinson referred to the difficulty in setting a price per acre for large blocks when

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82. For example, Lewis to Wilkinson, 27 February 1891, try price suggested but Minister will go higher if he has to, MA-MLP, box 43, NLP 97/66

83. Wilkinson to Sheridan, 4 August 1894, MA-MLP, box 44, NLP 94/241 attached to NLP 97/145

there were differences in the quality of land within the blocks. He noted that both the head of land purchase (Sheridan) and the surveyor general would be 'aware that the value of blocks of Native land to buy has to be arrived at in a different way from that in which land owned by Europeans is arrived at'.<sup>84</sup> With Europeans, the actual market value could be paid in full to the owner, because the transfer of title to the land was completed by the signing of the deed by the owner (who in 19 cases out of 20 was one individual). Therefore, beyond the costs of drawing up the deed, and of registration and stamp duty, the purchaser had to spend no more money. The case was different with Maori land. Purchasing was complicated by in most cases, large numbers of owners to each block (as well as other complications) which could require the expenditure of £100 to complete the purchase of a block worth only perhaps £200 to £300. Wilkinson argued that this and other matters had to be taken into account when fixing the value for purchasing of Maori land. Wilkinson's arguments also reveal that Maori title, although it was legally recognised, was used as a basis for lowering values for purchasing. Supposed legal protections such as the requirement to obtain signatures to a purchase deed, were also used to lower values. In some cases, for example, Wilkinson suggested lower price for blocks because, while the Maori owners had paid survey liens themselves and therefore the price might be expected to be higher, there were so many owners that the cost in acquiring their signatures outweighed this advantage. In other cases however, he allowed for a relatively higher price because the sale was nearly complete and likely to cause less expense.

Wilkinson also acknowledged that the Crown was willing to outlay relatively large sums in expenses, (possibly even resulting in a loss if the interest on loans for the purchase money and the costs of then developing the land for settlement, were also taken into account) in order to 'free' land from Maori ownership. It is clear from his explanations of suggested prices for various blocks, that Wilkinson was most concerned with the financial interests of the Crown.

Wilkinson also emphasised the need for some rational basis to setting purchase prices. This was not out of concern for the interests of Maori owners, but to divert criticism that prices were unfair and arbitrary which might be used against the continuation of Crown preemption in the district. Wilkinson suggested that there ought to be some intelligent basis such as the proximity to rail, road, or harbours used when valuations were made, in case they were challenged, even if it was a rough one.

Overall, it seems as though Government policy in setting purchase prices in the Rohe Potae was overwhelmingly driven by Crown and settler interests. Comparisons are difficult. However, it is perhaps an indication of the importance of Crown preemption in keeping prices low, that according to Brooking, the average price paid for land in the Rohe Potae during the 1890s was four shillings per acre.<sup>85</sup> This is even lower than the average price paid for Maori land in the North Island at the time, which he has calculated at 6s 4d an acre.<sup>86</sup> In contrast, at the same time,

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84. Ibid, 7 September 1894

85. Stout-Ngata report, AJHR, 1907, G-1b, p 4

86. Tom Brooking, "'Busting Up' The Greatest Estate of All: Liberal Maori Land Policy, 1891-1911", *NZJH*, p 78

the Liberals paid an average price of 84 shillings an acre in the break up of the European-held great estates, under the lands for settlement scheme.<sup>87</sup>

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87. Ibid