

Rangahaua Whanui District 8

THE ALIENATION OF MAORI LAND
IN THE ROHE POTAE (AOTEA
BLOCK), 1840–1920

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December 1996

Working Paper : First Release

WAITANGI TRIBUNAL
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FOREWORD

The research report that follows is one of a series of historical surveys commissioned by the Waitangi Tribunal as part of its Rangahaua Whanui programme. In its present form, it has the status of a working paper: first release. It is published now so that claimants and other interested parties can be aware of its contents and, should they so wish, comment on them and add further information and insights. The publication of the report is also an invitation to claimants and historians to enter into dialogue with the author. The Tribunal knows from experience that such a dialogue will enhance the value of the report when it is published in its final form. The views contained in the report are those of the author and are not those of the Waitangi Tribunal, which will receive the final version as evidence in its hearings of claims.

Other district reports have been, or will be, published in this series, which, when complete, will provide a national theme of loss of land and other resources by Maori since 1840. Each survey has been written in the light of the objectives of the Rangahaua Whanui project, as set out in a practice note by Chief Judge E T J Durie in September 1993 (see app i).

I must emphasise that Rangahaua Whanui district surveys are intended to be one contribution only to the local and national issues, which are invariably complex and capable of being interpreted from more than one point of view. They have been written largely from published and printed sources and from archival materials, which were predominantly written in English by Pakeha. They make no claim to reflect Maori interpretations: that is the prerogative of kaumatua and claimant historians. This survey is to be seen as a first attempt to provide a context within which particular claims may be located and developed.

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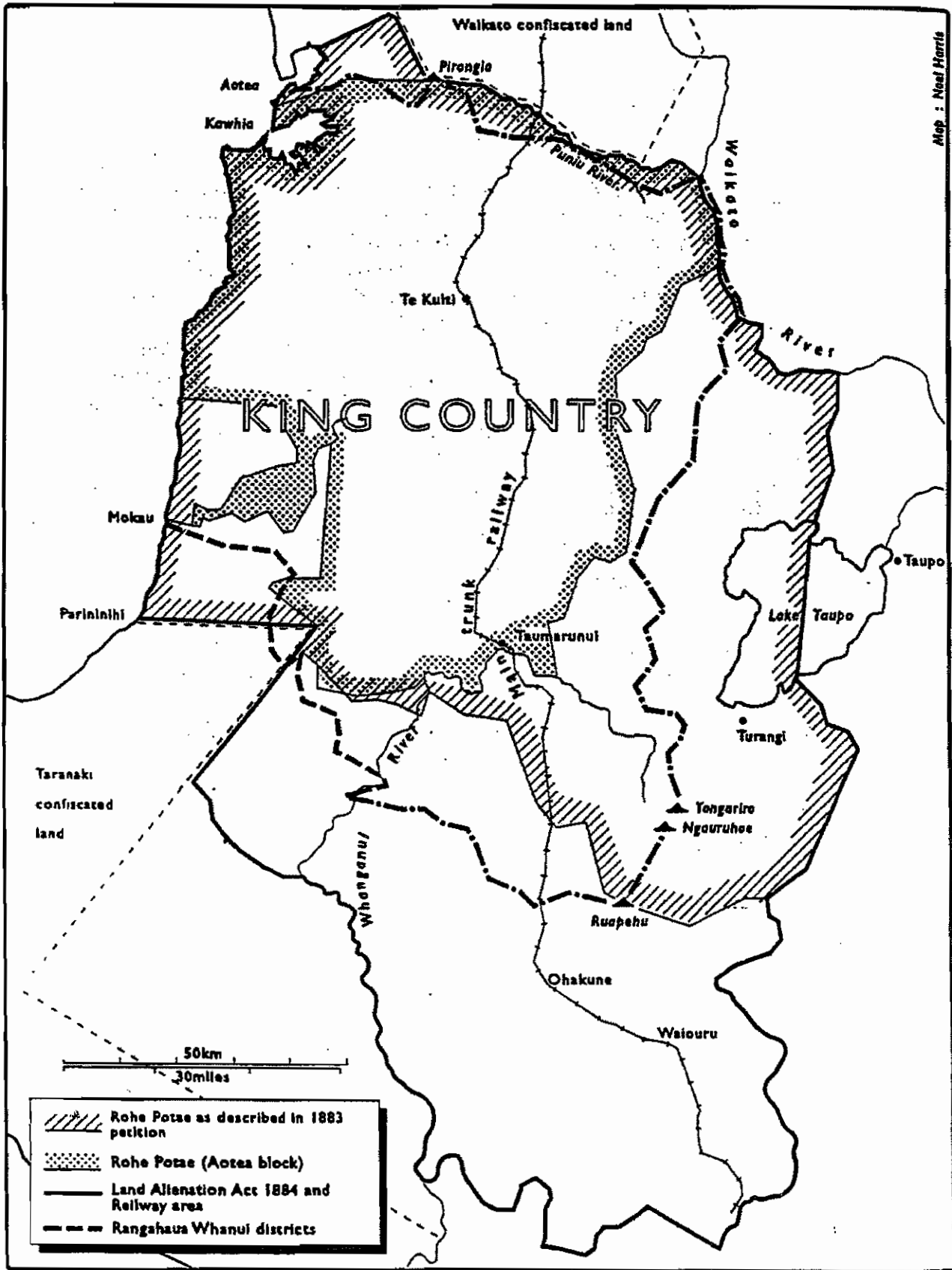


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INTRODUCTION

Scope of report

This report has been commissioned by the Waitangi Tribunal as part of the Rangahaua Whanui project for the King Country or Rohe Potae district. It is based on an initial seven week research project on Maori land alienations in the district from 1890 to 1920. The focus of that project was Crown purchasing operations of the 1890s. The project was then extended by a further 18-day commission to provide an overview of Maori land alienations from 1840 to 1890.

Given the short time available, this report is only intended as a preliminary overview of the major types of Maori land alienation of the period. It is not intended to be a comprehensive investigation of each individual land alienation in the Rohe Potae (Aotea block). It is recognised that the overall legislative and political framework of the time, including the operations of the Native Land Court, were crucial to Maori land alienations. However it is beyond the scope of this report to investigate these in detail. Instead this report is intended to provide a guide to the major types of land alienation and to what appear to be the major issues arising from these. Where relevant, suggestions are also made where further research is likely to be useful.

The focus of this report is on nineteenth-century alienations of Maori land in the north and western part of the King Country or Rohe Potae, known as the Aotea block. The wider King Country or Rohe Potae is covered in some detail in a number of other reports produced for, or by, the Waitangi Tribunal. The Waitangi Tribunal *Pouakani Report* deals in particular with nineteenth century land alienations in the Taupouiatia block in the eastern part of the Rohe Potae.¹ The Rangahaua Whanui report for the Whanganui district includes an overview of the alienation of upper Whanganui lands in the southern Rohe Potae.² Alan Ward's report, 'Whanganui ki Maniapoto' also provides an overview of the whole region.³ The Evelyn Stokes report for the Ministry of Energy, 'Mokau; Maori Cultural and Historical Perspectives', provides an overview of early alienations in the Mokau region in the south western part of the district.⁴ While the focus of this report is on what became known as the Aotea block, policies and developments in the wider Rohe Potae are also touched on where necessary.

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1. Waitangi Tribunal, *The Pouakani Report 1993*, Wellington, Brookers Ltd, 1983
 2. Suzanne Cross and Brian Bargh, District 9, The Whanganui District, Waitangi Tribunal Rangahaua Whanui Series (working paper: first release), April 1996
 3. Alan Ward, 'Whanganui ki Maniapoto', report commissioned by the Waitangi Tribunal, 1992 (Wai 48, doc A20)
 4. Evelyn Stokes, 'Mokau: Maori Cultural and Historical Perspectives', report commissioned by the Ministry of Energy, 1988

Introduction

Research sources

It has been assumed that claimants will want to produce their own histories and oral evidence for the district. Research for this report has therefore been limited to documentary and published evidence. Given the short time available for research, only the most potentially useful sources have been investigated. The secondary sources and reports already produced for the Tribunal that were found to be most useful are referred to in the text and in the bibliography. Of the primary sources available, research was limited to newspapers, official publications and the archives of a small number of government agencies whose records are now held at National Archives, Wellington. Of the official publications, the *Appendices to the Journals of the House of Representatives*, the *New Zealand Gazette*, and the *New Zealand Parliamentary Debates* were found to be most useful. Newspaper research was limited to the *Waikato Times* and the *New Zealand Herald* for the 1880s.

The most useful official records were found in the archives of the old Native Land Purchase Department, now held with Maori Affairs Department records at National Archives. Some 30 boxes of native land purchase records were searched for the time period 1889 to 1901. Later records for at least the time 1901 to 1920 are also likely to prove useful but lack of time precluded a search of these. Other useful Maori Affairs Department records held at National Archives were the series 13 'special files' and the records of the old Maori Land Administration Department. General departmental subject files created by the departments of Maori Affairs and Lands and Survey, and now held by National Archives, were also found useful. The files used for this report are listed in the bibliography and cited in the text.

It should be noted that there are other potentially valuable archives and manuscripts that it was not possible to research for this report. For example, records relating to the Native Land Court, judges' papers and private papers of individuals involved in land alienations are also likely to produce valuable documentary evidence for more in-depth investigations.

The King Country—Rohe Potae district

The district known as the 'King Country' or Rohe Potae is located in the central North Island. Very roughly, the western boundary is the western coastline from the Kawhia and Aotea harbours in the north, to the Mokau area north of Taranaki in the south. Travelling in an easterly direction from Kawhia and Aotea, the district is bounded in the north by the Puniu and Waikato Rivers. The eastern boundary contains some of the Taupo district and the interior mountains Tongariro, Ngauruhoe, and Ruapehu. In the south the district is bounded by the northern portions of upper Whanganui and Taranaki lands.

The King Country or Rohe Potae was one of a number of semi-autonomous Maori states that survived the New Zealand wars. It was the heartland of various Maori attempts to maintain political autonomy, in particular, through the King movement. The description 'King Country' has persisted as a regional name to this day. The King Country district contained up to one-sixth of the North Island and was the classic great 'interior' land of colonial New Zealand. The King movement

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effectively closed the district to unauthorised Pakeha entry for almost a decade after the New Zealand wars. Pakeha required visas authorised by the Maori King before entering the district and settler Government authority ended at the borders. However, by the 1880s, both Maori and Pakeha had decided the district had to be ‘opened up’, although for different reasons. Settlers and Government wanted the area open to Pakeha settlement and to Government authority. Maori had decided that a controlled opening was essential if they were to protect their lands from rival claims, participate in new economic opportunities, and to ensure their future prosperity.

Historically the district itself was more important than its precise outer boundaries and these fluctuated according to factors such as support for the King movement. The boundaries were also defined differently by both Maori and officialdom at various times and for various purposes. This can easily lead to confusion, especially when researching statistics such as acreages and land alienated, or even attempting to understand various policies. It is also important to realise that in the time under review, the precise outer boundaries often had little practical importance. Some developments therefore need to be traced regardless of the precise boundaries.

Four main sets of district boundaries appear to be most important for this report. The first boundary is the Rohe Potae described by iwi leaders in an 1883 petition (see figure 1). This petition had the support of five major iwi of the district. It was originally supported by Ngati Maniapoto, Ngati Raukawa, Ngati Tuwharetoa and Whanganui. Within a short time Ngati Hikairo also joined in support. The petition basically covered the large district from Aotea harbour in the north; eastwards towards and including part of Lake Taupo; and south as far as upper Whanganui lands and the Mokau district. A copy of the petition and the description of boundaries within it are included in the *Pouakani Report* as appendix 6, and in *Appendices to the Journals of the House of Representatives* (1883, J-1). This large Rohe Potae area contained about 3,500,000 acres.⁵

There is some evidence that even after the official creation of the smaller Rohe Potae (Aotea block), this larger area was still regarded by many Maori of the area as the Rohe Potae. For example, in 1901 when the new district Maori Land Councils were being formed, a number of Maniapoto writing on behalf of the iwi and hapu of the district wrote to Seddon asking that the Rohe Potae district be treated as a distinct area. They referred to the confederation of five tribes that agreed to the creation of the Rohe Potae in 1883 and wanted to maintain recognition of it as a distinct and separate district.⁶

The second King Country boundary is what was officially termed the Aotea block and then officially designated as the Rohepotae (see figure 1). This block was determined by the Native Land Court in 1886 when Tuwharetoa and Whanganui lands were cut out of the larger 1883 area. However, officials were apparently already using the term ‘Aotea block’ before this, to describe what were regarded as largely Ngati Maniapoto lands in the western part of the larger district. For

5. Stout–Ngata report 1907, AJHR, 1907, G-1b, p 2

6. Letter to Seddon, 18 January 1901, MA-MLP 1901/34, box 1

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example, an 1884 survey report referred to the ‘Aotea block, comprising the greater part of the so-called King Country’, some two years before it was officially created by the Land Court.⁷ The Native Land Court also apparently preferred to regard this smaller Aotea block area as the actual ‘Rohepotae’ or King Country, while the larger area of the 1883 petition was apparently never officially recognised. The court often replaced the term Aotea block on maps for example, with the term ‘Rohepotae’.⁸ The area of the Rohe Potae (Aotea block) was estimated in 1907 at about 1,844,780 acres.⁹ While land purchasing had begun in the eastern and southern areas of the larger Rohe Potae by the 1870s, purchasing did not formally begin in the Aotea block until late 1889.

The third boundary is also an official creation but ironically was closer to the 1883 boundary as defined by iwi. The Native Land Alienation Restriction Act was passed in late 1884. This prevented private dealing in Maori lands in an area described in the Act’s schedule. This schedule and various amendments included most of the larger Rohe Potae and additional upper Whanganui lands. It was also what became known as the ‘railway area’, because loan money was made available for purchasing Maori land in the schedule through various Railway Acts. This district was estimated at the time as containing some 4.6 million acres, of which some 3.5 million acres were still Maori customary land that had not been investigated by the Native Land Court (see figure 1).¹⁰

The district known to officials and Ministers as the ‘railway area’ became quite important as an official entity during government land purchase operations of the 1890s. The government monopoly on dealing in Maori land and the relatively easy access to purchase money through railway loans meant the ‘railway area’ was treated as one district for the purposes of land purchase policies and tactics. Land purchase officers such as Wilkinson had purchasing responsibilities in the ‘railway area’, a larger district than the actual Aotea block. This meant that in spite of official and legal determinations, in practical terms the ‘railway area’ and the larger ‘rohepotae’ were often regarded as almost interchangeable by officials dealing in land in the 1890s. This has resulted in some confusion evident in official documents of the time, for example, where the Pouakani blocks are dealt with as part of the ‘rohepotae’.

The fourth boundary of interest for this report is the ‘King Country’ regional boundary adopted by the Waitangi Tribunal Rangahaua Whanui project (see figure 1). This boundary is slightly larger than the Aotea block, taking in more Taupo lands to the east, although not as much as the 1883 petition. The Rangahaua Whanui district boundaries were adopted on a purposefully arbitrary basis to simply give a rough idea of a district for the purposes of report writing. This report will therefore focus on the Rohe Potae (Aotea block) rather than the exact Rangahaua Whanui boundary. The additional lands to the Aotea block in the Rangahaua Whanui boundary have also already been covered in other reports. The

7. Report of Assistant Surveyor-General S Percy Smith, 8 August 1884, AJHR, 1884, sess ii, vol 1, C-1, n app 2, p 27

8. See for example, *Pouakani Report*, app 12, p 409

9. Stout–Ngata report, AJHR, 1907, G-1b, p 2

10. NZPD, 1884, vol 50, p 316

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Pouakani Report covers land to the east of the Aotea block and Evelyn Stokes' 'Mokau' report covers the southern Mokau district.

Terminology

The Rangahaua Whanui project has adopted the name 'King Country' for this district. It seems that in the nineteenth century the term 'Rohe Potae' was used by Maori and officials having close dealings with Maori. The term 'King Country' was used mostly by settlers, the media and by settler politicians in parliament. The term appears to have been used very imprecisely in the nineteenth century. It sometimes meant the larger area of the 1883 petition and then was gradually applied to mean only the Aotea block part of the district. In particular, in the years from the mid-1880s to the early 1890s it is often impossible to know what boundaries the term was being applied to.

To avoid (as far as possible) confusion over boundaries, and where distinctions are necessary and possible, the term 'larger Rohe Potae district' will be used for the district described in the 1883 petition. The term Rohe Potae (Aotea block) will be used for the smaller western area that is the focus of this report. The term 'King Country' as reported from official and media sources of the nineteenth century will be explained as necessary given the context in which it is used.

Nineteenth-century spelling of Maori names is erratic. The spelling also changes over time and is not helped by nineteenth century handwriting. Where possible (except in direct quotations) spellings used will be those commonly accepted today.

LIST OF ABBREVIATIONS

AJHR	<i>Appendices to the Journals of the House of Representatives</i>
app	appendix
ch	chapter
doc	document
encl	enclosure
MA	Maori Affairs
MA-MLP-W	Maori Affairs – Maori Land Purchase Department – Wellington
NA	National Archives
NZPD	<i>New Zealand Parliamentary Debates</i>
p, pp	page, pages
pt	part
s	section (of an Act)
sess	session
vol	volume
Wai	Waitangi Tribunal claim

CHAPTER 1

ALIENATIONS BEFORE 1860

1.1 TRADITIONAL TENURE

It is assumed that claimants will prefer to present evidence concerning traditional links between iwi and hapu and the land themselves. The following is therefore a very brief overview drawn from reports, documentary evidence and publications on the district.

In the north of the Rohe Potae, major iwi traced descent from their ancestor Turongo and the Tainui canoe which made its final landfall at Kawhia harbour. Of these, Ngati Maniapoto had major land interests in the west of the district extending from Kawhia in the north to Mokau in the south, and taking up much of what became known as the Aotea block. Ngati Raukawa also had interests in the north east of the district in the area north of Taupo, east of the Waipa River and Rangitoto range and east and west of the Waikato River, including the Patetere plains. Other related groupings such as Ngati Hikairo, Ngati Matakore and Ngati Whakatere also had interests in the area. As usual, there were also areas of intersecting and overlapping interests. For example Ngati Maniapoto had interests in the Mokau region, intersecting with those of Ngati Tama of north Taranaki. Some iwi including Ngati Raukawa had interests further north of the district while some northern iwi such as Ngati Haua also claimed interests south of the Puniu River.

In the east of the district, Ngati Tuwharetoa traced descent from Te Arawa. Ngati Tuwharetoa interests centred in the huge area surrounding Lake Taupo, intersecting with Ngati Raukawa interests in the north around Titiraupenga and with Ngati Maniapoto in the northwest in the area of the Hurakia range. In the south Tuwharetoa had intersecting interests with upper Whanganui peoples in Mount Ruapehu.¹

The iwi and hapu relationships within the district were complex and only crudely portrayed by lines drawn on a map. This has been explained in more detail in the *Pouakani Report* for the Pouakani blocks, but was also true throughout the district:

The land (and its resources) was not ‘owned’ by Maori in the sense that it was property, a disposable commodity that can be bought and sold. Maori people occupied land in extended kin groups, whanau and hapu, under a system of interlocking and overlapping rights of use (usufructuary rights).²

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1. For more detail, see Waitangi Tribunal, *The Pouakani Report 1993*, Wellington, Brookers Ltd, 1993, ch 2; Evelyn Stokes, ‘Mokau; Maori Cultural and Historical Perspectives’; and Alan Ward ‘Wanganui ki Maniapoto’, report commissioned by the Waitangi Tribunal, 1992, pp 11–12.
 2. *Pouakani Report*, p 13

In the area later known as the Aotea block, traditional Maori settlements were often small and tended to be located along major waterways and tributaries. For example, there were settlements along the Mokau River, along the fertile Waipa River valley and around the major west coast harbours of Kawhia and the Mokau. Rivers, forests and the coastline provided rich sources of food and materials. The people were mobile, gathering resources on a seasonal basis and many settlements were therefore constructed as temporary habitations. Access to important seasonal resources meant hapu boundaries could often overlap and recognised interests could be located well away from traditional occupation sites. For example, inland hapu commonly also had traditional rights in coastal areas or fisheries. There were also complex interests in areas rich in resources and in sites of strategic importance such as the Kawhia and Mokau harbours.

Evelyn Stokes has described traditional interests in the Mokau region in some detail.³ This provides a good example of traditional settlement patterns and interests. This region was rich in food sources and the meeting point of two significant communication routes. It was also an area of intersecting iwi interests. Both Ngati Maniapoto and Ngati Tama had interests and settlements in the area and it was a major communication route, providing inland Ngati Maniapoto with access to coastal resources. Further inland, the Mokau River provided Ngati Maniapoto settlements with a 'main highway, source of food, spiritual sustenance, and focus of tribal settlement patterns and mana'.⁴ Similarly, around Kawhia harbour, also a site rich in resources and of strategic importance, there were complex interests claimed by Ngati Maniapoto, Ngati Hikairo and Ngati Raukawa.

Stokes has also described how major rivers and their tributaries were the most important means of communication within the district and inland tracks were often portages between these waterways. This meant that populations could be highly mobile and move long distances to take advantage of various land and resource interests. For example, iwi and hapu could travel from the Waikato River, the main highway of Waikato iwi, along the Waipa River, which gave access to northern Ngati Maniapoto settlements. At Otorohanga, travellers could canoe further south along the Mangaorewa and Mangapu tributaries of the Waipa. After a portage of about 10 kilometres they could then join the Mokau River as it flowed through the Aria district. This required smaller canoes until about Totoro where travellers could then use large canoes to the Mokau harbour mouth.⁵

Traditional tenure was also influenced by the changing nature of iwi and hapu relations in the Rohe Potae and by population movements within and through the area. In some areas there was a long pre-European history of inter-iwi and hapu disputes, for example, in the Mokau district between Ngati Maniapoto and Ngati Tama. There was also a long history of alliances between various groups, particularly through marriage. Stokes has described how there were a number of large population upheavals in the district in the late eighteenth and early nineteenth centuries. There were a series of migrations from around Kawhia harbour and areas

3. Stokes, p 15

4. Ibid, p 47

5. Ibid, p 34

north, mostly down through the western part of the district and on to Taranaki and, in some cases, Wellington and Nelson–Marlborough in the first three decades of the nineteenth century. A large Ngati Raukawa migration also moved down through the central North Island and then down the Whanganui River to the Wellington region in the 1820s. There were also a number of large battles, including at Hingakaka in about 1807, which involved several thousand participants and where combined Waikato and Ngati Maniapoto iwi drove off their opposition. Some of these dislocations were aided by European introductions such as muskets. In the late 1840s, in the southern districts, many Taranaki people began arriving back and claimed land interests, including in the Mokau district.⁶

1.2 EARLY EUROPEAN CONTACT UNTIL 1860

Contacts with Europeans in the larger Rohe Potae district appear to have been relatively slight before 1840.⁷ The main contacts occurred in coastal areas around the Kawhia and Mokau harbours. There were European traders stationed at both places from about the 1820s. They were involved in the export of flax and foodstuffs such as potatoes, maize, and pigs and the import of guns, tools, blankets, and other goods. Occasional sailing vessels visited the harbours and there was also some early whaling around Kawhia harbour.⁸ There were some early land transactions at Kawhia as a result of traders taking up residence.⁹ At this time traders were entirely dependent on the goodwill of local Maori chiefs and it seems clear they were generally welcome as a source of trade and goods. They were absorbed into local communities and became involved in their affairs. During the musket wars of the 1830s they were especially welcome as a source of guns.

There was also some missionary activity in the Rohe Potae. Wesleyan mission stations were established around Kawhia harbour in the mid 1830s. North of the district an Anglican mission was established at the confluence of the Puniu and Waipa rivers in the mid 1830s and may have had some contact with northern Ngati Maniapoto. Travelling Maori missionaries may have introduced Christian teachings into the district well before the establishment of formal mission stations.¹⁰

1.3 OLD LAND CLAIMS

By 1840, Kawhia, with the mission station and resident traders, was the only significant point of European settlement in the district. The only land transactions appear to have been around Kawhia. Of these early land claims, the mission station acquired some land. William Johnstone purchased land in the Puketutu area.

6. Ibid, pp 65–76

7. Ward, p 12

8. Stokes, p 85

9. Ward, p 13

10. Stokes, p 103

George Charlton built a substantial homestead at Kawhia which he sold to John Cowell in 1846. Cowell claimed to have purchased 20,000 acres from ‘Kiwi’.¹¹ The Treaty of Waitangi itself was signed by relatively few chiefs from the district. The Reverend James Whitely collected some signatures at Kawhia throughout 1840 and a few more were collected at Waikato heads by Anglican missionaries.¹²

During the 1840s, missionary activity continued. More Wesleyan missionaries arrived in the Mokau area in 1843. There was also a Lutheran mission in the Mokau area in the early to mid 1840s. Further inland there were some Wesleyan mission stations along the Mokau and Waipa Rivers in the 1840s. There was also contact with Anglican and Roman Catholic missions just north of the district. However, the missionary influence was declining by the late 1850s and there appear to have been no actual land transactions with missionaries other than at Kawhia.¹³

A few Pakeha settlers came into Ngati Maniapoto territory during the 1840s and 1850s, via Kawhia or up the Waipa valley. They married into local communities and their families were absorbed into them. Their children often became influential in later contacts between Maori and settlers. These early Pakeha included for example, Robert Ormsby and Louis Hetet.¹⁴ Apart from this, the interior of the district was largely untouched by European settlement until the 1870s.

The Crown appears to have recognised at least some of these early land dealings by issuing Crown grants. There were not many of these grants and they were not practically very useful while the King movement exerted authority over the Rohe Potae. However, when the Native Land Court began operating in the district in the mid 1880s, the court appears to have recognised the early Crown grants when creating blocks for title investigation (see figure 2). The Crown also purchased one of these grants in the early 1880s in an effort to reopen Kawhia harbour.

1.4 EARLY CROWN PURCHASES

Although contact with Europeans during this time was slight especially for interior peoples of the Rohe Potae, the impact of what Europeans brought with them was much more significant and appears to have reached right into the interior. Traders and missionaries introduced many types of vegetables, livestock, and fruit which were adopted with enthusiasm and became the basis of a significant trade in produce. Missionaries also encouraged crop and livestock farming and the associated construction of mills and development of pasture. Traders, and to a lesser extent missionaries, also provided an outlet for substantial exports of flax, potatoes, and other crops and livestock such as pigs. In later years timber was also a valuable export. Many of the relics of these earlier industries were rediscovered when European settlers moved into the district decades later.

Maori were also keen to gain access to materials brought in by traders such as tools, clothing material, and guns. These products were absorbed into Maori society

11. Ward, p 13, citing *Turton's Deeds*, old land claims, pp 369–376

12. Ward, pp 13–14

13. See Stokes, ch 2, and mission station map, p 102

14. Ward, p 13

and were used in pursuit of traditional objectives. The introduction of muskets for example, gave temporary power advantages which were quickly utilised until the widespread ownership of muskets levelled opportunities again. Many of the population upheavals from the 1820s were influenced by the introduction of musket warfare. A number of European-introduced epidemics also caused some temporary disruption in the area from as early as 1790. These were apparently introduced from boats in northern coastal areas and then carried through the area along major travel routes.¹⁵

It seems clear that Maori in the area welcomed Pakeha for what were regarded as the substantial benefits of European goods. More research is required into Maori understanding of the implications of selling land in the 1840s and 1850s especially in districts where there had been little contact. However, it is clear that Maori wanted traders and missionaries for the access they provided to required goods and to trading opportunities. As such, Maori appeared willing to provide some use rights to land and possibly also to sell land to achieve this.

In the early 1850s, Government land purchase agents seem to have been most interested in the southern Mokau district, probably because of the harbour and the proximity to New Plymouth. The missionaries located nearby also provided agents with useful assistance. From 1850, Donald McLean and other agents were actively attempting to make purchases in the area. This was apparently the subject of much debate by Maori of the region, including those with recognised interests who lived in the interior.

Eventually the Crown completed four large purchases, collectively known as the Awakino purchases, in the years 1854 to 1857. These included the Awakino block of some 16,000 acres purchased in March 1854 for £530, the Mokau block of approximately 2500 acres purchased in May 1854 for £100, the Taumatamaire block of about 24,000 acres purchased in January 1855 for £500, and the Rauoro block of at least 25,000 acres (the deed did not specify the area) purchased in July 1857 for £400.¹⁶ More research may be required into the circumstances of these purchases. There were evidently some disputes about ownership at the time, and some reserves were made.¹⁷ According to Stokes, a major reason for the sales was that Maori were very anxious to have Pakeha among them, presumably for trading opportunities.¹⁸

McLean also signed a deed of purchase with Waitere Pumipi and several other chiefs for 6000 acres of land at Harihari. £200 was paid on 4 July 1854 and a further £200 on 10 August 1857.¹⁹ (See figure 3 for early Crown purchases of the 1850s.)

These purchases of the 1850s were not followed up by settlement until well after the New Zealand wars and surveys were not made until the 1880s. There were no further sales in the King Country until well after the New Zealand wars. From the late 1850s, the interior tribes became involved in active resistance to further land sales and the King movement effectively prevented further alienations until at least the late 1870s.

15. Stokes, pp 68–69

16. Ibid, p 134

17. Ibid

18. Ibid

19. Ward, p 15, and see the *Pouakani Report*, p 107, map 7.2

CHAPTER 2

THE DECISION TO ‘OPEN UP’ THE ROHE POTAE

2.1 THE ROHE POTAE ‘STATE’

By the 1850s it is clear that many iwi were becoming increasingly concerned about the implications of continued land sales to European settlers. Although still relatively untouched by land sales, interior North Island iwi shared this concern. Iwi discussed the issue in a series of hui held from about 1853. These resulted in the creation of a pan-iwi alliance determined to resist continued sales and to protect iwi and hapu autonomy. This movement had widespread Maori support throughout the central North Island from Taranaki to the East Coast.¹ Potatau Te Wherowhero of Ngati Mahuta of Waikato was elected as the first Maori King in 1858. By this time the interior North Island iwi had become the backbone of the Kingitanga and supported the policy of resisting any further land sales. The settler Government regarded the King movement as an intolerable challenge and in the early 1860s responded with warfare in an attempt to impose political dominance and to enforce measures designed to open up North Island lands to European settlement.²

The New Zealand wars have been covered in detail elsewhere.³ It is clear that interior Kingite iwi, including Ngati Maniapoto, took part in fighting in Taranaki and Waikato. There were major battles in the mid 1860s in the central North Island. As a result, the Maori King and his Waikato followers retreated south of the Puniu River into largely Ngati Maniapoto territory, where they were given refuge by their Ngati Maniapoto allies. The Government was unable to impose military force on this interior district and the Rohe Potae, or what became known as the King Country, survived the wars as a semi autonomous state.

For over a decade after the wars, the central King Country remained largely autonomous, controlled by the King movement. In the north of the district an ancient aukati, that had once apparently regulated movement between Te Arawa and Waikato across the Patetere plains, was revived and extended.⁴ Europeans were denied access to the district without first obtaining what were effectively visas,

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1. Waitangi Tribunal, *Pouakani Report 1993*, Wellington, Brookers Ltd, 1993, p 49
 2. For example, compulsory public works provisions were extended to Maori land shortly after the wars began, see Cathy Marr, ‘Public Works Takings of Maori Land 1840–1981’, report commissioned by the Treaty of Waitangi Policy Unit, 1994
 3. For example, James Belich, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict*, Auckland, Auckland University Press, 1986
 4. AJHR, 1873, G-1, p 15

issued under the authority of the Maori King. There was some Government diplomatic entry into the district but the authority of the settler state did not extend into it.

The Kingitanga iwi had taken a battering in the wars but were by no means beaten. It is clear that throughout the 1870s the Kingitanga was still a strong and cohesive force with widespread support from its members. The King Country became a refuge for leaders such as Te Kooti and for those Maori who had committed crimes in districts outside the aukati line. Settlers inside the district could not rely on state authority. The King movement controlled European entry and activities within the region and could refuse state forces entry if it chose. In 1871, Kingites expelled some traders who wanted to open a store at Kawhia and a Maori mission teacher sent to Aotea. Several Europeans were also killed for what was regarded as flouting Kingite authority. A fencer Lyon, and a surveyor Todd, were killed in the early 1870s. In 1873, a labourer named Sullivan was also killed while working on land within the aukati that was leased to two Europeans. A hapu of Ngati Haua had strong claims to the land but following King policy had boycotted the Native Land Court hearing. As a result, the land was awarded to other claimants and they leased it to Europeans. The lessees ignored warnings not to trespass on the land and Sullivan was killed. In spite of settler rage, there was no armed pursuit by Government forces into the region, of those believed responsible for the killing. The Kingites were at times open to persuasion, such as when European police were allowed across the aukati in 1873 in pursuit of a Pakeha fugitive. However, the region was clearly under Kingite control. Authority was refused for pursuit of a Maori fugitive in 1876. Pakeha who flouted King movement authority could still be killed as late as 1880, as seen in the killing of the Pakeha trader and opportunist, Moffat, near Taumarunui in that year.⁵

2.2 THE DECISION TO ‘OPEN UP’ THE ROHE POTAE

By the late 1870s, the Rohe Potae district was still closed to Government authority. The Government was very keen to have the district ‘opened up’ both for European settlement and to assert state authority over the area. The Government had confiscated large areas of land to the north and south of the Rohe Potae. In the north as a result of the Waikato confiscations, Waikato iwi lost most of their land, totalling over one million acres. To the south there were also large confiscations in Taranaki. There were no confiscations within the Rohe Potae itself, however, and the Government was not in a position to impose any.⁶ There was considerable settler pressure to open up the district as soon as possible but in the short term the Government could only rely on diplomacy. However, up until the end of the 1870s, diplomatic efforts were demonstrably unsuccessful. As late as 1878 to 1879,

5. Alan Ward, ‘Whanganui ki Maniapoto’, report commissioned by the Waitangi Tribunal, 1992 (Wai 48, doc A20), p 30 and *A Show of Justice: Racial Amalgamation in Nineteenth Century New Zealand*, Auckland, Auckland University Press, 1974, pp 234–235

6. Belich, pp 197–200

diplomatic efforts by Sheehan and Grey to negotiate the opening of the district failed miserably.

Nevertheless, by at least 1880 it had become clear that the Rohe Potae district would become more open. This decision was made within the King movement. It seems to have been a response to pressures within the movement to replace continued isolation behind the aukati with more open engagement in the wider economy, and some form of dialogue with Government.⁷

The reasons for this change in policy on the part of the King movement appear to have been complex – a combination of a desire to participate in new economic opportunities and a realisation that outside pressures would eventually prove destructive unless some effort was made to modify and control them. It is clear that new economic opportunities were becoming available through, for example, leasing land and developing land for activities such as sheep farming.⁸ These opportunities provided ways of participating more actively in the economy and seemed to offer potential for securing future prosperity. Even with the risk of Pakeha interference, they seem to have appeared increasingly attractive when compared to certain future poverty in continuing isolation. The most significant outside pressures appear to have been the vast programme of public works being extended all around the district, and the operations of the Native Land Court which were beginning to whittle away at the outer edges of the district.

Even in the years of isolation there had been trading between the King Country and outside districts. King Country Maori had continued to visit and trade in the frontier towns. From the early 1870s, there was considerable trade in crops, livestock and other goods across the aukati.⁹ However, the greatest economic opportunities for sustainable future prosperity lay in being able to use land in the new economy. In particular, by this time, leasing rather than selling seemed to offer the best chance of obtaining a sustainable income, as well as the cash and experience required for developing land to ensure future prosperity. Ward has shown how the preference for leasing was later reinforced by the example of Rotorua. In that district the Government was to ban private land purchasing, and initially at least, the sale of leases attracted high prices.¹⁰ Rohe Potae leaders ultimately relied on the support of their people and increasingly many within the King Country wanted the chance to participate in the economic opportunities they saw developing around the district.

In the 1870s, the interior lands of the King Country still remained closed to Government public works projects. Leaders could see the economic benefits of the projects but remained suspicious of associated Government and settler interference. The Government refused to recognise the King movement as a rival political power. However, officials were posted in sensitive areas with duties to not only report intelligence but to persuade local chiefs of the benefits of peaceful cooperation with Government through, for example, public works projects. In 1871, W G Mair was appointed to Alexandra to handle relations with the Kingites.

7. W G Mair to Under-Secretary, 27–28 May 1881, AJHR, 1881, G-8, pp 4–6

8. Ward, 'Whanganui ki Maniapoto', p 36

9. Ward, *A Show of Justice*, p 265

10. Ward, 'Whanganui ki Maniapoto', p 33

As part of his duties, he attempted to persuade Kingite leaders of the ‘mutual benefits’ of public works. The *Pouakani Report* cites an official report from Mair in 1872, where he quoted the response of one Kingite chief:

you need not tell me what I know quite well, but we oppose you in this direction because these things benefit you in a much greater degree than they do the Maori, and each mile of road or telegraph that you construct makes you so much stronger than us!¹¹

Nevertheless, the desire to have such projects within the district and to participate in them was becoming more powerful, so long as they could be controlled. Throughout the 1870s, as a result of the Government’s careful policies, King movement iwi on the outer edges of the district began allowing public works construction over their lands. Roads were being constructed in the Taupo district for example from the 1870s.¹² The reasons were clear. Construction of public works invigorated local economies, at least temporarily, as cash was spent on wages, supplies, and materials. There was also a widespread belief, shared by Maori and Pakeha, that the works themselves would lead to continued economic progress and future prosperity. Roading and railways for example, provided better access to markets and encouraged settlement ensuring future markets. The Government made every effort in the North Island, to coopt Maori into working on projects such as roads and railways¹³. Maori were often keen to take on the work in order to earn cash to rebuild after the wars. The *Pouakani Report* cites evidence of this from an official 1872 report on works programmes in the Taupo district. That report noted how poor the Maori of the interior district appeared after the wars and officials hoped that employment on the projects would provide a ‘civilising’ influence on Maori by teaching regular work habits. However, the report also noted that Maori intended to use the cash to purchase the necessities required for cultivating and developing their own land.¹⁴

There was however, a down side to public works construction for the Maori workers. Essential supplies such as foodstuffs were priced so highly that wages were often consumed in paying for them. In many cases, supplies were also of poor quality or even a serious health risk. Workers were also encouraged to spend their wages on high priced grog, not only consuming more of the cash but undermining community discipline.¹⁵ Nevertheless, the lure of such projects remained powerful because they provided cash that could be used to develop land and enterprises such as sheep farming. By the late 1870s, there appeared to be powerful pressures on King movement leaders to allow more public works projects in the district as long as they could be properly controlled.

There was also increasing pressure within the King movement to have land title settled and legally recognised so that land could not only be protected but used for economic gain. There was clearly a strong desire not to sell. Nevertheless, settled,

11. *Pouakani Report*, citing report of W G Mair, 1872, p 57

12. *Ibid*, ch 4,5

13. Ward, *A Show of Justice*, pp 231–239

14. *Pouakani Report*, pp 57–58

15. *Ibid*, quoting T Grace, 1871, pp 58–59

recognised title was also required for leasing land and there was strong pressure to engage in this. The only means of achieving this at the time was through the Native Land Court. However, it was clear to Rohe Potae leaders, that the Land Court itself was a direct threat to chiefly and hapu authority over land. The record of the court in other districts was also closely associated with the loss of Maori land and destruction of Maori communities.

Many King Country iwi had interests in other districts and were able to see how the courts operated. It was simply not possible to ignore the Native Land Court process. If the court was boycotted and a claim not made or defended, as was Kingite policy, then the land was simply awarded to someone else who would get the chance to reap its economic possibilities. Individual settlers were always willing to gain a foothold into the area by offering to lease land, but viable leasing also required secure title. The pressure for supporters of the King movement to enter this economy and use their land for economic opportunity was becoming irresistible. People simply could not stand back and watch their interests and economic opportunities being awarded to someone else.

By the 1870s, the Native Land Court was operating around the edges of the King Country district and by the early 1880s was gradually whittling away the outer boundaries. Courts were sitting in the Waikato district to the north, in the Taupo area in the east, and in Whanganui to the south. As always, the extension of Native Land Court operations seemed to be inevitably bound up with purchases of Maori land. In fact, as David Williams and others have argued, by this time settler society expected the Native Land Court to be more effective in crushing remaining Maori political and economic independence than previous military attempts had been.¹⁶

It seems clear that even by 1880, the King movement had responded to some of the internal pressure to engage more directly with the settler community, especially in terms of economic opportunities. This was largely in the direction of leasing land. Ward cites examples where Tawhiao had given permission for settlers to occupy and lease land. Some settlers were allowed to occupy land around Maungatautari, and to return to Kawhia, for example. Some leasing to settlers was also permitted in the Taupo area.¹⁷ However, this was not enough, and by the late 1870s and early 1880s it seems clear that some applications were made to the Native Land Court from within the King Country, although these still seem to have been mainly concerned with land around the outer edges of the district.

In 1882, the Native Land Court sat at Waitara to determine title to land in the south of the King Country district, between the Taranaki confiscation boundary and the Mokau River. The court investigated titles to the Mokau Mohakatino and Mohakatino Parininihi blocks, and two other blocks inland of the confiscation line.¹⁸ In 1882, Whanganui land in the Murimoto block in the south of the district also went through the court. In the north, large blocks bordering the Rohe Potae district were also going through the court. These included the Patetere and

16. D V Williams, 'The Use of Law in the Process of Colonization: An Historical and Comparative Study, with Particular Reference to Tanzania (Mainland) and to New Zealand', Phd thesis, Dar es Salaam, 1983, p 312

17. Ward, 'Whanganui ki Maniapoto', p 34

18. *Pouakani Report*, pp 256–257

Maungatautari blocks. By 1883, Ngati Hikairo, whose claims were mainly to the north of the district but who also claimed interests in Kawhia harbour, had made an application to the Native Land Court. In the east, in the Taupo district, the Native Land Court had begun sitting in 1867 and continued to sit through the 1870s and 1880s.¹⁹

There was a great deal of pressure within the King movement to continue making applications to the court. Leaders were faced with simply standing by until this pressure became uncontrollable, or taking the initiative to find some way in which their people could take advantage of their land interests without losing control of the whole process, and in such a way that the obvious problems associated with the Native Land Court process could be avoided. Even though there was pressure to have title settled by the court, the ultimate aim was to engage in leasing rather than selling land.

2.3 THE MOKAU MOHAKATINO BLOCK – JOSHUA JONES’S LEASE

The most well known of these early attempts at securing title through the Native Land Court in order to lease, turned out to be a major disappointment for the Maori owners and a source of long standing problems, eventually resulting in the loss of the land. In 1878, Wetere Te Rerenga and 99 others signed a lease agreement with Joshua Jones or ‘Mokau Jones’ for about 56,000 acres in the Mokau Mohakatino block. The history of the lease has been covered in more detail in reports by Evelyn Stokes and Giselle Byrnes.²⁰

The whole history of the lease appears to have been surrounded by controversy. Jones was apparently interested in leasing not only the land but the possibilities of coal and timber extraction. He had previously worked as a mine manager in Australia. He apparently sought and won high level Government support for his venture because it suited Government aims of the time in finding ways to open up the Rohe Potae.

Stokes cites claims that the original signing of the lease was apparently carried out in dubious circumstances. Jones landed several barrels of beer on the beach at the time the lease was signed. Several witnesses claimed he managed to get the signatories drunk before they signed, while he claimed the drinking only started afterwards. Owners also claimed that they were offered money to sign and did so for the money without understanding what was taking place. Others claimed that they were never paid money that they were promised. Others also claimed that they had been assured that the lease was for timber and mineral rights only, and not the land. There were also apparently two versions of the lease, one which was read to the Maori owners and another different version which they were given to sign.²¹

19. *Pouakani Report*, p 67

20. Evelyn Stokes, ‘Mokau: Maori Cultural and Historical Perspectives’, report commissioned by the Ministry of Energy, 1988, pp 141–148; and Giselle Byrnes, ‘Ngati Tama Ancillary Claims’, report commissioned by the Waitangi Tribunal, 1995 (Wai 143, doc M21)

21. Stokes, p 143

There were complaints later from Jones's European partners in the lease who found out that their names had all been left off the lease document when it was signed and the lease made out to Jones alone.

In 1882 the block was passed through the Native Land Court at Waitara so that legal title could be established and the lease legally secured. Ngati Maniapoto chiefs with interests in the area supported the application. This was one of the first instances where the Kingitanga boycott of the Land Court in the Rohe Potae district was broken. Rewi Maniapoto and Wetere Rerenga supported the application in order to secure title, and therefore income from the lease, for Ngati Maniapoto interests against Ngati Tama claims.

However, the owners, quickly became concerned about the lease. They objected to Jones's interpretation of it, and to further efforts he made to secure backing for coal mining ventures. Jones himself became heavily involved in trying to secure financial backing and legal validity for his lease. As described in more detail by Stokes and Byrnes, Jones managed to gain special exemptions from a number of legislative provisions that were intended to provide some protection for the interests of Maori owners in land dealings in the district. The Native Land Alienation Restriction Act 1884 for example, restricted land dealings by private individuals in the Rohe Potae and made previous such agreements invalid. Jones obtained a special exemption from these provisions, through special provisions in the Special Powers and Contracts Act 1885. These allowed him to 'complete negotiations' with the Maori owners in the block. The Native Land Administration Act 1886 also required unanimity of owners before a title could be granted. Jones did not have this but again he pleaded a special case and in response obtained special legislation in the form of the Mokau Mohakatino Act 1888.²²

In 1888, surveyors began working on the part of the block the 1882 hearing had indicated was the Jones lease. By this time it had become clear that the Maori owners had serious problems with the lease. The surveyors followed the straight lines indicated by the court, instead of following the Maori boundaries of what the owners had indicated they had agreed to lease. As a result, the surveyors cut straight through cultivations and areas that the local owners had always presumed were outside the area of the lease. In 1889, there was a further court hearing for a subdivision of part of the block outside the lease area. At this hearing, many of the problems with the lease were raised. Jones was allowed to speak and complained of his own problems. For example, owners also complained that the boundaries had resulted in the loss of burial areas, that were always meant to be excluded. There were also complaints that the lease was supposed to be for mining only. Arguments were raised over the rights of owners and hapu who had not signed and those whose interests had been excluded altogether. There was also concern about the implications for hapu rights in certain areas, coastal areas for example, when court partitions were made that excluded some owners from those rights.

Jones's efforts to establish his lease resulted in years of legal wrangling and financial exhaustion. He was forced to remortgage his lease and the validity of the lease was the subject of a number of later investigations. There was a commission

22. See Stokes 'Mokau' report and Byrnes 'Ngati Tama Ancillary Claims' report for more detail

of inquiry in 1907 and a further Government investigation in 1911.²³ Eventually the leased block was sold to interests other than Jones.

More research is required but it seems that even on the evidence available, serious issues have been raised about the lease. In fact Stokes has observed that:

It is probably fair comment that not only the circumstances of signing the original lease agreement but also the protracted wrangling, wheeling and dealing over many years over the Mokau Mohakatino block constitutes one of the most dubious of any transactions involving Maori land in the nineteenth century.²⁴

23. AJHR, 1907, G-1B; AJHR, 1911, G-1, G13a

24. Stokes, p 148

CHAPTER 3

THE NGATI MANIAPOTO ‘COMPACT’ WITH THE GOVERNMENT, 1882–83

3.1 THE SPLIT WITH TAWHIAO

As the King movement began to abandon isolationism in the Rohe Potae, discussions within the movement began to focus on how the opening up of the district might be controlled. By about 1880, there appeared to be a strong consensus within the movement that the aukati should be withdrawn. There was also widespread support for seeking economic opportunities through leasing, rather than selling land. The major issue of the next few years was to be how to achieve a controlled opening of the Rohe Potae. It is clear that there was a strong determination to maintain significant Maori control over the process while at the same time avoiding the most destructive features associated with increased interaction with Pakeha.

Government officers reported on policy discussions taking place within the King movement at this time. W G Mair reported in May 1881 for example, that the King movement was looking to some way by which the land could be preserved and the people saved from poverty. The Kingites were opposed to selling any more land but were not opposed to leasing.¹ The King movement also made conciliatory gestures to the Government. In August 1881, Tawhiao rode into Alexandra and laid guns before W G Mair in confirmation of peace. He also indicated a willingness to accept rents for Waikato lands at Mangere. Ward also points to the Kingite decision to lift the aukati by mid 1882. The Government provided further encouragement with an Amnesty Act in 1882, giving full pardon to those still sheltering from European law in the King Country. This was, as Ward has noted, in striking contrast to the Government’s treatment of Te Whiti of Parihaka.²

Kingitanga leaders recognised that they needed to negotiate a more equitable system of determining land title and of managing their own land than was currently available through land legislation and the operations of the Native Land Court. However, as already seen, there was already strong pressure to invite the Native Land Court in. There was relatively little time before the Land Court threatened to engulf the district and pave the way for the land sales that seemed to inevitably follow the court process. At the Whatiwhatihoe meeting in 1882, Tawhiao proposed:

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1. Mair report, 27–28 May 1881, AJHR, 1881, G-8, pp 4–6
 2. Alan Ward, *A Show of Justice: Racial Amalgamation in Nineteenth Century New Zealand*, Auckland, Auckland University Press, 1974, p 286

Rohe Potae

Let the work of surveys, let leasing, let sales, let the making of roads, and the Native Land Court in the district which belongs to me and the people of my tribes, be stopped for the present. Shortly they may be commenced, when the Parliament and the chiefs of our people have agreed upon some mutual basis of settlement between the Europeans and those people who, under me, are called the King party.

Secondly, I say let a Parliament meet in Auckland, so that when they assemble for their work they may be close to us, and that we may enter that Parliament ourselves and quietly discuss all matters in difference between us and the Europeans.³

Tawhiao also referred to his concern at Government encroachments at the edges of the Rohe Potae, in the Kawhia and Mokau districts. He wanted the outstanding questions regarding the basis of settlement discussed and settled before further developments took place. However, he made it clear that he would allow some European settlement as long as it was on a controlled basis. Tawhiao's proposals were discussed and agreed to by the meeting, and eventually conveyed to Parliament by Te Wheoro. However, the settler Government was not willing to discuss matters on a partnership basis and the requests were ignored.

At about this time a 'split' occurred in the King movement, largely over tactics rather than ultimate aims. The reasons for this require more research. It seems clear for example, that Ngati Maniapoto were becoming concerned over the extent of real authority Tawhiao might want to extend over their customary lands. However, the major rift appeared to be over how, and at what point, the King movement leaders should engage with the Government. Tawhiao and his followers were convinced that they had to achieve an acceptable agreement with the settler Government over retaining some autonomy and having an effective political voice before the district was opened up. They objected to any developments such as the railway surveys going ahead before this happened because they believed Maori interests would then be ignored. In pursuit of this policy, they eventually decided to take a petition to Britain to have the Rohe Potae established as a self-governing Maori district under clause 71 of the Constitution Act 1852. Their petition was simply referred back to the New Zealand Government which rejected it. After this rebuff, they moved towards involvement in the Kotahitanga movement and demands for a separate Maori parliament in New Zealand.⁴

Other iwi leaders in the Rohe Potae appeared to be under greater internal pressure. Waikato iwi did not have customary claims to the Rohe Potae that the Native Land Court would recognise. As early as 1879, Judge Munro had made it clear that the Native Land Court would not recognise the authority of Tawhiao or the King movement over the Rohe Potae lands the Waikato Kingites were now living on.⁵ They therefore had little to lose if they continued to boycott the court. However, the situation was very different for iwi whose customary rights were likely to be recognised by the court. They were under great pressure to allow the

3. Alan Ward, 'Whanganui ki Maniapoto', report commissioned by the Waitangi Tribunal, 1985, 1992 (Wai 48, doc A20), pp 33–34; AJHR, 1882, G-4

4. Ward, *A Show of Justice*, p 292

5. Waitangi Tribunal, *The Pouakani Report 1993*, Wellington, Brookers Ltd, 1993, p 213; David Williams, 'The Use of Law in the Process of Colonization: An Historical and Comparative Study, with Particular Reference to Tanzania (Mainland) and to New Zealand', Phd thesis, Dar es Salaam, 1983, pp 313–315

court in to protect their land. According to David Williams, the Native Land Court judges used the '1840 rule', knowing it would encourage a rift in the King movement. He quotes Judge Fenton in 1891 as claiming that the use of the rule 'was one of the great reasons of the break-up of the coalition'.⁶

The pressure to use the Native Land Court for non-Waikato iwi in the Rohe Potae was already evident in the Mokau Mohakatino block already referred to, where both Ngati Maniapoto and Ngati Tama claimed land interests. Tawhiao's proposals were accepted by those Maori attending the Whatiwhatihoe meeting in 1882. However even then, some Ngati Maniapoto chiefs felt obliged to persist with the Native Land Court hearings on the block. The chiefs Rewi Maniapoto and Wetere Te Rerenga insisted that they had to go on with the hearings because they believed Ngati Tama was taking money from the Government for the land they claimed. They argued that the only option they had to secure title to the land, that the Government would recognise, was to take it through the Native Land Court.⁷ In the end, the Native Land Court did find in favour of Ngati Maniapoto claims.

Although the Native Land Court posed serious problems for Maori owners, it is clear that there was still a great incentive to use it. It was the only option available for providing legally recognised and settled title, both to protect land interests and to enable them to be used in enterprises such as leasing. There was really no alternative. If the court was boycotted, the land would almost certainly be awarded to others and therefore lost. Up until the early 1880s, the court had only operated around the edges of the district. It could not practically operate inside the Rohe Potae while the majority of chiefs opposed its presence and its determinations were likely to provoke violence. However, as pressure to apply for hearings built, iwi leaders recognised that they risked losing control of the process unless they took the initiative in some way. It appears as though a significant number of leaders of iwi with traditional claims to Rohe Potae lands therefore decided to begin negotiations with the Government as soon as possible. This new group was apparently led by a significant number of powerful Ngati Maniapoto chiefs such as Wahanui, Taonui, and Rewi Maniapoto. These chiefs had been significant leaders within the Kingitanga movement and they now formed a new powerful group with whom the Government could negotiate.

The Government for its part appeared delighted to have a new group of leaders to negotiate with. From this point, the Government virtually ignored Tawhiao and instead made every effort to encourage negotiations with Wahanui, Rewi, and other Ngati Maniapoto leaders. The Government and newspapers of the day tended to perceive the split as evidence of the decline of the Kingitanga and its policies. However, this was a misrepresentation. The split was over tactics rather than ultimate aims. Although the new group tended to be represented in negotiations by Ngati Maniapoto chiefs such as Wahanui, it also had strong support among leaders of other iwi with land interests in the district. A new confederation of these iwi was in fact being developed for this purpose. Rohe Potae chiefs still wielded

6. Williams, p 315

7. AJHR, 1882, G-4a

considerable power within the district and there was as yet no decline in their ability to prevent Government activity in the district if they wished.

The Government also practically needed to negotiate and win the cooperation of a significant section of Rohe Potae leaders before progress could be made in opening the district, including extending the operations of the Native Land Court. The same applications for court hearings that were forcing the chiefs to take the initiative, were also causing some problems for the Government. Although in some parts of the district hearings were possible, there were many areas where Land Court activities would certainly be violently resisted. The Government had therefore apparently delayed many applications until it could gain more significant support from chiefs.⁸ Although the Government preferred to regard the King movement as a spent force, in practical terms it could not proceed further without the cooperation of a significant section of leadership in the district.

3.2 THE OPENING OF KAWHIA HARBOUR

The opening of Kawhia harbour involved one of the very rare shows of force by the Government in the Rohe Potae district. The harbour was reopened but the show of force apparently produced inconclusive results. After this the Government returned to concentrating on negotiations as the major means of opening the Rohe Potae.

Attempts to re-open the harbour began in the early 1880s. The closure of ‘perhaps the best port on the West Coast of the North Island’ had rankled with settlers and Government for some years.⁹ The Government already had a policy of trying to eat away at the edges of the Rohe Potae through, for example, public works programmes and Land Court operations. The attempt to reopen Kawhia harbour was another effort to work away at the edge of the district. The Government initially sought to reopen Kawhia harbour ‘quietly’ by apparently taking advantage of an early land purchase near the harbour. The site of about 44 acres had been Crown-granted, presumably before the wars as the result of an early purchase. In about 1880, the then Premier purchased the site at auction. It was a suitable site for a township and provided access to the harbour. In February 1882, according to Bryce, the Government ‘quietly’ laid out township sections on the site ready for sale. In about 1883, construction was begun on the road from Kawhia to Alexandra. There was some Kingite opposition to the road but this was largely a protest at a lack of consultation and was not enough to stop progress. The Government stopped work on the road itself in about September 1883 because of general cost-cutting due to the continuing recession.¹⁰

However, Government officials continued with work in the harbour, erecting buoys and then on about 17 September 1883, beacons were erected to guide shipping. The beacons were apparently attached to posts set in land around the harbour. King supporters again protested against these actions. Within two days of

8. *Waikato Times*, 1 December 1883

9. Bryce’s report on the opening of Kawhia harbour, AJHR, 1884, G-1

10. *Waikato Times*, 15 September 1883

the beacons being erected, they were removed by two Kingite chiefs, on Tawhiao's orders. There were apparently also threats made against any Europeans who might try to occupy the new township lots.¹¹

The Native Minister by this time was John Bryce. He belonged to a Government that prided itself on taking a much 'firmer' policy on Maori matters and administration than had been the case under Donald McLean. Bryce had already made determined efforts to clean up what he regarded as the worst features of the old system of native administration and legislation. He was, however, much more austere and authoritarian in his approach to Maori issues generally.¹² He imposed rating and compulsory public works measures more extensively. He was also much more intolerant of Maori resistance, as seen in his assault on Parihaka in 1882.

Settlers and their newspapers naturally expected a show of 'firmness' from Bryce at what was described as the 'outrage' at Kawhia. Bryce appears to have believed that the recent split between Tawhiao and Ngati Maniapoto leaders provided an opportunity to use a show of force against Tawhiao. Bryce and some 112 armed constabulary men landed at Kawhia on 3 October 1883. The force encamped on Maori land near the township and a constabulary post was established. Tawhiao had already left the district by this time, but returned to discuss matters with Bryce. Tawhiao explained that he had ordered the posts the beacons were attached to pulled down as they were on his land and he believed he had a right to do this on his own property.¹³ He explained that he had not had the posts destroyed, merely removed. He had done this as he knew that Bryce would then come and explain matters to him. He reminded Bryce that the Treaty of Waitangi guaranteed Maori title to their land. He asked Bryce to explain matters clearly and to 'not treat us as inferior beings'.

In replying to Tawhiao, Bryce was careful to explain that the harbour beacons and indeed the encampment, were not intended as claims to land. The harbour beacons were there solely to prevent accidents to shipping. Bryce claimed the Crown had a right to place such beacons as part of the right of sovereignty granted to the Crown under the Treaty. He also insisted that while 'I have never asked you to sell land', Maori land titles should be fixed up 'so as not to hinder the occupation of your lands, and to prevent further trouble'. Bryce explained that making roads 'is not taking land. Roads confer a benefit on all, but more especially upon the Maoris, it opens up their lands'. Bryce also assured Tawhiao that the armed constabulary camp was not evidence of a claim to land. He promised that when the land was no longer required for the camp, it would revert to its proper owners.

In response to these assurances, Tawhiao claimed that now he understood about the beacons he would support their re-erection. He was also concerned about the road-making because he had not been consulted about it – a right he felt he was guaranteed by the Treaty of Waitangi. Tawhiao also indicated that he would like to have further talks concerning leasing land and that he intended to visit Wellington.¹⁴

11. *Waikato Times*, 22 September 1883

12. Ward, *A Show of Justice*, pp 281–284

13. *Waikato Times*, 9 October 1883

14. *Ibid*; Bryce's report, AJHR, 1884, G-1

After these discussions, it became clear that the constabulary force was unlikely to meet resistance. The early purchase was not actively challenged and Tawhiao also did not object to the beacons once their purpose had been explained. Bryce subsequently reported that, in fact, many of the chiefs of the area were friendly towards him and even Tawhiao seemed well disposed although concerned. Many of the Ngati Maniapoto people living in the area even seemed well disposed to the presence of the armed constabulary. According to Bryce, they apparently believed the force was likely to put ‘an end to the unsatisfactory state of doubt and uncertainty in which they have been living for years’.¹⁵ As Ward has noted, it may have been that the success of the landing and the establishment of the constabulary post owed as much to Maori acquiescence as to Bryce’s ‘firm’ handling of the situation. Ngati Maniapoto for instance, appeared to regard the force as a safeguard for their own land interests in the area.¹⁶ Tawhiao had also by this time adopted a policy of more engagement with the Government. More research is required into the significance of this incident for Maori-Government relations. However it seems that this show of force was an exception. From this time on, negotiations with Ngati Maniapoto leaders became the most important instrument of Government policy, in efforts to ‘open up’ the Rohe Potae.

3.3 THE MAJOR ELEMENTS OF THE ‘COMPACT’

Iwi leaders and the Government took part in a series of understandings or agreements during 1882 and 1883 which in total have been described as the Ngati Maniapoto ‘compact’ or the Aotea agreement. Even a brief investigation reveals that one of the most striking features of the compact appears to have been the very different interpretations placed on it by Ngati Maniapoto leaders and the Government. Even the whole idea of an overall ‘compact’ or ‘agreement’ as understood by Ngati Maniapoto leaders, appears to have been viewed quite differently by Government. It seems clear for example, that Ngati Maniapoto regarded each of the agreements as being closely linked to each other to form an overall ‘compact’. The Government however, appeared to have very limited objectives in mind for each agreement, and does not appear to have recognised or accepted the concept of a consistent, overall agreement. The compact itself and the varying interpretations of it, appear to be crucial in understanding how the Rohe Potae was opened up and in determining the extent of integrity and good faith shown by the Crown towards Maori in this process.

3.4 THE RAILWAY SURVEY AND THE 1883 PETITION

Negotiations began with a series of discussions in 1882 about Government surveys of a possible main trunk railway route through the Rohe Potae. Ngati Maniapoto

15. ‘The opening of Kawhia Harbour’, AJHR, 1884, G-1

16. Ward, *A Show of Justice*, p 287

negotiators agreed to give permission for such surveys. Their cooperation was vital to the Government as there was still a great deal of support for Tawhiao in the district and intense suspicion of any kind of Government presence. In return, Wahanui sought Government agreement to proposals agreed upon by major Rohe Potae iwi. Iwi wanted a secure external boundary established around the district that would be legally recognised by Government and settlers. Within this boundary they wanted the Native Land Court excluded and to be able to determine title themselves. They then wanted some way of having this determination legally recognised. Once title was settled they then intended to set about a controlled opening of the district, mainly through leasing. They were agreeable to allow works to go ahead in the district, such as roads. They wanted to retain enough land for their own needs and for those of future generations. They also wanted to be able to develop and use their land to ensure future economic prosperity. Along with European settlers, they were most interested in the possibilities of sheep farming at this time. They intended to encourage small settlements to provide markets, and service centres.

At a hui in 1885, Wahanui outlined the 'compact' that he and other leaders had made with John Bryce in 1882:

When Mr Bryce took office he made a compact with me, which was signed, that a search for the railway was to be made, and, if a suitable line were found, he was to return and let me know. There were five of the Ngatimaniapoto present when this contract was made, but they are not here now. I spoke to the five who were there, and I said, 'How shall we do in the absence of the majority of the people?' They said, 'It cannot be helped, we must act for them as they are not here.' They said, 'We will agree to what Mr Bryce asks.' It was then agreed, on the understanding that it was only to be an investigation to find out the best route for the railway, and after it was found they were to return and let the Maoris know before doing anything else. I then said to Mr Bryce, 'What you wish for has been agreed to; now I want you to agree to my request.' Mr Bryce asked me 'What do you want?' I then said, 'I am going to send a petition to the House, and I want you and your Cabinet to back it up.' I went on with the petition at once, but you know yourselves what it is.¹⁷

The *Pouakani Report* cites the description given by the new Government native agent for the Rohe Potae, G T Wilkinson, of discussions among Ngati Maniapoto at the time:

It is an all absorbing topic with them now and they have requested that all surveys and public works be postponed in their district until they shall have come to a decision amongst themselves as to the way in which they can best throw their lands open to the public with advantage to themselves. They have carefully noted the unsatisfactory way in which the Natives who are now attending the Cambridge Native Land Court are dispossessed of their lands, partly through expensive litigation and partly through the unsatisfactory system of land purchase now in vogue. They propose after due deliberation amongst themselves as to the best way in which to dispose of their land, to petition Parliament to have a new Land Act passed, which

17. AJHR, 1885, G-1, p 13

will embody as far as possible the scheme they have to propose. Should this be found practicable, and effect be given to it, there will then be no objection on their part to the throwing open of their country for settlement . . . they wish the new state of affairs to be put on a proper basis first, and the opening of the country to follow.¹⁸

The petition from Rohe Potae iwi was presented to Parliament in June 1883. It was signed by Wahanui, Taonui, Rewi Maniapoto, and 412 others. It expressed the wishes of Ngati Maniapoto, Ngati Raukawa, Ngati Tuwharetoa, and Whanganui iwi. By late 1883, a fifth iwi, Ngati Hikairo, had also decided to support the petition.¹⁹ The full text of the petition in Maori and English is reproduced as appendix 6 to the *Pouakani Report*.²⁰

In brief, the petitioners eloquently invoked the Treaty of Waitangi and the rights they were guaranteed under the second and third articles, ‘which confirmed to us the exclusive and undisturbed possession of our lands’. They believed those rights were threatened by current land legislation and the operations of the Native Land Court. The petitioners complained of the way they were persuaded to allow the court to adjudicate on their land ‘so that our lands might be secured to us’, but how from ignorance of the law and court procedures and the practices of lawyers they inevitably ended up with only the shadow of the land while the substance went to speculators (land swallows).

The petitioners condemned the ‘outrageous practices’ and temptations that beset them on every side as they were decoyed into the ‘nets of the companies’. Yet when they tried to avoid the problems associated with the court, they were told that their only remedy was to go to the court themselves. While they were trying to hold on to their lands they were aware that the Government was trying to open up their country by making roads, surveys, and railways and thereby clearing the way for all these evils to be practised in connection with their lands before they had made satisfactory future arrangements:

What possible benefit would we derive from roads, railways, and Land Courts if they became the means of depriving us of our lands? We can live as we are situated at present, without roads, railways, or Courts, but we could not live without our lands.

We are not oblivious of the advantages to be derived from roads, railways, and other desirable works of the Europeans. We are fully alive to these advantages, but our lands are preferable to them all.

The petition went on to request:

It is our wish that we may be relieved from the entanglements incidental to employing the Native Land Court to determine our titles to the land, also to prevent fraud, drunkenness, demoralization, and all other objectionable results attending sittings of the Land Court.

That Parliament will pass a law to secure our lands to us and our descendants for ever, making them absolutely inalienable by sale.

18. *Pouakani Report*, citing Wilkinson report, pp 95–96

19. Ward, ‘Whanganui ki Maniapoto’, p 42

20. *Pouakani Report*, app 6; AJHR, 1883, J-1

That we may ourselves be allowed to fix the boundaries of the four tribes before mentioned, the hapu boundaries in each tribe, and the proportionate claim of each individual within the boundaries as set forth in this petition.²¹

When these arrangements relating to land claims are completed, let the Government appoint some persons vested with power to confirm our arrangements and decisions in accordance with law.

If after any individual shall have had the extent of his claim ascertained, he should desire to lease, it should not be legal for him to do so privately . . . [so that] the public may attend the sale of such lease.

The petition concluded by affirming that it was not intended to keep the lands within the boundaries described locked up to Europeans, or to prevent leasing, or the making of roads or other public works, but they did want the 'present practices that are being carried on at the Land Courts' abolished. If the Government accepted the petition then the petitioners promised to work strenuously to benefit the whole island.

Ward has described how there was a counter-petition from Waikato members of the Kingitanga and some Ngati Maniapoto signed by 481 of Tawhiao's supporters. This disapproved of Wahanui's initiative and reasserted Tawhiao's authority, but the Government could now afford to ignore it.²²

Ngati Maniapoto and Upper Whanganui chiefs then showed their sincerity by using their influence to allow the surveys for a railway route to go ahead. Surveyors carried a letter from Bryce written in Maori to chiefs in the district asking for their assistance to help with the surveys. The letter, dated September 1883, appealed to the chiefs to assist the surveyors because the railway would bring great advantage to both races, but especially 'to you whose lands will be particularly benefited'.²³ However, there was still considerable distrust of Government in the district and the survey parties did meet with opposition in spite of Bryce's letter. It seems that it was only through the intervention of chiefs such as Wahanui that the surveys were enabled to continue.²⁴

The Government apparently regarded the agreement as simply one to allow railway surveys to begin and did not feel obliged to meet the requests outlined in the 1883 petition. However, the Government did want to continue making progress in the district and did make some efforts to persuade Rohe Potae leaders that their wishes were being taken seriously. A series of legislative measures were passed that were described by the Government as meeting some of the leaders' requests. The Native Committees Act 1883 made some concessions to Maori concerns. The committees were elected and able to adjudicate on disputes where the cause was below a certain amount in value. The committees were also given some powers to investigate matters relating to land title and report to the Land Court on them. This was generally welcomed by Maori and among Ngati Maniapoto, the Kawhia Native Committee, chaired by John Ormsby, was very active from 1884. However, Maori

21. The boundaries of the district were then described in some detail, see figure 1

22. Ward, 'Whanganui ki Maniapoto', p 41

23. *Pouakani Report*, p 91

24. *Ibid*

confidence in the committees soon evaporated. It became clear, for example, that the districts they had to cover were too large and often cut across major iwi interests. The committees themselves also proved to have little real authority. John Ormsby was a leading figure in the Kawhia committee but found the system inherently flawed. He explained in 1885 that the committees did not have the authority they needed, 'It was only a shadow when we came to take hold of it to work it – it was not substantial'. Instead he wanted the committees placed 'in the position of the Native Land Court'.²⁵

Other measures that partly met Maori concerns are briefly described in the *Pouakani Report*.²⁶ These included the Native Land Laws Amendment Act 1883 which made land dealings void prior to title being awarded. For a while lawyers were also banned from appearing before the Native Land Court. The sale of liquor was prohibited within the Rohe Potae by proclamation of a 'Kawhia Licensing Area' in December 1884. The upper Whanganui area was similarly gazetted in 1887 and various boundary changes to the areas made in 1892 and 1894.

It seems clear however, that the Government was no more willing to seriously accept a confederation of Rohe Potae iwi than it had been to recognise the Kingitanga. The Government appears to have simply ignored the idea of a confederation as much as possible. European settlers were also generally hostile. The petition's supporters were immediately criticised by some commentators as having appended invalid signatures, vastly inflating the petition's real support. The newspapers of the time tended to be derogatory and dismissive of the possibility of iwi being able to work together as a confederation. Newspapers gleefully, if incoherently, reported any signs of opposition from hapu within the Rohe Potae. They appeared to misunderstand the consensus style of chiefly leadership, expecting more rigid despotic control, and misunderstood debate among hapu as unruly rebellion. Even so there was still some opposition to the petition within the district. However, this was often from those loyal to Tawhiao and therefore even less likely to support settler aims. Other concerns often expressed at hui that were reported by the press included the issue of whether the pan-iwi nature of the petition might threaten direct hapu authority over particular areas of land. There were also considerable discussions over the actual boundaries of the district to be included in the petition, as some hapu simply resented any 'interference' in their land.²⁷

3.5 THE AGREEMENT TO SURVEY THE EXTERNAL BOUNDARY OF ROHE POTAE LANDS

The 1883 petition was followed by another series of meetings between Rohe Potae negotiators and the Government. This time the meetings concerned the possible survey of Rohe Potae lands and the operations of the Native Land Court. Again there appear to have been vastly different interpretations placed on these meetings

25. AJHR, 1885, G-1, pp 14–15

26. *Pouakani Report*, p 111

27. For example, see reports of meetings in *Waikato Times*, 7, 21 August 1883

and agreements. A great deal more research seems necessary before anything other than very tentative conclusions can be drawn about them.

It seems that Rohe Potae leaders were still acting as a confederation at these meetings, although the Government ignored this as much as possible and insisted on acting as though it was dealing only with Ngati Maniapoto. The most important of these meetings appear to have taken place on 30 November and 1 December 1883. The *Waikato Times* reported on the meeting held at Kihikihi on 30 November. It reported that Bryce had encouraged the Ngati Maniapoto leaders present to apply for a Native Land Court survey and investigation. He claimed that as far as possible the concerns of the 1883 petition had been met and that, 'All difficulties are now removed'. He explained that the Land Court had been improved and simplified, lawyers and agents had been excluded, and means for establishing native committees had been set up. The Government had also agreed to pay money for surveys, and the law now stopped land being bought before adjudication. Bryce argued that the meeting was representative of Ngati Maniapoto and there was no better time for sending in an application:

for hearing for the whole of your territory. I advise you not to sell all the land; sell a small portion, and invest the proceeds; lease large blocks, and keep sufficient for yourselves to live on.²⁸

Bryce promised to send two judges to the district, for two years if necessary, to move about from place to place. Bryce also warned that if an approach could not be agreed on, then he could not hold back the court any longer as applications had been made and it would be unreasonable to delay them further.²⁹

In reply, Wahanui was reported as agreeing to Bryce's request but he wanted only one survey and when that was finished then subdivision surveys could be made so that each might know his own piece, 'Let the survey be an external one. That is all'. Rewi agreed with Wahanui. He wanted the external boundaries fixed and then internal subdivisions could be made. Another chief, Hopa Te Rangianini stated that he now also supported Wahanui. Otherwise, for the sake of his children, he would have gone ahead and had his own land surveyed. He asked for European and Maori to act together under the principles of the Treaty of Waitangi. With regard to the separate application Ngati Hikairo had already made, Wahanui and Rewi asked Bryce to ignore it and have one survey made of the whole country. Taonui also spoke in favour of one survey, 'No other survey should take place till authorised by the natives. A committee will arrange all these matters'. Another chief who had links to Hikairo felt that Ngati Hikairo would agree to the approach proposed by Wahanui.³⁰

Bryce believed the boundaries between Ngati Hikairo and Ngati Maniapoto would be decided by the court:

28. *Waikato Times*, 1 December 1883

29. *Ibid*

30. *Ibid*

The application of the Ngatimaniapotos will be simultaneous with the Ngatihikairoas [sic]. There need be no difficulty in the matter . . . It does not matter by which application the boundary is fixed; we want such an application as will enable us to decide the Ngatimaniapoto boundary.

In response to various chiefs stating they wanted one external boundary only, Bryce was reported as continuing to state his own understanding, 'I understand there is one thing now to do, that is to ascertain the boundary of the Ngatimaniapoto . . . the subdivisions among hapus can be left till another day'. He went on to state that the petition to Parliament would not be considered a sufficient application. A formal application on the proper court form was required. However, it would not be necessary for the whole tribe to sign it, just three or four chiefs. He advised sending an application in 'yourselves' and forms of application could also be sent to other tribes.³¹

According to the *Waikato Times*, there was another meeting the following day, on 1 December.³² At this meeting John Ormsby read out the reasons why the chiefs had decided to sign the application. According to the *Times*, in summary these were that they were fully satisfied with Mr Bryce's proposals and with the provisions of the new Land Act. W H Grace then read out the boundaries 'which embrace the whole of the King Country'. The line began on the southern side of the Puniu, on to Taupo, down to the Whanganui River, across to Parininihi, up to Kawhia and to the mouth of the Puniu River, and then to the starting point. The *Times* also reported that 30 leading chiefs representing Ngati Maniapoto, Ngati Raukawa, Ngati Hikairo, and Ngati Tuwharetoa allowed their names to be inserted in the body of the application, signifying their agreement on behalf of their tribes for the survey to proceed. At the foot of the form were the names of Rewi, Hitiri Te Paerata, Taonui, and Hopa Te Ranganini. Wahanui added his signature after the meeting. At the end of the meeting, Bryce referred to the native committee already set up and promised to assist with legal recognition for it under the Native Committees Act as soon as he returned to Auckland.

The *New Zealand Herald* also reported that Bryce's proposals had been accepted by the 'Ngatimaniapoto' and the 'other tribes of the Kingites'.³³ The application to the Native Land Court for determination of title had been made, signed by Rewi, Hitiri te Paerata, Taonui, and Hopa. The application represented four tribes. The *Herald* described those who had signed as 'the great chiefs and the great landowners'. Taonui and Hopa were described as the principal landowners 'of the district which in all probability will first be dealt with'. The *Herald* believed the signing of the application meant that the 'native difficulty is now practically at an end'. Bryce was reported as being 'highly pleased' and the 'natives express the fullest confidence in him'. The paper noted however that, 'All exhibit a disposition not to sell their land'.³⁴

31. *Waikato Times*, 1 December 1883

32. *Ibid*, 4 December 1883

33. *New Zealand Herald*, 3 December 1883

34. *Ibid*

G T Wilkinson, Government native agent, attended the Kihikihi meetings and also reported:

At a large public meeting which the Hon Native Minister subsequently had with them in November last (1883), at which nearly all the Ngatimaniapoto chiefs and representative men were present, it was unanimously agreed that they also should send in an application to the Court for the investigation of their claim to the large area of country extending from Aotea (Harbour), on the West Coast, to Maungatautari (nearly) on the East; thence to Lake Taupo; thence to the summit of Ruapehu Mountain, thence to the sea, coming out on the West Coast at a creek known as Waipingao; and thence along the coastline to the point of commencement at Aotea. The area of this block is something like 3,500,000 acres, the whole of which it is proposed to put through the Native Land Court as soon as the survey of same is complete. This large block however does not wholly belong to Ngatimaniapoto. They admit that the Whanganui, Ngatiraukawa and Ngatituwharetoa have claims to portions of it and representatives from each of these tribes were present at the meeting and signed the application to Court as representing their people . . .

Subsequently another meeting was held by these Natives with Mr Percy Smith, Assistant Surveyor-General, at which it was agreed that the survey should be proceeded with at once by the Government, with the sanction of all the tribes represented by the applicants, and that the cost of such a survey – unless opposed and consequently prolonged by Native obstruction – should not exceed £1600. (Previous to this some of the Natives had commenced negotiations with private parties for this survey, which had they been completed, would have cost them more than £20,000).

It was also decided that, in conjunction with this survey of the boundaries of the large block, the Government trig. survey was also to be carried on, as well as the prospecting surveys for the main trunk railway-line (which were already in progress) and within one month from that date all those surveys were in full swing. The Natives however made a proviso that no prospecting for gold should be allowed until the land had passed the Court.³⁵

Reports of the time reveal that, right from the beginning, there appear to have been quite fundamental conflicts of understanding regarding the application for the survey. One of the most crucial of these was that while Rohe Potae leaders intended to have a confederation of iwi for the district, with their representatives and negotiators being Ngati Maniapoto chiefs, Bryce on the other hand, was concerned to achieve a means by which Ngati Maniapoto territory could be dealt with separately (and by implication the territory of other iwi in the district would be dealt with separately as well). There were also quite different understandings over the external boundary. Rohe Potae chiefs intended the boundary to cover the whole district of the 1883 petition. Bryce however, appeared to be primarily concerned to have an application that would enable the Land Court to determine a 'Ngatimaniapoto boundary'. This implied that he also intended that other internal iwi boundaries within the district would be determined by the Native Land Court. He appears to have assumed that the agreement was simply one of how the court would proceed; that is, with the external boundaries first and then moving on to

35. AJHR, 1884, C-1, sess 2,

internal divisions. Another fundamental difference was over how the internal boundaries would be determined. Rohe Potae leaders intended the Native Land Court to be kept out and to have determinations made by native committees. Bryce acknowledged the demand for native committees and agreed to assist in establishing them. However, he also intended that the Native Land Court would retain its importance. As the *Times* reported, he promised ‘to send two judges to the district for two years if necessary to move about from place to place’. The chiefs may have believed this was to confirm their determinations but Bryce was also anticipating court operations within the district.

It seems that Bryce fully intended that the application for a survey would lead to the Native Land Court operating within the district and therefore determination of internal boundaries between iwi. The application for a survey was an integral part of the Native Land Court process. A survey was required before the court could make an investigation and determination. Bryce had persuaded the Ngati Maniapoto chiefs to sign the standard application form for a survey. The signatures of other iwi leaders of the district were included in the body of the form showing, from a Maori point of view, pan-iwi support for the application. However, the end signatures on the form were only those of Ngati Maniapoto chiefs. This was at Government persuasion, but the legal effect was that Ngati Maniapoto had signed an application for a survey of their own territory, not for the whole district as they believed. Bryce was not interested in recognising any confederation of iwi within the district. He treated pan-iwi support for the application as largely irrelevant. Certainly no importance was given to it in official documents of the time. The Government simply chose to treat all iwi of the district as separate and to act as though there was no confederation to deal with. The application was viewed as one from Ngati Maniapoto that included a very large territory. However, this was not a matter of concern as the Land Court could be left to determine what the ‘real’ boundaries of Ngati Maniapoto territory were. Iwi attempts to create a confederation within the district were therefore ignored. Wilkinson, for example, reported that the Ngati Maniapoto chiefs wanted the ‘whole’ block (meaning the whole Rohe Potae district) put through the court as soon as the survey was complete. He reported that the chiefs did, however, ‘admit’ other iwi had claims in the district. This completely misrepresented the confederated approach to the application from the major iwi of the Rohe Potae district, including Ngati Maniapoto.

These fundamental differences turned out to be crucial in deciding how determinations of Maori title within the Rohe Potae would be controlled. Nevertheless they appear to have been glossed over during the meeting. This raises issues of how much Government negotiators misled Rohe Potae leaders into a false understanding of what the application really meant, and raises questions of good faith on the part of the Crown.

It seems that from a Government view, the most important objective was to obtain a valid application for an investigation and survey of Ngati Maniapoto lands. As reported in the *Waikato Times*, Bryce wanted ‘such an application as will enable us to decide the Ngatimaniapoto boundary’. Equally important, the application needed to have the significant public support of powerful sections of the Ngati

Maniapoto leadership. The extra signatures representing other iwi in the body of the form were also helpful in this. Bryce needed powerful support in order to have any chance of carrying out successful surveys on the ground.

The *New Zealand Herald* shrewdly picked this up:

Applications for surveys in the King country have been lodged for some considerable time, but in respect to those Mr Bryce has taken no action. He considered, we suppose, that there was a risk in commencing any survey without the express and public sanction of all the great chiefs and landowners. If a survey had been begun on any less formal authorisation than has now been given, it might have been interrupted by the natives, and great trouble would have arisen . . . the fact that the survey is that of Rewi and Wahanui will make it almost impossible for any native to interfere.³⁶

Later, when it was evident that there was still considerable opposition to the agreement among some hapu, the *Herald* commented that this showed how unfair critics had been to complain that Bryce had not moved quickly enough. The *Herald* believed it had been shown that the time was ripe, but no more. It was clear the survey would still meet opposition and considerable patience and tact would be required to overcome the remaining difficulties.³⁷

Bryce telegraphed Rolleston on the same day to report the 'very satisfactory' meeting on 1 December with nearly all the principal men of the 'Ngatimaniapoto tribe'. He reported that they had made an application that day to the Native Land Court for a 'survey and investigation of the land known as the King Country'.³⁸ Significantly Bryce referred only to Ngati Maniapoto and made no mention of an external boundary survey only.

In contrast, it seems that when the chiefs agreed to Bryce's request to make the application, they apparently did so believing they had set very firm limits on what this would mean. As the reports show, they wanted one survey of only the external boundaries of the whole Rohe Potae district, as described in the 1883 petition. In effect, they wanted a protective and legally recognised cordon around the whole district. Later, in 1889, Ngati Maniapoto explained that they expected that when the external boundary was surveyed there would be one court hearing to settle the overall ownership of the whole district.³⁹ After this, they would make internal title settlements themselves.

The chiefs recognised that title would still have to be settled and defined further inside the boundary in order to protect the land and use it to economic advantage. However, they wished this process to be controlled by Maori without interference from the Native Land Court, at least as it presently operated. However, they realised that such a process would require legal recognition, and relied on the Government to assist with this, much as they had requested in the 1883 petition. They appear to have favoured a system of much improved native committees to achieve this.

36. *New Zealand Herald*, 3 December 1883

37. *Ibid*, 19 December 1883

38. Bryce to Rolleston, telegram, 1 December 1883, MA series 13/93, NO 83/3749 attached to NO 84/132

39. Ward, 'Whanganui ki Maniapoto', p 42

For example, in 1884, when speaking to the Legislative Council, Wahanui outlined the powers he wanted for native committees. He did not entirely rule out a reformed Native Land Court for the future, but asked that it not be given jurisdiction over King Country lands ‘at present’:

I do not say always, but for the present, so that we may have time to consult with the Government and to make satisfactory arrangements; and, when the law is agreed to, then we can discuss prospects for the future . . . the Native Committee – should be empowered, so that all dealings and transactions within that proclaimed district should be left in the hands of that Committee.⁴⁰

The chiefs also placed considerable significance on the agreement they had achieved with other iwi of the Rohe Potae district. They had effectively created a confederation of iwi with land interests in the district, in order to have a united approach to protecting the whole area. Ngati Maniapoto leaders were not just making a huge claim to land they knew other iwi claimed.

John Ormsby took part in the meetings as a member of Ngati Maniapoto and later described how they had discussed ways of protecting the whole district and limiting the Native Land Court from operating within it. According to Ormsby, in answer to concerns about preventing minor applications and surveys, Bryce had suggested that each tribe should send in an application for the whole block. According to Ormsby, ‘We discussed this and finally agreed to send in one application for the whole block’.⁴¹ It seems from this that they may have believed that if they sent in one application, the Government could use this to override any other individual applications concerning the district.

It seems that it took a great deal of persuasion to get the chiefs to agree to, as they understood it, even an external boundary survey of the whole district. The persuasion all seems to have been focussed on the increased protections such an investigation would mean for their land. Bryce had repeatedly assured them that the Native Land Court had been improved and simplified. He assured them that the new Land Act and other legislative improvements had effectively shut out speculators and land sharks and would allow title to be settled more quickly and effectively. He had also assured them on a number of occasions that he was not interested in placing pressure on them to sell land. Instead, he advised them to lease land and retain large portions for themselves and their future needs.⁴² Even the settler newspapers apparently believed the legislative reforms were significant and would enable Maori to retain land they wanted to keep. The *Waikato Times* for example, echoing the arguments of the meeting, welcomed the new Land Act for ending land sharkism and the wholesale alienation of native land with the associated evils of cheating and temptation. In this, the *Times* was apparently recognising the flaws in previous legislation that had fostered false claims and practices such as bribery. The *Times* also expected that under the reforms, the Maori

40. NZPD, 1884, vol 50, p 427

41. Ward, ‘Whanganui ki Maniapoto’, p 42

42. *Waikato Times*, 9 September 1883; Bryce’s report in AJHR, 1884, G-1; for Bryce’s assurances to Tawhiao in 1883 and further assurances at Kihikihi meetings, *Waikato Times*, 1 December 1883

owners of the district would sell some land, lease some on long terms, and retain enough for their own future prosperity.⁴³

Rohe Potae chiefs were also under considerable pressure to act to protect their land for the sake of their children and for future generations. The fear of what might happen if they did not make the application was very real. W H Grace was involved in the meeting, explaining matters and encouraging the chiefs to agree to the external boundary survey. He argued that if the chiefs delayed making the application they were risking the future of their children. As the old men died their knowledge died with them and their children would be in confusion not knowing anything about their claims:

There are now hawks flying about, and when a hawk sees a living animal he will not attack, but if he sees a carcass he will feed on it. If you do not agree to Mr Bryce's proposals your children, when you die, will be as carcasses. The hawks will pounce on them and devour them as food.⁴⁴

The efforts of W H Grace in assisting Mr Bryce 'in every possible way' were particularly noted by the newspapers. The *Waikato Times* reported that:

He possesses a great deal of influence with the natives, and this influence he used to assist Mr Bryce in opening the country. They listened to his arguments and persuasions with the respect they merited, and agreed with him that it was desirable to come to terms without delay.⁴⁵

The *Herald* reported in similar vein that W H Grace assisted:

very materially in bringing the natives to a proper understanding of Mr Bryce's proposals . . . at their private meetings he combated their arguments and explained to them the benefits which would accrue to them by the opening up of the country. His arguments were so conclusive that the natives could not fail to agree with him as to the desirability of coming to terms without delay.⁴⁶

It seems unlikely that W H Grace singlehandedly managed to persuade the chiefs to make the application. However the reports do show that a good deal of 'advising', 'promising', and 'explaining' was going on, from interested parties. This makes it even more difficult to determine what kinds of guarantees and understandings the chiefs may have thought they had achieved when they agreed to make the application for an external boundary survey. More research may be required on this issue.

43. *Waikato Times*, 4 December 1883

44. *Ibid*, 1 December 1883

45. *Ibid*

46. *New Zealand Herald*, 4 December 1883

Rohe Potae

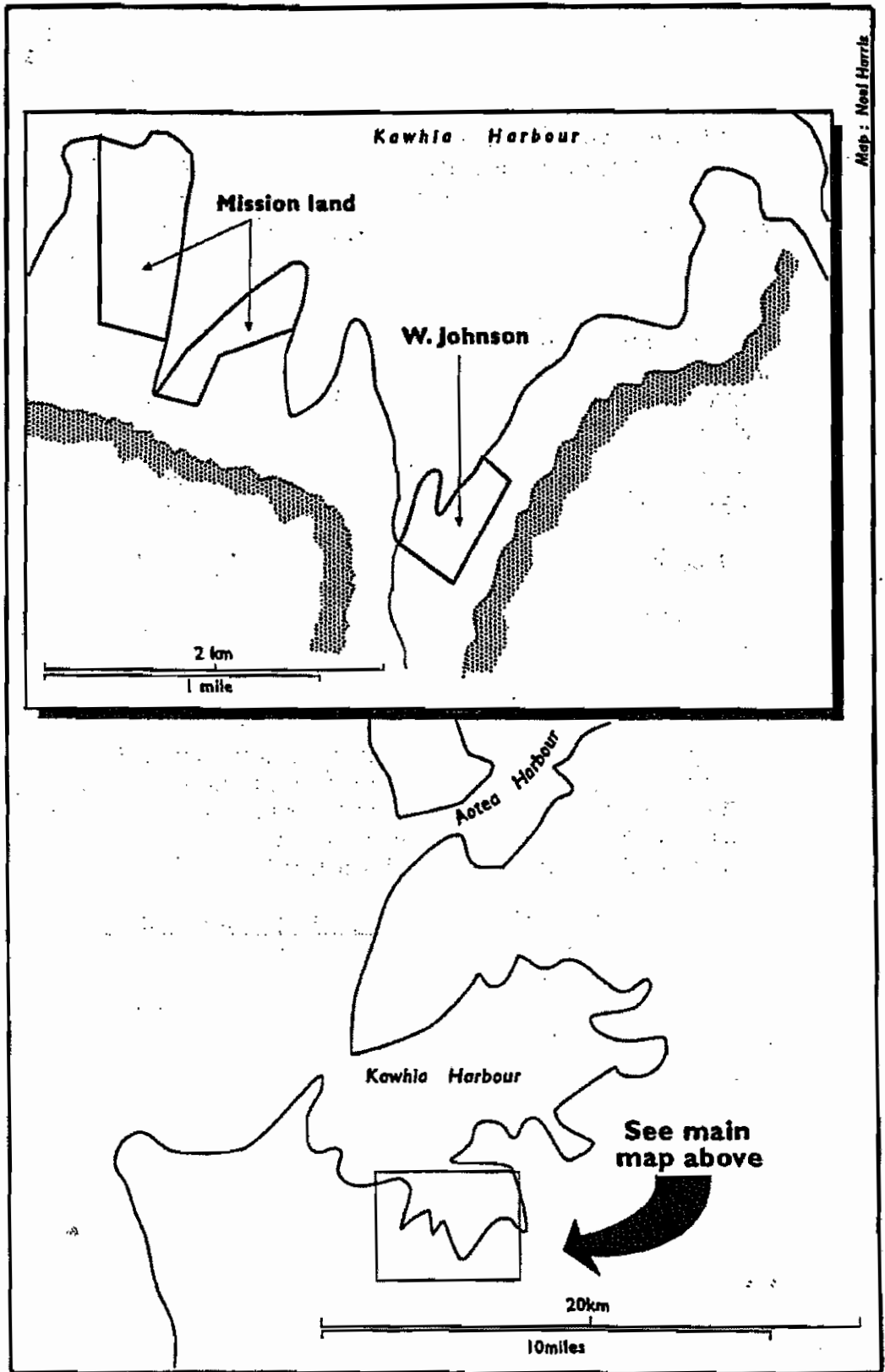


Figure 2: Old land claims around Kawhia harbour

CHAPTER 4

THE FAILURE OF THE COMPACT – THE NATIVE LAND COURT AND GOVERNMENT LAND PURCHASING POLICY

4.1 THE INTRODUCTION OF NATIVE LAND COURT OPERATIONS WITHIN THE EXTERNAL BOUNDARY

From 1883, some of the contradictions inherent in the agreements between Ngati Maniapoto leaders and the Government became evident as understandings were put into practice. By December 1883, the Government survey office was involved in a number of different surveys in the larger Rohe Potae district. These included triangulations of the larger Rohe Potae district as described in the 1883 petition, as well as various railway surveys. The surveys of the external boundary of ‘Ngatimaniapoto lands’ also took up the first seven months of 1884. Many Maori of the district found the various surveys extremely confusing and a cause of considerable alarm. The various surveys are described in more detail in the *Pouakani Report*.¹

The agreement on the external boundary survey was confirmed in an exchange of letters between the chiefs and Government surveyors of 19 December 1883. Copies of these are included in full in the *Pouakani Report*.² The translated letter signed by Wahanui and other leaders agreed to an external survey of the boundary of ‘our block’ in order that a Crown grant could be issued, ‘to us, our tribes, and our hapus for the price as arranged by you, namely that the cost to us should not exceed £1,600.’ The letter also insisted that, ‘this agreement must not be altered by any other arrangement or by any future government’. The Chief Surveyor replied that the Government would make an accurate survey of the external boundary of ‘your block, in order that a Crown grant may issue to you and your tribes; it is also agreed that the survey shall not exceed £1600’. The letter agreed that no future government could change the agreement.

The *Pouakani Report* found that the letters were vague enough to allow for quite different interpretations. It seems likely, given the circumstances, that the ‘block’ Wahanui and others were referring to was the larger Rohe Potae district as they had defined it in the 1883 petition. Wilkinson had also reported that they were referring

1. Waitangi Tribunal, *The Pouakani Report 1993*, Wellington, Brookers Ltd, 1993, ch 7

2. *Ibid*, pp 98–99

to the same larger district when they agreed to make the application. The Survey Office may have decided that the fee only covered work for a much smaller area but in fact it seems clear that the survey cost of £1600 was regarded as a special fee, rather than a price based on an actual estimate. Wilkinson's report described how the 'real' cost if done by private survey would be nearer £20,000. This lower charge may well have been an act of goodwill by Government, or at least an inducement to ensure the Government got the work. This would have enormous advantages not least in the opportunity to collect information likely to be useful for settlement as well as keeping that information out of private hands. This appears to be confirmed by a newspaper report that private surveyors claimed the price was far too low.³ The reason given for the low price to the newspaper was that the Government did not intend to make any profit out of the survey, but was only charging at cost.

The *Pouakani Report* found that for whatever reasons, the Survey Office decided that the 19 December exchange of letters referred to payment for an external boundary survey of only the Ngati Maniapoto lands of the Rohe Potae or the 'Aotea block' as it was already being called.⁴ This was of course consistent with Bryce's emphasis on the importance of being able to determine a Ngati Maniapoto boundary. The published report of the Surveyor General, dated 8 August 1884, included an appended survey report from various districts. With regard to the King Country, it was noted that at the native meeting at Kihikihi of last December arrangements were made 'for the survey of the external boundaries of the Aotea block, comprising the greater part of the so-called King Country'. On the completion of this survey, 'a plan can be made to enable the court to deal with this large block, which is roughly estimated to contain 3,200,000 acres'. The report is confusing as the acreage described is almost as large as the whole district of the 1883 petition. However the intention to separate out Ngati Maniapoto lands, or the Aotea block, is clear, as is the intention to have the Native Land Court deal with it. In doing so the court would inevitably be working within the external boundary. It is interesting to note that Ngati Maniapoto lands were already being described as the Aotea block in 1884, even though the block itself was not determined and officially created by the Native Land Court until 1886. The survey report also noted with some satisfaction, that applications received through the Native Land Court already covered several hundred thousand acres in the King Country locality.⁵ The report did not specify, however, where in the King Country those lands were located.

As expected, there was resistance to the survey by various hapu within the Rohe Potae who remained intensely suspicious of Government intentions. Newspapers and official correspondence of the time reported on this resistance in some detail and again it appears that the Government continued to rely on the assistance of the chiefs such as Wahanui before any real progress with surveys could be made.⁶

3. *Waikato Times*, 22 December 1883

4. *Pouakani Report*, p 102

5. AJHR, 1884, C-1, sess 2, app 2, p 27-29

6. See *New Zealand Herald* and *Waikato Times*, January 1884; correspondence regarding removal of trig stations, MA 13/93

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The very prompt start on the surveys and the lack of consultation about the practical implications of survey requirements, such as the need for trig stations, also appears to have caused the chiefs considerable difficulties. In March 1884, Rau Taramoa wrote to the Native Minister on behalf of Wahanui. He explained that Government actions were putting Wahanui in a difficult position. It was apparent that large sums of money were being spent on internal surveys but not on the survey of the external boundary as agreed. Roads within the district were being proceeded with rapidly while the exterior survey was going only slowly. In reply, the Government denied there was any cause for concern and promised the external boundary was nearly complete.⁷ Wahanui also mentioned the difficulties caused at a later meeting in Kihikihi in 1885:

We were not consulted with regard to the erection of trig stations; the consequence of this was that the Maoris got unsettled seeing what was being done, as one brother could not advise the other or tell the other anything about it.⁸

Much of the opposition to the survey came from hapu who remained loyal to Tawhiao and his policies of boycotting the Native Land Court altogether. They were concerned that the survey application might compromise King movement autonomy by inviting an instrument of the Queen's authority, the Native Land Court, into the Rohe Potae. There was also considerable concern about what the application might mean with regard to Native Land Court operations in the district.

Some of these concerns and the discussions were reported in the press, particularly when Bryce attended the meetings. There was apparently a continuing series of meetings between Bryce and various iwi leaders in the district over the following weeks in an attempt to protect the survey agreement. Bryce attended a meeting on 18 December 1883, for example, to hear chiefs opposed to the application for survey as well as those who had signed.⁹ At this meeting, concern was expressed that authority over the land had already been given to Tawhiao by solemn agreement in 1881. The chief Hauauru for example, stated that he wanted to preserve Tawhiao's mana over the land and did not want to have the Queen's authority recognised over native territory. Bryce responded that he could only repeat what he had already told Tawhiao:

New Zealand is too small for two sovereignties, and I will never recognise your authority except over your own tribe . . . the paper on which these lands are handed over to Tawhiao is waste paper.¹⁰

This statement was probably also significant in terms of Bryce's view of the confederation of Rohe Potae iwi. He seems to have been determined to recognise no more than separate iwi authority and to have rejected any type of iwi confederation, although this was apparently not evident to the chiefs at the time. In response to Hauauru, Rewi did not seem to regard the application as an issue of

7. Correspondence, March to April 1884, MA 13/93 84/1254

8. AJHR, 1885, G-1, p 13

9. *New Zealand Herald*, 19 December 1883

10. Ibid

sovereignty but as a means of enabling land to be used for economic advantage. He declared he had been convinced by the example of those he had seen leasing land and he intended to lease land as well.

The meeting also expressed concern that the application, by including the whole district, had effectively involved them all in the Native Land Court process, regardless of their wishes and to the grave consternation of many. The chief Haimona, stated that the court process meant that those who had signed were the claimants and all others were therefore regarded as counter-claimants:

We do not want to be counter-claimants; because we have seen in the Native Lands Courts people putting in applications for land who have small interests become strong because they are the first claimants.

Others insisted that they wanted to survey their own lands at their own time and pleasure. If surveyors trespassed on their land therefore, they would feel quite justified in stopping them. There were also concerns about the implications of having such a large district surveyed at one time. It had never happened before and there was concern about what might happen as a result. In reply, Bryce stated that the application was to ‘determine tribal boundaries as between tribe and tribe. Afterwards will come applications for subdivisions between hapu and hapu, and possibly after that for settlement of individual claims’. In response to further concerns, Bryce reiterated that as a first step the large tribal boundaries would be settled. The names of tribes and individuals would be admitted but the survey and the final divisions would be made without claims and counter-claims. Bryce denied that those who made the application might gain an advantage. He also reminded them that he had never ‘pestered you to sell your land but I tell you your troubles will never cease till you individualise your titles’.¹¹ Once again Bryce was quite clear that he intended to have internal divisions made within the district. However, again this may have been partially compensated for by his emphasis on the larger iwi divisions, and only ‘possibly’ after that, individual claims. This may have been interpreted by the chiefs to simply mean that overall iwi ownership of the large Rohe Potae district was still to be decided by the court without necessarily making internal divisions on the ground.

Bryce is likely to have received considerable encouragement in late December, when reports arrived of Tawhiao’s meeting with Wahanui and Rewi. The *Waikato Times* reported that Tawhiao was not opposed to the external boundary survey. In fact he was encouraging Ngati Haua, who had threatened resistance to the survey, to be peaceful. He had advised Hauauru not to oppose it either. He insisted that he wanted to abide by the law and settle matters peacefully.¹²

It seems clear that during this time the Government was also actively and successfully encouraging further applications to the Native Land Court for investigations within the Rohe Potae.¹³ Further research is required into the nature and extent of these applications. On the face of it they seemed to support

11. *New Zealand Herald*, 19 December 1883

12. *Waikato Times*, 29 December 1883

13. For example report of ‘so many applications in’, *Waikato Times*, 15 January 1884

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Government policy and undermine the stated aims of the chiefs who did not want any internal investigations and determinations until they had negotiated a more equitable system for determining title. Although the circumstances appear confused, it does seem from even brief research, that many of the applications may not have been a direct rejection of the chiefs' wishes. It seems that some within the district did welcome the court and were prepared to take their chances with it. However as will be seen, it also seems clear from official correspondence and newspaper reports that a large number of applications were really expressions of concern and attempts to 'register' land interests in some official way, in anticipation of the internal determinations everyone had agreed would come. The chiefs themselves had effectively made a court application although they considered it to be a limited one. This may also have encouraged others to follow, even if it was anticipated that determinations would actually take place under an improved system.

The applications may have been fuelled further by the state of confusion and alarm evident in the district while a new system was being negotiated. The newspapers reported rumours of the 'many' applications being made, although details of these were always very vague.¹⁴ These may also have caused further anxiety and further applications. Although it had been assumed that the court would only be concerned with the external boundary, there was uncertainty about how this would be done in practice. As a result there was apparently considerable anxiety to take steps to protect interests against whatever might happen. The idea of any Land Court operations at all evidently worried some hapu. They might support powerful chiefs on some issues, including the general aims of the 1883 petition and the concept of a confederation of iwi for the Rohe Potae. This was not the same as handing over all responsibility and authority for their particular land interests however. Hapu remained concerned to maintain their own authority before the court. There were very real intersections of interests in the Rohe Potae and the court process provided an ideal means of exploiting and encouraging them.

The Land Court process, or at least its reputation, also appears to have generated not only concern, but applications. For example, as explained at the 18 December meeting, it was well known that the first applicants were often viewed with some favour by the court. Every other claimant to the same land was treated by the process as a 'counter-claimant' regardless of their status, and as a result they were widely believed to be disadvantaged.¹⁵ This may also have led to applications as claimants tried to avoid simply becoming counter-claimants.

There is some evidence that applications also continued to be made because of the perceived need to gain some form of legal title in the face of pressures from those who wanted to purchase land. Although formal instructions to begin purchasing had still not been made, it is clear that the Government was actively involved in collecting information necessary for purchasing from at least 1884.¹⁶ This process was intensified when the court began sittings in 1886.¹⁷ Although they

14. For example, *Waikato Times*, 15 January 1884

15. *New Zealand Herald*, 19 December 1883

16. See correspondence, MA 13/43, NO 84/2382

17. For example see correspondence and attachments, December 1886, MA 13/78, NLP 86/494

accepted the need to have title settled in some legally recognised way, it is clear that owners wanted to go no further through the court process than they believed was absolutely necessary. Applications were very commonly for title determinations only. Owners were noticeably reluctant to go any further and hand in lists of owners or to have the court define interests or undertake any process that led to further individualisation of title. For example, even by 1889 Wilkinson noted that very few blocks passing the court had owners' interests defined. As the owners intended, he noted that this would make it:

impossible for a person unacquainted with the Native owners to form any opinion as to their relative ownership, and not by any means an easy matter for one acquainted with them to do so.¹⁸

It is also clear that even while seeking settled title, owners still wanted to protect the land from sale. It is clear that once hearings began, determined efforts were made to have the court impose restrictions on alienations of land in various blocks. This was noted as a source of irritation by officials when Government purchasing did begin.¹⁹ There is some evidence that applications were being made in order to use the court system to confer legally recognised authority on decisions already made by the Kawhia committee. For example, Sorrenson has noted that the early Land Court sittings in the Rohe Potae were relatively orderly and quick. This may support the possibility that the court was being used to ratify some agreements already made.²⁰

The apparent contradictions in making court applications within the Rohe Potae, are evident in the actions of the chief, Hitiri Paerata, for example. He was one of the chiefs who actually signed the application for an external boundary survey of the whole Rohe Potae district. Barely a month later, in January 1884, he and his people wrote to the Native Minister asking if they could put an internal boundary into their application, to show their part of the Rohe Potae block.²¹ On the face of it this seemed to contradict the attempt to have an external survey only, yet Paerata appears to have continued to support Wahanui. More research is required on Maori understandings of what such applications meant.

Although Bryce was careful to be circumspect about the implications of the survey in his meetings with Rohe Potae leaders, the press and Government officials appeared far less inhibited. The newspapers seemed well aware of the likely impact of Native Land Court operations on chiefly authority and welcomed this. The *Waikato Times* for example, described Bryce's success in persuading the chiefs to make the application for a boundary survey as bringing the 'native difficulty' to an end and as having dealt kingism a 'death blow'. Both the *Times* and the *Herald* also referred to the agreement to make the application for a survey as being a matter of coming 'to terms' with Bryce as though the iwi leaders were somehow submitting

18. Wilkinson to Native Department Under-Secretary, 24 October 1889, MA 13/78, NLP 89/332

19. Wilkinson to Native Department Under-Secretary, 24 October 1889, MA 13/78, NLP 89/332

20. M P K Sorrenson, 'The Purchase of Maori Lands, 1865–1892', MA thesis, University of Auckland, 1955, p 110

21. Hitiri Paerata and others to Minister of Justice, 4 January 1884, NO 84/338, MA 13/93

or surrendering to his demands.²² They both remarked on the way Tawhiao had not even been mentioned, assuming again that this was more evidence of the demise of the King movement and conversely, the beginning of the full imposition of state authority in the district.²³

Rohe Potae leaders expected the external survey to take place first and then internal divisions to be made only after this was completed. The press, however, assumed that hearings of internal divisions within the district would begin as soon as possible. The *Herald* anticipated that the land of Taonui and Hopa ‘in all probability will first be dealt with’. It also expected an early start to the usual ‘tedious’ internal claims.²⁴ Government officials also appear to have assumed that the survey application meant that internal hearings would proceed as soon as possible. They actively encouraged internal applications to enable the court to begin operating within the Rohe Potae. Officials assumed that Hitiri Paerata’s January letter for example, was intended to be an application for a Native Land Court investigation. The Under-Secretary of the Native Department, Lewis, noted on the letter that he presumed it was an application for a division line between Ngati Maniapoto and Ngati Raukawa portions of the external boundary now being surveyed. He saw no reason why such an application could not be made immediately:

I am aware of no objection to the writers sending an application to the Native Land Court for the hearing of their portion of the block and stating what they consider their boundaries.²⁵

However, in this case, Bryce realised the matter needed to be handled with care. At this time Rewi was having serious second thoughts about whether to rejoin Tawhiao and apparently so was Hitiri Paerata. A substantial withdrawal of support for the survey application was a serious threat to the Government’s ability to make the survey on the ground. Bryce advised Lewis that in the light of recent actions by both chiefs it would be advisable to wait for a while before advising that an application should be made.²⁶

Government actions did cause misgivings among some chiefs who had initially supported the application. Hauauru, for example, initially although reluctantly, supported the application. Hauauru was reluctant to be disloyal to Tawhiao but supported the application because he thought the majority of Maori in the Rohe Potae supported it and the time had come when it had to be done.²⁷ Within a few days however, Hauauru appeared disillusioned with what had been achieved and fearing ‘that the land would be lost’, had returned to Tawhiao.²⁸ Hauauru confronted Bryce at the 18 December meeting with his concerns and also wrote to

22. For example, *New Zealand Herald*, 4 December 1883

23. For example, see *Waikato Times*, 4 December 1883

24. *New Zealand Herald*, 8 December 1883

25. Lewis to Minister, 2 February 1884, MA series 13/93, NO 84/338

26. Memo from Bryce to Lewis on letter from Hitiri Paerata and others to Native Minister, 4 January 1884, MA series 13/93, NO 84/338

27. For example see reports in *New Zealand Herald*, 8 December 1883; *Waikato Times*, 6 December 1883

28. *Waikato Times*, 22 December 1883

Bryce on the same day. In the letter, he told Bryce he objected to the survey and that his people wanted to arrange the survey of their own lands themselves.²⁹ Major Te Wheoro was also reported as having misgivings. He had asked Bryce to leave the Kawhia survey to himself and Tawhiao, but Bryce had insisted it would have to go before the Land Court.³⁰

It seems that the continued court applications and Government encouragement of them, were eventually an important means of undermining the Ngati Maniapoto chiefs' aim to have internal determinations delayed until new procedures and alternatives to the Land Court were in place. The applications appear to have had a snowball effect and eventually they (or rumours of them) were sufficient to attract applications for separate hearings from some of the major iwi of the district. This in turn enabled the Government to allow the court to begin operating even though the chiefs had still not successfully negotiated an alternative to the land court system.

More research is required, but even a brief search of official documents reveals evidence of this. There is considerable correspondence to the Native Minister for example, from various Rohe Potae leaders and their people, expressing concern and asking for advice about what they should do to protect their land. The official reply was to have the matter settled by the Land Court when it inevitably began operations in the district. Government insistence that the Land Court would inevitably begin operations, in turn appears to have further fuelled such fears. The reputation of the Native Land Court preceded it. Correspondence also revealed fears of what various other Government activities in the Rohe Potae might mean for land interests, such as the railway preparations and the various surveys. There were also fears that the Native Land Court might give undue weight to the claims of those who had actually made the application for the external boundary survey, simply as a result of their having signed the application. The boundary for example, was often referred to as 'Wahanui's line' and this was regarded with alarm by some Maori in the district.

In June 1884 Wilkinson reported Maori concerns that since Wahanui had signed the external boundary application, the court might assume he had more rights to the land than he would otherwise be entitled to.³¹ Later, in 1885 Wilkinson reported concerns that working on the railway might mean the court would recognise a claim by the workers to the land they were working on. He had explained that their only claim would be for wages and not for the land itself.³² In April 1884, a group of Whanganui people wrote to the Native Minister concerned to protect their land interests. They wanted their lands withdrawn from the external boundary survey. Government officials assured them that they would be placed on the list of those the Kahiti was sent to, so they would know the time and place 'where the Court will sit to adjudicate on the lands within Wahanui's tribal boundary'.³³ Similar replies were sent to Ngati Tuwharetoa when they expressed concern over their land in September 1884. They were concerned about Wahanui's external boundary going

29. Hauauru to Bryce, 18 December 1883, MA 13/93, NO 84/63

30. *Waikato Times*, 22 December 1883

31. Wilkinson to Under-Secretary, 7 June 1884, MA 13/93

32. Wilkinson to Under-Secretary, 23 March 1885, MA 13/93

33. Reply to Whanganui people, 7 May 1884, MA 13/93

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through their land and what this might mean for their interests. They were assured that the survey of the external boundary would have no affect on land title but were still encouraged to make an application to the Native Land Court: 'It is by the Native Land Court alone that it can be determined who the owners are'.³⁴

Concern about protecting land did not mean that the Land Court was necessarily welcome however. The Government was well aware that there was still strong support for the idea that within the external boundaries, Maori should retain full control over the management of their land, including the determination of title. In May 1884 for example, Rangituatea and others wrote to Bryce concerning the management of their lands. Translated, their letter referred to the lands within the external boundary now being surveyed:

What we wish is that we ourselves should have the control of our lands so that we can have them reserved, lease them, or do whatever we like with them not leaving it for you or your officers to deal with them.³⁵

The Rohe Potae chiefs did not seem too concerned initially about the various internal applications as long as they appeared to simply be 'registrations' of interest in land in the district. They seem to have assumed that the Government would simply delay these as it was clearly able to do, until suitable processes had been negotiated for making internal determinations. They knew that Bryce had delayed applications previously, because the district had been considered too volatile for the court to operate effectively. He had informed them of this when he wanted them to make their survey application. They assumed then that he could delay the application of Ngati Hikairo.³⁶ There appeared to be no reason why he could not continue to delay applications from being acted upon.

The chiefs do not seem to have been aware initially that the Government was actually encouraging applications to the court at this time. Instead they continued to work at alternatives to the Native Land Court. For example, in June 1884, Wilkinson reported that Ngati Maniapoto leaders still did not want the Native Land Court to operate within the boundaries of the larger Rohe Potae. He reported that they had withdrawn their applications previously sent to the Native Land Court and now intended to use the native committee instead.³⁷

When the chiefs did suspect that applications might be allowed to proceed straight on to actual subdivisional surveys, they expressed strong concern. Rewi Maniapoto wrote at least two angry letters to Bryce in January 1884, concerned about recent newspaper reports and statements made by Bryce. He was angry at the way the application for survey was being portrayed by the Government and by the press. He was also concerned that the Government appeared to be breaking its word about the extent of the surveys. In one letter Rewi objected strongly to news that Bryce had consented to subdivisional surveys. He reminded Bryce that he had agreed to an external survey only. If such applications were accepted he would

34. Government reply to Whanganui people, 22 September 1884, MA 13/93

35. Letter, 20 May 1884, MA 13/43, NO 84/2382

36. *Waikato Times*, 1 December 1883

37. Wilkinson to Under-Secretary, 4 June 1884, MA 13/93, NO 84/3325

regard Bryce as breaking his word.³⁸ Rewi also informed Bryce that in view of the misrepresentations made about Maori in the newspapers and about the application for a survey of the external boundary, he now wished to withdraw his name from the application. He had only meant the application to be for an external boundary when he made it. He also expected that sufficient time would be allowed to bring in new measures more equitable for Maori. He objected 'altogether to railways being made through our lands and townships established on them until we have obtained self-government'.³⁹ For a while Rewi apparently contemplated rejoining Tawhiao. However, he was eventually persuaded to persist with the application and the tactics adopted by Wahanui and Taonui.⁴⁰

As the Government continued to encourage applications to the court, Wahanui also eventually became concerned. In September 1884, Wahanui wrote to Bryce asking for a clear statement of whether the Government supported his aim that the Native Land Court should not deal with any of the lands within the exterior boundary of the territory owned by the five tribes, 'so that we may have time to frame a law satisfactory to both races and to secure the repeal of the bad laws that are now in force'. In contrast to the detailed replies sent encouraging others to apply to the court, in this case the Government avoided any clear statement of intention. The Under-Secretary of the Native Department simply advised the Minister that 'Your general reply is I think sufficient in this case'.⁴¹

In December 1885, Maniapoto leaders again sought Government assistance with what they believed was the agreement to keep the Native Land Court out of internal operations in the district. Taonui asked Ballance for assistance, so that if any person made an application for a survey or adjudication of the external boundary, the Minister would not on any account give effect to it, but instead inform him of any applications for surveys. He asked if the Government would agree to this. The Under-Secretary of the Native Department advised the Minister, 'I think no notice need be taken of Taonui's letter'. However, he advised that if a reply was sent, then it should be that the Government thought it would be wise for native land owners to bring their land into the Land Court for adjudication and any application would be given effect to. There is however, no evidence on file of any official reply having been sent.⁴²

It seems clear that the Government could have eased concerns and therefore internal applications, by explaining more clearly the policy it was supposed to have agreed to. That is, that there would be no danger of investigations of internal boundaries until the external boundary was determined, and that the process for determining internal titles was not yet agreed upon. Instead, by insisting that the Native Land Court would operate and applications should be made, the Government appears to have fuelled more concerns and generated even more court applications. The Government also seems to have been less than honest with Ngati

38. Rewi Maniapoto to Bryce, 14 January 1884, MA 13/93, NO 84/204

39. Rewi Maniapoto to Native Minister, 26 January 1884, MA 13/93, NO 84/361

40. Ward, 'Whanganui ki Maniapoto', report commissioned by the Waitangi Tribunal, 1992 (Wai 48, doc A20), p 44

41. Correspondence, September to October 1884, MA 13/93, NO 84/2927

42. Correspondence, December 1885, MA 13/93

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Maniapoto leaders, in revealing its intention that the court would operate within their district. This was especially true in the early years when the Government still relied on the support of those leaders in making surveys and later in beginning railway construction.

More research is required as to why the chiefs did continue negotiations, given these concerns. To some extent they may have been persuaded that the Government was willing to negotiate on the legislative changes they wanted. They also appear to have had little choice. They would achieve little by returning the Rohe Potae to isolation. Pressure to bring the Native Land Court into the district through applications was also increasing rapidly. Their best hope seemed to lie in negotiating improvements to the system as quickly as possible and relying on Crown good faith in the agreements made.

The chiefs did make every effort to negotiate improvements and alternatives. They also explained their understanding of what they believed the compact meant. In late 1884, Wahanui travelled to Wellington on behalf of the five iwi to discuss legislative improvements with the Government. He was in time to deal with the new Government, headed by Stout and Vogel, and with John Ballance as the new Native Minister. The most significant of the legislative reforms proposed by the new Government was what was to become the Native Land Alienation Restriction Act 1884. This legislation was intended to prevent private dealing in Maori land in an area that took in most of the larger Rohe Potae as well as a large amount of middle and upper Whanganui lands.

After discussions with Ballance, Wahanui addressed the Legislative Council on 6 November 1884, regarding the proposed legislation. He made his understandings of the compact with Government quite clear. He wanted the Native Land Court to be kept out of the Rohe Potae for the present. He wanted time to first consult with the Government about reaching satisfactory arrangements and laws and he wanted the native committees to have full power in all land dealings and transactions in the district.⁴³

At a later meeting in Kihikihi in 1885, Wahanui spoke about his meetings with Ballance at this time. He explained that he had been sent to Wellington by his people. He spoke to Ballance on a number of issues on their behalf. They wanted Ballance to keep to the external boundary, and sanctioning of the making of the railway line left to them. They did not want Europeans working gold without their authority, and they wanted Maori committees to have full authority to conduct matters for Maori people. They did not want liquor licences granted within certain boundaries or the Native Land Court to have the power to make determinations on any of their lands without their first sanctioning it. They also wanted Europeans to not interfere in Maori lands but to leave Maori to manage the land themselves.⁴⁴

In introducing what became the Native Land Alienation Restriction Act 1884, Ballance claimed that he had at first intended to include only land served by the railway. However, after discussing the matter with Wahanui he found that Wahanui wanted all the lands included, 'So that we have made an important advance in

43. NZPD, 1884, vol 50, p 427

44. AJHR, 1885, G-1, p 14

getting his assent to the prohibition of private dealings in land within these boundaries'.⁴⁵ It is difficult to know from this whether it was the Government or Wahanui who was most in favour of prohibiting private dealings in the district in this way. However, the provisions were presented to Wahanui as a protection from the speculators and other private agents that had wreaked so much destruction on Maori interests in other areas.

Ballance also foreshadowed other legislative provisions when he introduced the Bill, although in the end these provisions were deferred and were not included in the 1884 Act. These provisions included enabling the Native Land Court to award title to a tribe, hapu or individual as they wished and giving greater powers to native committees.⁴⁶ When members of the Legislative Council were debating amendments to the Bill, further reference was made to Wahanui's wishes expressed in a letter to Wi Tako Ngatata. Ngatata explained:

he wished the dealing with the land to be left in his own hands; and, when the Government desire to purchase lands from him, it should be made public to all the Natives having an interest in that part of the district, and when the Government desire to make a purchase it should interview the tribes of that district, and also make the matter known to the Committee of the district. It is not that he desires to retain permanent possession of that land, but he wishes to wait until the mode is made clear by which dealings can be undertaken, and then will be the time to open such negotiations. He has no fears about a railway passing through that district. They are quite clear on that point, and willing to allow it so to pass; but what they desire is that Native lands which have not been adjudicated upon, or for which the title has not been issued, should not be dealt with until some public arrangement has been come to. He also wishes that the system of advancing money to individual Natives should be put a stop to, and they wish that, in all purchases in these blocks, there should be only one mode, and that should be publicly made known to all those interested.⁴⁷

It is clear from this that Wahanui wanted to maintain iwi and hapu authority in negotiating land deals, whether by sale or lease. This would be achieved through powerful native committees. He also wanted a public, open system that included all those interested and avoided the previous system of secret individual dealing that had caused so much damage to iwi and hapu authority and ultimately to Maori land ownership in other areas. In the end, however, the Government decided to retain the powers of the Native Land Court and not hand over as much power to the native committees as Wahanui had requested.⁴⁸

Final preparations for the construction of the main trunk railway were also being made by this time. Within a few days of the Native Land Alienation Restriction Act being passed, the Railways Authorisation Act 1884 confirmed a central route for the main trunk railway. Shortly after this, the Government decided that compensation for land taken for the railway would only be paid when title was determined by the Native Land Court.⁴⁹ This anticipated that the Native Land Court

45. NZPD, 1884, vol 50, pp 312–313

46. Ward, p 47

47. NZPD, vol 50, p 489

48. For more detailed discussion of legislation see Ward, pp 45–52,

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would not only operate within the boundary of the larger Rohe Potae, but also within the Ngati Maniapoto lands the railway would run through.

Negotiations over proposed legislative improvements continued over the next few years. Ballance did make some improvements. He agreed to improve native committees and reform some of the rates legislation that affected Maori land. However, he still refused to give Maori the full self management powers they sought, including the transfer of powers of investigation and determination from the Land Court to native committees. As part of the continuing negotiations, in early 1885, representatives of Ngati Maniapoto, Ngati Raukawa, Whanganui, and Ngati Hikairo but not Ngati Tuwharetoa, met at Kihikihi to agree to terms for the construction of the railway.⁵⁰ Legislation was passed enabling land to be taken for railway purposes and in April 1885 the ceremony of turning the first sod was performed on the south bank of the Puniu River by Premier Robert Stout, Wahanui, and Rewi.

While the negotiations continued, concern within the district about protecting land interests gradually seemed to override attempts to keep the iwi confederation ideal alive. More research is required on this, but it seems that some iwi became concerned that the application for survey might itself influence the court process against their interests. This was not the intention of the Ngati Maniapoto leaders and more needs to be known about the impact of officials, the press and other interested parties in fostering these fears, as well as the Government role in failing to reassure iwi other than advising even more applications to the Native Land Court.

These fears were expressed for example, by a hapu of Ngati Raukawa who wrote to the Government in May 1885. They wrote that they now wished to stand aloof from the pan-iwi agreement. They were apparently concerned about the way the court might view Wahanui's line. They wrote that they did not approve 'of any one man administering our land' and reminded the Government that it was not lawful for one man 'to assume control over the district of any other person or hapu'. The official reply, approved by the Native Minister, agreed that they were quite right in assuming no one could control their land without their consent. Once again they were advised to bring their land to the Native Land Court so title could be settled.⁵¹ This fell far short of assuring them of what was really the case; that there was no intention by the chiefs to administer or assume control over the land of individual hapu.

It is not clear from preliminary research how accurate the press reports about applications were, and how many were really made to the Land Court at this time. By the mid 1880s however, the Government clearly had enough applications from significantly powerful iwi groups to enable the court to begin determining iwi boundaries within the district as it had always intended. In October 1885, Ngati Tuwharetoa had made a separate application for a hearing of the Tauponuiatia block and applications were also made to cut out upper Whanganui lands. The details of

49. Ward, p 52

50. Ibid, pp 55-57

51. Letter, 28 May 1885; reply, 8 September 1885, MA 13/93

these applications and subsequent alienations are covered in more detail in the *Pouakani Report* and the Rangahaua Whanui report on the Whanganui district. Finally in June 1886, the Native Land Court began sitting at Kihikihi and afterwards at Otorohanga, to determine the boundaries of the remaining Aotea block. The original area of some 3,500,000 acres envisaged in the 1883 petition was now reduced to some 1,844,780 acres of largely Ngati Maniapoto land.⁵²

By this time, the Government and the Native Land Court had also apparently decided that the smaller Ngati Maniapoto, Aotea block, would be officially recognised as being the actual 'Rohepotae' or King Country. The larger area of the 1883 petition was apparently never officially recognised. The Native Land Court began to impose this definition by, for example, replacing 'Aotea' with 'Rohepotae' on court maps.⁵³

Within two years, by 1888, the Native Land Court had also begun hearings on internal divisions within the Rohe Potae (Aotea) block.⁵⁴ Again the applications for hearings on internal divisions seemed to undermine the aims of chiefs to wait until a more satisfactory system had been negotiated. However, the pressures behind these applications appear to have been very similar to those that had caused the earlier applications. More research is required but again it seems as though the alarm engendered by the court process, and the corresponding need to protect land by whatever means was available, were the most significant pressures.

The whole process was described in some detail by Wilkinson in an official report published in 1890.⁵⁵ Wilkinson explained how Ngati Maniapoto leaders had originally tried to have only the external boundaries of the Rohe Potae surveyed and then determined by the Native Land Court. They had believed that if they did this then they would be acknowledged as owners by European law and the Government. However, they then found their title would not be recognised in law unless they proved it in the Native Land Court. They were therefore forced, very reluctantly, into the Native Land Court process. This was in spite of their wish to prevent Government tribunals such as the Native Land Court from becoming involved with their land. By this time they had also allowed the railway to go through their land.

Wilkinson described how the court then required lists of owners before it would make an order for title. Ngati Maniapoto objected to this for a long time. They wanted title awarded to iwi and hapu only. They recognised that the creation of individual title threatened traditional hapu and iwi authority over land and made land sales much more likely. Wilkinson claimed that at this point 'commenced the jealousy, ill-feeling, bickerings and quarrelling' that finally resulted in the subdivision of the original large block into numerous small blocks with separate lists of owners for each.⁵⁶

Wilkinson went on to describe how Ngati Maniapoto tried hard to stop proceedings at this point because the next stage involved surveys of the boundaries

52. Stout–Ngata report, AJHR, 1907, G-1B, p 2

53. For example, see *Pouakani Report*, p 409, app 12,

54. See correspondence, MA 13/78, NLP 88/238

55. AJHR, 1890, G-2, p 3; cited in Ward, pp 90–92

56. Ibid

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of the small subdivisions as defined by the court and it was clear that once this was done and the area known there was nothing to prevent individual sales, something ‘that was almost unanimously considered should not be allowed’ if it could possibly be avoided. The owners also made determined efforts to prevent the Government getting a survey lien or other hold on the land. When they saw they could not avoid surveys because without them the court award was not complete, they tried to make private arrangements for surveys and keep the Government out. However, they eventually agreed to allow the Government to make the surveys when they were persuaded it would be more accurate and ‘quite as cheap’ to do so.⁵⁷

By 1890, Wilkinson was looking forward to the final stage – the parting of Ngati Maniapoto from their land by sale. He observed how they had entered upon each stage in the process with reluctance and with as much delay as possible and he had no doubt that they would be likely to be as reluctant with the final stage of selling. However, he confidently noted that numerous elements were at work already, ‘the greatest of which is jealousy’ which he confidently expected to bring about a ‘complete disintegration of their policy of anti-land-selling’ before long.⁵⁸

In his report, Wilkinson trivialised the applications for hearings of internal divisions as being motivated by ‘jealousy, ill-feeling, bickerings and quarrelling’. More research is required on this, but it seems that this description conveniently absolved Government policies and officials from any blame and also devalued the very real concerns of various hapu and iwi in the district to protect their interests and authority. In fact his report precisely reveals the very real pressures, many created by the Government, that forced Ngati Maniapoto, however reluctantly, into the process.

Wilkinson’s report acknowledged that Ngati Maniapoto were reluctant to enter a process they knew threatened their interests and their ability to retain control over their land. The report also acknowledged the way the chiefs attempted to make the best of the process as each step became unavoidable and how these attempts were also undermined by court and Government policies. Once started, the court process rolled on inexorably from determining outer boundaries to determining title within the Aotea block itself, and to individualising title. This process was intended by Government and was essential before land could be freeholded in the interests of European settlement. It seems apparent that issues of the Government’s good faith arise from imposing a system many Ngati Maniapoto chiefs had rejected and tried so hard to avoid.

The evidence from the years 1883 to 1888 appears to support the contentions already made in the *Pouakani Report* that there were fundamental contradictions in Government and Ngati Maniapoto understandings of what had been achieved by the ‘compact’ or ‘Aotea agreement’ of the years 1882 and 1883. That report found that in terms of Native Land Court operations, there was nothing to suggest that the Government saw the ‘Aotea agreement’ as anything other than success in persuading Ngati Maniapoto to allow a boundary survey which would be the first

57. Ibid

58. Ibid

stage in the ‘inexorable process’ of translating native title into one recognised in British law through the due procedures of the Native Land Court.⁵⁹ The report went on:

Wahanui had a vision of maintaining in the Rohe Potae a region where Maori could retain control of their own lands and resources, allowing at the same time the railway construction and controlled European settlement. The government appears to have had a different agenda, which was to throw open the King country for settlement, ‘progress’ development and ‘civilization’ and the break up of tribal organisation.⁶⁰

4.2 THE ADOPTION OF A POLICY OF GOVERNMENT PURCHASING

It seems clear that iwi leaders in the greater Rohe Potae favoured taking advantage of economic opportunities by leasing rather than selling land. There was no split in the King movement on this issue. This policy was quite clearly understood and reported in the press and acknowledged by Government in the important negotiations and meetings held with iwi leaders of 1882 and 1883.

It seems equally clear that successive governments were interested in opening up the Rohe Potae to European settlement. It was widely assumed among settlers that European settlement was required, if full advantage was to be taken of economic opportunities in the district. For Government, widespread European settlement of the district also had the advantage of providing a ‘civilising’ and pacifying influence. More research is required on how genuine Government ministers really were in their often proclaimed support for Maori preferences to lease land. There is plenty of evidence for these assurances. Bryce for example, urged Ngati Maniapoto to lease rather than sell at the Kihikihi meeting of 1 December, as described above.⁶¹ Such assurances were important to Maori. Rohe Potae iwi were also clearly impressed with the Government’s early practical experiments in long-term leasing of Maori land. The 1880 agreement for long-term leasing of Maori land in Rotorua was still favourably regarded at this time. John Bryce had seen the relevant legislation through Parliament for the Rotorua leasing and urged something similar for Ngati Maniapoto. The initial high prices paid for the Rotorua leases also seemed very attractive.⁶²

By the mid 1880s however, electoral pressures and possibly also financial pressures, appear to have increasingly persuaded governments towards a policy of outright purchasing rather than encouraging the leasing of Maori land. Along with this, governments increasingly began to favour more state involvement in purchasing and developing land for European settlement. Bryce, Ballance and the later Liberal Government of the 1890s, all favoured state purchase and development of land for intensive settlement by small European farmers. They had

59. *Pouakani Report*, p 110

60. *Ibid*, p 130

61. *Waikato Times*, 1 December 1883

62. Ward, p 33

all become convinced that private purchasing had generally favoured wealthy speculators who had bought up large areas of Maori land, leaving the ordinary small settler effectively sidelined. An example of this was Ballance's stated opposition to the previous landed monopoly where only a few wealthy European speculators were able to deal in land. He wanted to replace this with Government intervention in buying up Maori land, putting in roads, and opening the land to as close a settlement as possible by public means.⁶³ As the main trunk railway construction began, it seems that governments were also keen to use land speculation themselves as a means of financing the costs of railway construction and development. The purchasing of cheap Maori land along the railway for later resale at a profit appears to have become an important part of Government policy by the mid 1880s.

More research is required on this transition from Government support for leasing to a determination to purchase. There is evidence of it for example in debates on the Native Land Alienation Restriction Bill 1884. John Bryce, by then in opposition, voiced the widespread settler demand that Maori land had to be 'utilised', even if at this stage he was vague on how this should happen. He warned the Government that it had to be done, not necessarily by sale or even by lease, but such a large area of land needed to be utilised in some way. If this was not done in a fair and reasonable way then 'they will be got at in some unfair and unreasonable way'.⁶⁴ The Bill itself, although it was portrayed to Maori leaders as a protective measure, also proved to be a measure laying the groundwork for Government purchasing of Maori land. As Alan Ward has noted, this sparked debates on whether Crown or private purchasers might be more predatory on Maori land. Walter Mantell prophetically noted that it was the 'very lifeblood of government' to get 'the largest amount of land for the least possible price'. Other members revealed the ruthless paternalism of settlers in rejecting as intolerable any notion of Maori 'landlordism' and insisting that it was not 'good' for Maori to belong to the entrepreneurial classes. For example, James Williamson of Auckland believed that:

the sooner the Natives of New Zealand are relieved of their surplus land fairly, the better for them . . . and the sooner the Natives are brought to such a position that they have to attend to their own affairs, and become workers in the community, the better it will be for the Natives themselves.⁶⁵

As early as 1884, it seems clear the Government was collecting information for possible purchasing through applications already sent to the court.⁶⁶ By the time the Native Land Court began sitting to determine the boundaries of the Aotea block in 1886, it is clear the Government was making intense preparations for land purchasing. This was in spite of the very clear wishes of the Rohe Potae chiefs and the understandings they believed that they had with Government.

63. Ballance in Ministers' outwards letterbook, 1885, series 30/3, pp 174–177

64. NZPD, 1884, vol 50, p 321

65. Ward, p 49; NZPD, 1884, pp 436–438

66. MA series 13/93, NO 84/102

Initially the main pressure to acquire ‘surplus’ land through purchasing seems to have been focused on the land along the railway route. Ward has cited the cynical speech of Ballance in Parliament in 1885 regarding acquiring this land for settlement. Ballance acknowledged that the Native Land Court was an essential mechanism of the process, ‘the merest tyro in the House well knows that the land cannot be acquired for settlement until it has been passed through the Native Land Court’. To get land through the court the first step was ‘to establish a feeling of confidence’ in the natives, and:

unless that confidence is established it may be years before there will be any possibility of acquiring any quantity of land for settlement along the course of that line of railway.

He described how the 1884 Act gave the Government ‘the absolute right’ to deal with the land specified in the schedule to the Act. They had already managed to acquire some land and had surveyed it for small farm settlements. The idea of taking the land along the railway and then paying compensation he described as ‘insane’, but purchasing was another matter – ‘there is only one safe way of getting land from natives along the line, and that is by purchase’.⁶⁷ Ballance went on to advocate purchasing land along the railway in stages, until, he believed, the Government would eventually be able to obtain nearly two million acres for settlement purposes. He criticised proposals to try and obtain 500,000 acres for settlement purposes immediately, as doomed to failure: ‘you will create suspicion in the minds of the natives, and they will refuse to sell any land at all’. As Ward has noted:

the lack of full disclosure of government intentions to the Rohe Potae chiefs generally (in order to ‘establish a feeling of confidence in the minds of the Natives’) amounts to deliberate deception, especially in view of the government’s earlier emphasis on leasing on the Thermal Springs model.⁶⁸

More research is required on this apparent lack of disclosure by Government as negotiations continued with Rohe Potae leaders in the mid 1880s. It seems clear that the decision by this time to purchase ‘surplus’ Maori land along the railway route is likely to have influenced Government policy in negotiations. For example, as the Government became committed to purchasing, it may have seemed preferable to retain the mechanism of the Native Land Court rather than giving more powers to native committees in favour of leasing, as requested by the chiefs. Similarly, the Native Land Alienation Restriction Act 1884 was promised as a protection from private land sharks. However, as will be seen, it was not long before iwi of the district regarded the Act itself as the major threat to their interests. It created a Government monopoly in any kind of dealing in Maori land in the district, which not only undermined leasing opportunities but effectively provided a lever to drive down prices and allow district-wide purchasing tactics by keeping out significant competition.

67. NZPD, vol 53, 1885, pp 354–355

68. Ward, p 63

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Although they may not have been aware of the full extent of Government involvement, it seems clear that Wahanui and other chiefs of the district were already concerned about possible purchasing pressures when the Native Land Court began sitting in 1886. For example, Ward quotes W G Mair as revealing in private correspondence in 1886, that Wahanui was already concerned about the activities of land purchase officers. He knew that Grace and Butler had been making advances, and that Wilkinson was also making inquiries to see if any owners were willing to sell.⁶⁹

It seems clear that the Ngati Maniapoto chiefs were bitterly disappointed that they had not managed to achieve a more equitable system of determining internal divisions. However, once it was clear that the court would begin operating in the district, they then turned to making the best they could of the circumstances. They apparently again tried to take the initiative by attempting to settle internal divisions, for example through the Native Committee, and then have the court effectively ratify these decisions. As before, they wanted title settled, if necessary by the court, and once this was done they then wanted time to decide themselves what would be done with the land, including what land was 'surplus' for leasing.

Maori owners also tried to avoid being forced into land sales through debts. There is evidence that they sought to raise money for surveys themselves as soon as subdivisions began going through the Land Court. This was an attempt to keep the Government and purchase agents from gaining any hold on the land. In January 1889 however, at a meeting in Otorohanga, the Government and Ngati Maniapoto reached an agreement that the Government would make accurate, cheap surveys. The Maori owners would then have two years before the survey costs had to be paid. It was also agreed that should the Government make any purchases, the Government and owners would bear the costs of the surveys in proportion to the land each either retained or purchased. The costs of surveying joint boundaries would be shared.⁷⁰

Officials recognised that Maori owners wanted time to make decisions on their land without immediate pressure to sell. However, they were also aware of the electoral pressures on government from settlers. For example, Ward has cited a private letter of Native Land Court Judge W G Mair in 1886:

These people will not be hurried. They wish to get their land question all settled and then they will set apart some for sale, some for lease and make permanent reserves for their own use. [The Native Department] know all this and commended the idea but I suppose Govt want to acquire something on this side of the Country before Parliament meets again.⁷¹

As Mair noted, it seems that government was under considerable electoral pressure and this intensified through the late 1880s. It was widely believed in the Pakeha community that the construction of the railway and the opening up of the

69. Ward, pp 80–81, citing correspondence between W G and Gilbert Mair in 1886

70. See memo Wilkinson to Lewis, 27 March 1890, MA 13/78, NLP 90/60; references to January meeting in memo from Wilkinson to Lewis, 23 June 1891, NLP 91/163

71. Ward, pp 80-81, quoting correspondence of W G and Gilbert Mair, 1886

district to European settlement would help reverse the economic depression of that time. Ward has noted that the opening up of the King Country was a major election issue in 1887.⁷² As a result, the Government appears to have viewed the opening of the district and the necessary purchasing as a matter of urgency. Again this decision was in stark contrast to the clear wishes of the chiefs who wanted time to make reasoned decisions on their land once title was settled.

It seems clear that preparations for purchasing were being pushed ahead. In 1886 when the Native Land Court determined the boundaries of the Aotea block, Judge Mair ordered that the lists of owners be printed and circulated to chiefs for inspection. On instructions, copies of these lists were also provided to the Native Land Purchase Office and to the Native Minister for their information.⁷³ In 1888, as the Native Land Court began hearings on internal divisions within the Aotea (Rohe Potae) block, Wilkinson was instructed to produce schedules of owners and tracings of blocks for the use of the Native Land Purchase Office and the Minister. (For maps based on tracings Wilkinson produced of blocks in the Rohe Potae likely to be suitable for purchase by 1888 and 1889, see figures 4, 5, and 6.) At that time Wilkinson reported on the suitability of various blocks near the railway line for possible purchasing. He also made clear the unwillingness of Ngati Maniapoto to sell. The Native Department Under-Secretary, T W Lewis, was obliged to inform the Native Minister at this time that, Wilkinson ‘does not, at present, seem to offer much prospect of purchase on reasonable terms’.⁷⁴

It seems that the clear policy of chiefs not to sell land may have resulted in the Government deciding to adopt an approach designed to undermine this policy. More research is required on this and to what extent the Government informed the chiefs of its decision to actively purchase land.

In June 1889, the Government informed Ngati Maniapoto chiefs that it intended to begin land purchase operations in the district. The Native Minister sent separate letters to Wahanui, Taonui, and Hauauru, informing them that the Government intended to begin purchasing land in the Rohepotae as soon as title was ascertained ‘in accordance with the Native Land Court Act’. The Minister made several promises and assurances in the letter. He assured the chiefs that the Government did not intend to see the owners denuded of their lands and promised that sufficient reserves would be made for them. He was certain that it was not in their interests to have their surplus land remaining ‘waste and unoccupied’ and by disposing of their surplus they would find that the portion they retained would be ‘greatly increased in value by the progress of settlement upon the area disposed of’. The Minister then asked the chiefs for their ‘valuable assistance’ in helping the Government acquire surplus native lands for settlement purposes in their district.⁷⁵

The letter was similar to other assurances made to the leaders in that it implied the Government was only interested in their surplus lands, it promised them protection for lands they required and assured them they would have ‘sufficient’

72. Ward, p 81

73. Correspondence, 24 December 1886, MA 13/78, NLP 86/494

74. Memo from T W Lewis to Native Minister, 13 October 1888, MA 13/78, NLP 88/238

75. Letter drafted by Native Department Under-Secretary T W Lewis on 24 June 1889 and sent out under signature of Native Minister on 26 June 1889, MA 13/78, NLP 89/184

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reserves. It also implied that Maori would be able to share in the future prosperity from settlement by having their remaining lands greatly increase in value. In asking the chiefs for their valuable assistance the Government also seemed to be recognising chiefly authority and inviting their participation in decision-making regarding lands for settlement.

At the same time however, the Government was also seeking advice from officials and others as to when purchasing could start and what would be the most effective tactics. Wilkinson's advice as Government native agent was typical of what was being considered. Wilkinson explained that he knew from personal knowledge that the native owners would not 'fully reciprocate the Government desire to acquire land by purchase within the Rohepotae block'. He therefore suggested that the Government undertake what was basically secret purchasing of individual interests, in order to get 'European settlers into the district as soon as possible'. He advised the Government to adopt the system that had proved so effective elsewhere. This was individual secret purchasing in several blocks at once, so that when the Government had obtained as many interests in a block as was likely within a reasonable time, it could then apply to have the Crown's interests defined:

In this way considerable areas of several blocks may more or less quickly become Crown property which, collectively may be sufficient to meet the present requirements of settlement. The purchase of the balance, or unsold portions of these blocks could still be gone on with should it be thought advisable to do so⁷⁶

This attitude, that breaking down opposition to land-selling was justified in the interests of settlement, appears to have become widespread within Government by this time. It was well known that the chiefs had always favoured leasing over selling and that they wanted to retain large areas of land for their future prosperity. They had stated this from the beginning of negotiations. This view was now apparently widely regarded as obstructionist to settlement and to the 'good' of the colony. Reports such as this and Wilkinson's 1890 report already referred to, assumed the need to break down this 'anti-land selling' policy of Ngati Maniapoto in the interests of settlement as soon as possible.

In December 1889, Native Department Under-Secretary, T W Lewis, travelled to Te Awamutu and held a long conference with Wilkinson, Hursthouse (surveyor) and Ellis (storekeeper) on possible land purchasing tactics. Lewis noted that he had also seen Wahanui and other leaders on this visit. No official record of these meetings was apparently kept. However, after his long meeting with Wilkinson and company, Lewis sent a telegram to Native Minister Mitchelson with advice on land purchase policy in the Rohe Potae district.⁷⁷ Within two days, Native Minister Mitchelson responded by issuing formal instructions for Government purchasing to begin in the Rohe Potae.⁷⁸

76. Wilkinson to Native Department Under-Secretary, 24 October 1889, MA 13/78, NLP 89/332

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

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

Rohe Potae

Therefore in late 1889, Government purchasing in the Aotea (Rohe Potae) block had officially begun. It remained to be seen how the Government would balance the electoral pressures it was under, with the known wishes and its own assurances to the Ngati Maniapoto chiefs, as to how settlement might be managed.

CHAPTER 5

GOVERNMENT LAND PURCHASING – THE OVERALL FRAMEWORK

Government land purchasing began in the Aotea (Rohe Potae) block in late 1889 on instructions from Native Minister Mitchelson.¹ By this time, the Government was committed to large scale purchasing of Maori land in the Rohe Potae for the purposes of European settlement. The main foundations on which purchasing would operate had also been firmly established. In spite of the efforts of Rohe Potae chiefs, the Government had retained the Native Land Court as the crucial mechanism for legally determining title within the district. Importantly, at the same time, the Native Land Court provided the means for transferring traditional Maori ownership into title that could be legally purchased. The court had begun hearings on internal divisions within the Aotea (Rohe Potae) block in 1888. By 1889, the first subdivisions were becoming legally available for purchase. At the same time however, it is clear that Maori in the district were almost universally opposed to selling land. In addition, the Crown had ensured itself a virtual monopoly on land dealings in the Rohe Potae, through the Native Land Alienation Restriction Act 1884. As a consequence, the Government had a relatively free hand in establishing purchasing policy in the district and officials assumed an important role in contributing to and implementing Government policies. During the 1890s, it also became evident that the Government was willing to provide an array of legislative measures and amendments designed to facilitate the freeholding of Maori land. Some courtesies were still being paid to Wahanui and other Ngati Maniapoto leaders at this time, largely in order to gain their assistance in setting an example in land selling. It seems clear however, that the Government was determined to decide the extent, pace and method of purchasing without the effective participation of Ngati Maniapoto leaders.

5.1 THE NATIVE LAND COURT PROCESS

The Native Land Court process was crucial to Government purchasing in the Aotea (Rohe Potae) block. A full investigation of Native Land Court operations and the legal provisions governing these is beyond the scope of this report. It is also

1. Memo from National Minister Mitchelson to Lewis of 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.

understood that a major study of the Native Land Court in the nineteenth century is currently being undertaken by David Williams. It does seem clear however, that in spite of Government assurances to Ngati Maniapoto leaders, that the court had been greatly improved after the criticisms of the 1883 petition, the chiefs still had good reason to be concerned.

It seems clear that the court process facilitated the alienation of land from Maori ownership, for the purposes of European settlement. The court provided very little assistance, even major obstructions, for Maori wanting to retain land and develop it or lease it themselves. The court's creation of multiple, fragmented, individual title for example, proved to be a major obstacle for hapu who wanted to retain and develop land themselves. The process of individualisation of ownership and the creation of individual title as a tradeable commodity, also threatened hapu and chiefly authority over land management.

Shortly after Government purchasing began in the Rohe Potae, a commission on native land laws released its findings. The 1891 Native Land Laws Commission (also known as the Rees commission after its chairman) provided a damning indictment on the Native Land Court process of the time.² The report confirmed that many of the features the Ngati Maniapoto chiefs had been so concerned to avoid, were still prevalent in the Native Land Court process.

The 1891 commission found that through the operation of the Native Land Court, the Legislature had endeavoured to establish, contrary to native custom, a system of individual title to native lands. These efforts, particularly through the Native Lands Act 1873 and its many amendments and alterations, had resulted in 'confusion, loss, demoralisation, and litigation without precedent'. The commission quoted the words of many of its witnesses, in concluding that, 'The result is chaos'.³

The commission also made particular criticisms of the Native Land Court Act 1888. The report found that clause 21 of that Act had reached the 'climax of absurdity' by requiring that the respective individual interest of each owner should be defined in the original order of ownership or partition. The commission described the task this set the court as 'indescribably hopeless' and as if Parliament was playing a 'gigantic practical joke'. The commission explained that clause 21 required the court to determine an individual interest where no such interest existed in native custom. The court was required to do this without the guide of a solitary precedent or rule, and with at least 35,000 Maori owning land in common in the North Island, plus all the numerous claims to succession already occurring. In contrast, the commission argued that the quasi corporation of tribes and tribal authority already existing, would have made corporate dealing relatively simple.⁴ The majority on the commission were not so much opposed to the Crown dealing in Maori land, but believed dealing at a hapu or 'quasi corporation' level would be much more effective.

The commission condemned the results of the last 25 years where:

2. AJHR, 1891, sess ii, G-1,

3. Report of Native Land Laws Commission, AJHR, 1891, sess ii, G-1, p x

4. AJHR, 1891, sess ii, G-1, pp xvii-xviii

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the Native-land law and the Native Land Courts have drifted from bad to worse. The old public and tribal method of purchase was finally discarded for private and individual dealings. Secrecy, which is ever a badge of fraud, was observed. All the power of the natural leaders of the Maori people was undermined . . . An easy entrance into the title of every block could be found for some paltry bribe.

The commission acknowledged that Maori suffered not only from land alienation under this system, but were also hampered in trying to use the land they retained:

As every single person in a list of owners, comprising, perhaps, over a hundred names had as much right to occupy as anybody else, personal occupation for improvement or tillage was encompassed with uncertainty . . . In the old days the influence of the chiefs and the common customs of the tribe afforded a sufficient guarantee to the thrifty and provident; but [this was lost] when our law forced upon them a new state of things.⁵

The commission went on to describe other ill effects evident in the land court process. This included the gradual deterioration of the court with its ‘excessive’ and ‘imperious’ fees and charges.⁶ The commission also condemned the ‘pernicious’ influence of native agents or Kaiwhakahaere. They had no accountability and were not governed by any rules or procedures, but had established almost complete control of Native Land Court proceedings. The commission found that while some were of assistance to the court, many were unscrupulous. In addition, they often received fees equal to or larger than leading lawyers, so were prone to prolonging court cases indefinitely.⁷

The commission also drew attention to the huge mass of legislation accompanying the Native Land Court process. It noted that every year there was some attempt to amend the confusion and during some sessions half a dozen Bills might be introduced. Of these, three or four might become law and the pages of Hansard were filled with discussions on native lands. The report described how in 1888 there were eight Acts on the subject of Maori lands and courts, and in 1889 there were nine. This was without all those that were only partially concerned with such matters, or those that had been withdrawn or abandoned. At the same time, in the ten years from 1880 to 1890, there were more than a thousand native petitions to Parliament. In fact:

So complete has the confusion both in law and practice become that lawyers of high standing and extensive practice have testified on oath that if the Legislature had desired to create a state of confusion and anarchy in Native-land titles it could not have hoped to be more successful than it has been.⁸

After meeting with Maori to hear evidence on land legislation, the commission reported that it had also received allegations:

5. AJHR, 1891, sess ii, G-1, p x–xi

6. AJHR, 1891, sess ii, G-1, p xi

7. AJHR, 1891, sess ii, G-1, p xviii

8. AJHR, 1891, sess ii, G-1, p xi–xii

that the Native Department and its officers, especially of late, had interfered in many ways with the surveys of land, the actions and decisions of the Judges in the determination of titles, and the sittings of the Court. So far had this feeling been engendered in the minds of the Natives as to cause large numbers of them to distrust the Court.⁹

There is evidence that many of the general criticisms of the Native Land Court process, as outlined by the 1891 commission report, could also have been made of the way the court process operated in the Rohe Potae during the 1890s. More research is required, but as will be seen, it seems clear that officials aggressively pushed for individualisation of title through the court process, in the interests of land purchasing in the district. Other features condemned by the report such as the Kaiwhakahaere, or court agents, were also evident in court sittings in the Rohe Potae. Large court fees and lengthy proceedings and rehearings were a matter of considerable concern to Rohe Potae owners, as were associated survey fees required before title could issue. The chaotic and often inaccurate state of court records, such as inaccurate lists of owners, was already noted in the district just a few months after purchasing began.¹⁰ Problems such as impersonation of owners also continued in spite of efforts to stop them.¹¹ Problems with long court sittings, often miles from where the owners lived, and the subsequent debts that had to be paid off in land as described in evidence to the commission were also present in the Rohe Potae and acknowledged by Lewis in his evidence before the commission.¹²

The 1891 commission report had also noted that evidence from Maori had revealed a great deal of concern about the way in which Government officials could manipulate the Native Land Court process, and judges themselves appeared to be aggressively assisting the aims of land purchasing. The report described how Government officials were accused of interfering in many ways with the court processes, including land surveys, the actions and decisions of the judges in the determination of titles, and the sittings of the court.¹³

Native Land Court judges in the Rohe Potae enthusiastically used legislative provisions that assisted land purchasing, for example, requirements that lists of individual owners be supplied before title would be awarded. Judge Mair ordered that lists of owners were printed for the original Aotea block hearing. The printed lists were circulated so that chiefs could make sure they were correct.¹⁴ However, the lists were also sent to the Native Land Purchase Department where officers then had individual names to target. Owners were aware of this and were very reluctant to provide lists until the court forced them to do so. For example, in 1890, W H Grace explained how owners tried to keep title at a hapu level and avoid handing in lists of individual owners that could then be targeted by purchase officers. He described how when owners showed a reluctance to hand in lists, the

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

10. For example, in Otorohanga block; memo from Wilkinson to Lewis, 20 March 1890, MA 13/78, 90/70

11. For example cases of impersonation in 1890, see MA-MLP, 90/304, box 28 and attachments; for example cases in 1897 see correspondence, December 1897, MA-MLP, box 46, NLP 97/256

12. AJHR, 1891, G-1, pp 153–9

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

14. MA 13/78, NLP 86/494

court responded by threatening to decide who the owners would be itself. With regards to the Rangitoto Tuhua block for example, he reported:

This large block has passed the Court in so far as finding the hapus, and all that remains to be done is the passing of the lists of owners, which no doubt will be done in the course of the next week or two, for the Court has called on the Natives to bring them before it at once or else the Court itself will do so, that is find out for itself who the owners are that should go into the certificate.¹⁵

While this type of provision was employed rigorously by Native Land Court judges, David Williams has shown how, in general, judges also chose not to implement other legislative provisions that may have offered some protection for Maori. This was because Native Land Court judges of the time were in the vanguard of attempts to open up Maori land for purchasing.¹⁶

Native Land Court judges were also well known for their high-handed and arbitrary decisions over the conduct of hearings. Owners who suffered through this, were obliged to go to further expense seeking redress, often in petitions to Parliament. The 1891 commission had commented on the huge number of petitions Maori were making to Parliament. A brief investigation of petitions regarding Rohe Potae land reveals many of the problems with the process. For example, there are printed reports of inquiries under various claims adjustments and amendments Acts for almost every year. Reports under the Maori Land Claims Adjustment and Laws Amendment Act 1904, for example, include findings that owners in Te Kauri block suffered injury through the court partitioning the block without due notice. An application to partition out the Crown's interests was notified for hearing in March 1899. At the hearing and without further notice, the court then went ahead and partitioned the unsold part of the block. The same commission found that owners in the Tahora block suffered injuries under almost identical circumstances. The court went ahead and partitioned the block without notice to the owners.¹⁷

Surveys were an unavoidable part of the Native Land Court process. Title could not be determined without a survey plan even if it was quite rough. The *Pouakani Report* contains more detail on the issue of surveys. As noted in that report, the pressures of the Native Land Court process resulted in many survey errors that were detrimental to Maori owners. In addition, attempting to rectify such errors was a very expensive process.¹⁸ In the Rohe Potae for example, in 1891, Maori owners in the Umukaimata and nearby blocks complained that errors in the survey of the blocks where court evidence and orders had not been followed properly meant that they had been swindled by the Land Purchase Department of some 6000 acres of land.¹⁹

15. W H Grace to Lewis, 24 May 1890, NLP 90/172 and attachments in MA-MLP, box 27

16. D V Williams, 'The Use of Law in the Process of Colonization: An Historical and Comparative Study, with Particular Reference to Tanzania (Mainland) and to New Zealand', Phd thesis, Dar es Salaam 1983, pp 306–308

17. AJHR, 1905, G-1, report of royal commission appointed under Maori Land Claims Adjustment and Laws Amendment Act 1904

18. Waitangi Tribunal, *The Pouakani Report 1993*, Wellington, Brookers Ltd, 1993, p 243

19. Judge Gudgeon to Chief Judge, 15 August 1891, MA-MLP, box 30, NLP 91/291 and attachments

It seems clear that the various stages of the court process also offered many opportunities for manipulation or interference from officials. The actual processes by which land passed through the Native Land Court could be quite complicated. The following brief outline is intended to do no more than assist with understanding the close relationship between the court process and purchasing in the district. Very briefly, as blocks of land passed through the Native Land Court process, they were subject to a series of determinations. These defined ownership progressively from hapu to individual level. They also transformed simple ownership rights and interests in a particular block into closely defined individual ownership of a particular area of land in a specific location within a block. These stages were rarely all achieved in one court sitting. At a variety of stages the court's work would cease for a while and a time period was allowed for applications for rehearings to be made and if necessary, heard. At many of these stages in the process, for example, when lists of owners were made up, or when relative interests were defined, there were also opportunities to make out-of-court agreements which could then be ratified by the court without further investigation. These agreements could also involve the Crown, where the Crown had acquired interests in the land. Not all blocks went through all the stages possible in the court process or even the same pattern of stages. An early Crown purchase would for example, remove the need for further hearings on subdivisions.

Costs were also unavoidably linked to the court process and they were often substantial. Costs were associated with surveys, court hearings, and rehearings. As land was subdivided, survey and other costs were also charged before title could be finalised. The ability of officials to manipulate costs and use them to incur debt, was used to advantage in the purchasing process in the Rohe Potae.

5.2 THE INFLUENCE OF GOVERNMENT OFFICIALS

The legislative framework provided officials with so much influence that their role, the extent of their influence, and the extent of Government controls over them, seems to warrant a closer investigation.

George Wilkinson was appointed Government land purchase officer in the Aotea (Rohe Potae) block in 1889. In reality, during most of the 1890s, he was also responsible for purchasing in much of the wider Rohe Potae. His purchasing responsibilities were within the 'railway area' over which the Crown had a monopoly in dealing in Maori land and where purchase money was available through various railway loan Acts. This included the Pouakani blocks, for example. Wilkinson often referred to this larger area as the Rohe Potae, ironically coming closer to the chiefs' 1883 version of the district. In the Aotea block itself, Wilkinson was involved in by far the majority of purchasing during the 1890s. From time to time, however, he was assisted by other land purchase officers.

Wilkinson was already an experienced Government official when he was appointed to the Rohe Potae. He had previous Government land purchase experience in the Thames and Waikato districts. He was also experienced in other Government duties.²⁰ He was Government native agent and land purchase officer

located at Alexandra (Pirongia), at the time he was appointed to the Rohe Potae.²¹ He also seems to have been court interpreter at the Otorohanga Native Land Court at least some of the time between 1886 and 1890.²²

It seems to have been common at this time for Government officials in districts to have held more than one Government appointment and sometimes these were held concurrently. It raises obvious issues of conflict of interests, where the protection of Maori rights were concerned. For example, in 1885, Ballance visited Waikato Maori to hear their grievances. He advised them to put the grievances to Wilkinson who, as Government native agent, would investigate them.²³ However, Wilkinson was also the local land purchase officer. As many of the grievances were related to purchases, this appeared to raise a clear conflict of interest. Similarly, the Government relied on Wilkinson's reports as Government native agent in deciding on purchase policy, but as a land purchase officer he also had vested interests in this. His role as interpreter to the court would also obviously give him much valuable knowledge for land purchasing. Conversely, his land purchase duties would give him a keen interest in what happened at court.

As an experienced official in the district, Wilkinson had been present at the series of hui between Native Ministers and Ngati Maniapoto leaders regarding the Rohe Potae from 1883 onwards.²⁴ The importance of his duties in purchasing in the Rohe Potae gave him more immediate access to Ministers and senior officials than might otherwise have been the case. His advice based on experience and wide local knowledge was often treated with significant respect. For example, a suggestion he made in 1891 about minors' interests was immediately picked up by Native Minister Cadman for inclusion in his Native Land Court Bill.²⁵ Wilkinson's reports always had an air of authority and objectivity and he rarely appears to have disappointed his superiors. He was careful to avoid being seen to be acting out of self interest, in contrast to other less astute land purchase officers. On the rare occasions where he did appear to have done so, for example, when he was accused of favouring his wife's interests, he was still able to command the support of his superiors.²⁶

Wilkinson was also obviously knowledgeable in Maori language and customs. He had close links to the Maori community and his wife appears to have had influential Ngati Maniapoto connections. Her sister was also married to the prophet Te Mahuki.²⁷ As a result, Wilkinson appears to have had extensive knowledge of the Maori political and social situation within the Rohe Potae. Although married into the Maori community, Wilkinson expected and welcomed the assimilation of Maori into European society and culture. He regarded the opening up of the Rohe

20. MA-MLP, box 26, NLP 89/256

21. For example, see MA 13/93, NO 84/291 and 88/238

22. For example, 1889 note from Lewis – when resume duties as interpreter to the Otorohanga court – can make copies of lists of owners for own use; memo from Lewis to Wilkinson, 8 July 1889, MA 13/78, NLP 89/190

23. Ministers' outward letterbook, 1885, MA series, 30/3, p 38

24. MA 13/78, NLP 90/60

25. Wilkinson to Lewis and note by Cadman, 27 May 1891, MA 13/78, NLP 90/125

26. NLP 1901/66 and attachments; raised question of declaring his personal interest

27. See MA-MLP, box 61, NLP 99/74 attachment to NLP 1901/66

Potae district to close European settlement as inevitable and ultimately beneficial to both Maori and Pakeha. He also welcomed the move from iwi and hapu control of land to ownership based on individual title. He believed the Native Land Court had been created to achieve this purpose. He believed his role was to ensure the court achieved this transformation in title as quickly and effectively as possible. Wilkinson explained this in early 1891 when the court appeared to be failing to define relative interests quickly enough. He was critical that the court could determine title without having to push on and define the relative interests of individual owners. He felt this was defeating ‘the very purpose for which the NL Court was established in New Zealand’. That was, to change old native title ‘to that of one from the Crown for the purposes of settlement’.²⁸

Although Wilkinson was by far the most active land purchase officer in the Rohe Potae, he was assisted by others at various times. Of his assistants, the most active appears to have been William Henry Grace. W H Grace was appointed temporary assistant land purchase officer in the Rohe Potae for three months from the end of March 1890. This was at a time when Wilkinson was making very strong efforts to make a breakthrough in purchasing individual interests. W H Grace also apparently held other Government positions in the district at the same time. For example, at this time he was also Native Land Court interpreter at Otorohanga and when his official service in land purchase ended, he stayed on as interpreter. Even so, his duties as interpreter also required him to assist with land purchase ‘in any way he can’.²⁹ Presumably this included attesting to signatures, a role that required a licensed interpreter. This dual role was also approved by the Native Minister. W H Grace sought extra employment when his role as interpreter lapsed between Native Land Court sittings and appears to have helped with land purchasing during these periods as well. For example, in October 1894, he was officially appointed as land purchase officer to replace Wilkinson who was taking three months’ leave of absence.³⁰

W H Grace also had considerable experience in dealings with Maori land, although not always in an official capacity. He came from a large family who had made close links with Ngati Tuwharetoa and to a lesser extent Ngati Maniapoto. His brother John Grace, was also a court interpreter and land purchase officer. Another brother, Lawrence Grace, as well as being active in land purchasing at various times, was also a member of the House of Representatives for some years and was a Justice of the Peace. Lawrence Grace was an member of Parliament in 1886 when the Native Land Court began sitting in the Rohe Potae. He had been one of those who had advised Ngati Tuwharetoa that their best interests lay in making an application to the Native Land Court to have their own title investigated and their boundaries determined. He had argued this would allow them to settle their land title so they could turn their attention to improving their position.³¹ The separate application that Ngati Tuwharetoa made in 1885, essentially helped to undermine the aim of Wahanui and others leaders to have only one external

28. Wilkinson to Under-Secretary Native Department, MA 13/78, NLP 91/65

29. MA-MLP, box 27, NLP 90/172 and attachments; NLP 90/39 and NLP 90/166, February, May 1890

30. Correspondence, MA-MLP, box 35, NLP 94/279

31. *Pouakani Report*, ch 8, p 115

boundary for the whole district, and led to the creation of the separate Taupouiatia block.

It is important to consider the implications of W H Grace's character and past activities, given his later role in purchasing in the Rohe Potae. He had been involved in the early 1882 Native Land Court hearing on the Mohakatino Parininihi block where Ngati Maniapoto challenged Ngati Tama's claim to ownership. In that case he had acted as court agent or Kaiwhakahaere for Ngati Maniapoto.³² However, Evelyn Stokes has submitted diary extracts that show that he was actually employed by Joshua Jones at this time. He was acting for Ngati Maniapoto in order that Jones could preserve his lease.³³ As already seen, W H Grace had also been active in lobbying Ngati Maniapoto chiefs when Bryce sought their agreement to make an application for the external boundary survey.

Like Wilkinson, Grace had also married into the local Maori community, although the many relationships in the district conducted by various Grace brothers caused some concern among hapu and iwi leaders.³⁴ Like Wilkinson, the Grace brothers believed the future prosperity of the Taupo and Rohe Potae districts was dependent on extensive European settlement. As well as their land purchase activities, they were also active in lobbying the Government on this.³⁵

W H Grace was also experienced in purchasing Maori land on behalf of the Government previous to 1890. He had worked as both Government native agent and land purchase officer in the Upper Waikato in the late 1870s and again as land purchase officer in the Taupo district from mid-1885.³⁶ He was much less circumspect than Wilkinson and the records associated with his past land purchase activities showed that he was apparently well versed in some of the more unsavoury tactics used to manipulate Native Land Court hearings to assist purchasing. He was accused on oath, for example, of coaching a witness to give false evidence in the 1884 hearing of the Maungatautari block.³⁷ His activities in the Taupo region also came to light at the Taupouiatia commission of inquiry.³⁸

At first the Government refused to take notice of complaints against the activities of the Grace brothers, including W H Grace in the Taupo district. The complaints were simply put down to being motivated by those who were anti-land selling and anti-public works. For example, Hoani Taipua, a member of the House of Representatives, wrote to the Native Minister in October 1887, seeking an inquiry into the large number of complaints against the brothers. The Native Department's Under-Secretary, T W Lewis, advised the Minister that the allegations should be taken 'with several grains of salt' as Taipua's informants were known opponents of land selling and public works.³⁹ However, as a result of evidence before the Taupouiatia commission in 1889, the Government was finally forced to recognise

32. *Pouakani Report*, p 109

33. Diary extracts of W H Grace, 1882, submission of Evelyn Stokes (Wai 143 record of documents, doc H18)

34. For more details see *Pouakani Report*; MA-MLP box 26, NLP 89/240 and attachments

35. For example, letter from L M Grace urging the Government to recommence purchasing in southern Taupo so district would progress, 31 October 1890, MA-ML, box 28, NLP 90/385

36. MA-MLP, box 27, NLP 90/172 and attachments

37. MA-MLP, box 61, NLP 92/112, attachment to 1901/95

38. For more details, see *Pouakani Report*; MA-MLP, box 26, NLP 89/240 and attachments

39. Lewis to Native Minister, 17 October 1887, MA-MLP, box 27, NLP 87/310 attached to NLP 90/172

that W H Grace had been involved in bribing witnesses to withhold evidence in Native Land Court hearings on the Pouakani block.⁴⁰

The Native Department Under-Secretary, Lewis, reported to the Minister, that the inquiry revealed that W H Grace had entered into an agreement with Mrs Moon (Karawhira Kapu) to pay a bonus to certain Maori owners if they did not prosecute their claims to the Pouakani block in the Native Land Court. Lewis described Grace's actions as very 'irregular and reprehensible' and done without the knowledge or the authority of the Government. He reported that Grace's actions had not come to light until after he had left the Government service.⁴¹ Grace had claimed to the commission that if he was able to buy land at a lower rate than that authorised, then he could use the difference to pay bonuses to chiefs for services in assisting land purchase. He intended to pay the moneys promised in the agreement, out of funds saved in this way. Sheridan, the officer in charge of the Land Purchase Department, commented that Grace had no authority do so and it would not be allowed, except with the approval of the Minister.⁴² In other words, his main failure had been not to obtain ministerial approval first.

W H Grace was cross-examined before the commission by Mr Moon. File notes indicate that Sheridan apparently believed the Moons had been instrumental in bringing forward the complaints, after falling out with Grace. Grace also revealed under questioning that he had arranged with storekeepers to supply certain Maori owners on his recommendation. The advances were then paid off when the owners received money for their land. Sheridan commented on this. He asserted that any arrangement Grace made with storekeepers was on his own responsibility 'and is not acknowledged by this department'. In response to Grace's claim that he had used his discretionary powers, Sheridan knew of no such powers other than using his own 'common sense'. Grace claimed that he had been given no special instructions in land purchasing. He was simply following what he knew had been done in other instances where similar tactics had been used, for example at Te Aroha. He pointed out that in the Waimarino block purchase, bonuses in the form of land had been paid to certain chiefs for their services. He was aware the Government had later repudiated this, but he claimed that this was after he had made his agreement. Had he chosen, Grace might also have mentioned the Takoha system that had been prevalent in Taranaki until only a few years before, and where the Government was still trying to sort out the consequences.⁴³

In the end, W H Grace appears to have been saved by the fact that he had already left the Government service by the time the inquiry was held. Otherwise, department officials assured the Minister, such activities (for example, using money authorised for purchasing for paying for services without authority) would have likely been met with dismissal and prosecution.⁴⁴ Grace had actually been

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

41. Report to Native Minister, 16 August 1889, MA-MLP, box 26, NLP 89/240 and attachments

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

43. For example, re Chas Browne and fiasco with Takoha payments and advances in that situation, MA-MLP, box 27, NLP 89/318

44. Note by Sheridan on Lewis report, 19 August 1889, MA-MLP, box 26, NLP 89/240 and attachments

retrenched as part of the layoffs from the Government due to the depression in the late 1880s.⁴⁵

However, it is revealing that Grace apparently had very little difficulty in being re-employed by the same officials as a land purchase officer. He applied for such employment in late 1889 after hearing that purchasing was beginning in the Rohe Potae. Sheridan noted to the Minister that ‘Mr Grace did his work very well when in the service before’. His actions over the Pouakani hearing were the only ‘irregularity’ noted against him and Sheridan was quite satisfied that in that case he had been guided by a wrong sense of duty and the advice of his brother who was then in the House. Sheridan recommended him for temporary employment.⁴⁶

The application was stood over for a while but when Wilkinson needed help to attest signatures on purchase deeds in early 1890, W H Grace was appointed temporary land purchase officer as well as court interpreter, in the hope that he could assist Wilkinson to ‘break the ice’. This was done with Ministerial approval.⁴⁷ When the time period for the temporary appointment ended, as already noted he was kept on as interpreter while it was understood that he would still be available to witness signatures or assist Mr Wilkinson in land purchase ‘in any way he can’, also with the Minister’s approval.⁴⁸

In later years, W H Grace continued to move between official and private employment. In about 1892 he appears to have fallen out with Wilkinson. He then acted as an agent at court or Kaiwhakahaere, for Ngati Raukawa as non-sellers opposing the seller’s (and also the Crown) case in the Wharepuhunga block hearing in April and May 1892. In that hearing he was also critical of Crown purchase activities in the block.⁴⁹ In 1894 he also sought to have compensation included in helping pay off survey liens due on land for some owners, including his wife.⁵⁰

The senior Government official involved in the development of land purchase policy in the Rohe Potae was Thomas William Lewis. In 1890, when purchasing in the district had just begun, Lewis was the Under-Secretary of the Native Department and at the time he was also responsible for the Land Purchase Department. T W Lewis was already a very experienced official in 1890. He had begun Government service in 1863 in the Defence Office and in 1869 became private secretary to Sir Donald McLean when the latter assumed ministerial office. Lewis was made Under-Secretary of the Native Department in 1879. In 1885 he was also placed in charge of the Land Purchase Department.⁵¹

T W Lewis shared very similar views to Wilkinson on land purchasing and the role of the Native Land Court. He explained these to the Native Land Laws Commission in 1891. Regarding the Native Land Court and native land legislation, Lewis strongly believed that:

45. MA-MLP, box 27, NLP 90/172 and attachments

46. MA-MLP, box 27, NLP 89/346 attached to 90/172

47. MA-MLP, box 27, NLP 90/39 attached to 90/172

48. MA-MLP, box 27, NLP 90/166 and NLP 90/172

49. MA-MLP, box 61, NLP 1892/112 attached to NLP 1901/95

50. MA-MLP, box 62, NLP 94/121 attached to 1901/96

51. Evidence before Rees commission 1891, AJHR, 1891, sess ii, G-1, p 145

the whole object of appointing a Court for the ascertainment of Native title was to enable alienation for settlement. Unless this object is attained the Court serves no good purpose, and the Natives would be better without it, as, in my opinion fairer Native occupation would be had under the Maori's own customs and usages without any intervention whatever from outside.⁵²

Given that the purpose of the Native Land Court was entirely to enable land to be made legally available for settlement, Lewis argued that it should be able to make a final and definite ascertainment of native title in order that either the Government or private individuals could buy the land. Lewis suggested that obstructions to this should be dealt with. For example, where false evidence hampered the court it should be able to imprison offenders for brief periods in order to put a stop to the practice.

Similarly, Lewis did not believe that Maori should be allowed to keep their land out of court. Where owners had not sent in applications to determine title, then the court should simply notify them of its intention and then ascertain title itself. If the owners refused to give evidence then the court should decide ownership on the best evidence it could find. Lewis was especially concerned that the court should decide the relative interests of individual owners when title was determined. Lewis advised that all possible impediments to bringing land before the court should be removed. For example, the Crown should pay the survey costs required for the initial determination of ownership and assist Maori owners who were prevented from bringing lands to the court because of costs. This assistance could be provided out of moneys set aside for purchasing and then should form a lien on the land to be recovered on the application of the Crown. The court should then award land to pay for all the costs.

Lewis argued that the Crown should also take precedence above all other suitors before the land court. This was because in providing land for settlement, the Crown was acting in the interests of the whole country, 'Natives and Europeans together'. This would mean that in cases where the Crown wanted a case heard, that hearing should automatically take place before any others that might be waiting. Lewis also complained that restrictions against alienation should not apply to the Crown as the Crown would always be responsible for meeting and remedying any transaction where it might have acted improperly.

Lewis suggested a number of other possible improvements to the court to the commission, in the interests of ascertaining a quick and reliable form of individual title. He also noted some suggestions that might help remedy some of the 'evils' at present associated with the land courts and therefore ensure their better operation. He noted, for example, the problems associated with owners having to attend court sittings in case their claim might come up and then finding maybe after some months that their case(s) would not be heard. In the meantime the owners had gone into debt living in town and were forced to sell some land to pay the debts. Lewis suggested a system of runanga where the owners could decide title and individualise it themselves, have this decision publicly notified so objections could be made and then have the court in effect ratify it at a pre-set hearing, with limited

52. Rees commission report, AJHR, 1891, sess ii, G-1, p 145

dates set in advance. Lewis hoped that this proposal would in fact remove the bitter and constant litigation that was now taking place in court and allow Maori to decide title themselves and in their own way before it reached the court. He believed that they were then more likely to give truthful evidence. Lewis was confident that this would tend to facilitate subdivision and individualisation by the court and would bring the native owners into harmony and sympathy with the court, instead of being dissatisfied and antagonistic towards it. He felt this would work particularly well in the Rohe Potae where land court hearings had been taking place for about five years ‘and for the practical purposes of dealing with it, it is but little advanced’. However, he believed that the Ngati Maniapoto tribe could have arrived at a satisfactory settlement themselves and the same could happen in the Taupo region. This would also vastly reduce costs and time for everyone, natives and the colony.⁵³

It seems clear that most if not all of Lewis’ concerns about the operation of the land court and associated land purchasing were based on problems being encountered at the time in the Rohe Potae. The failure of the Native Land Court to individualise title quickly enough was to be remedied by allowing Maori to determine title themselves in what was recognised to be a much more effective format – through traditional chiefly and hapu authority. This was what Maniapoto leaders had sought all along. But the ultimate ends were quite different. Lewis and his contemporaries saw the whole colony benefiting from the individualisation of title and the alienation of land from Maori to European ownership. Maori leaders saw that for Maori this in effect meant marginalisation. They wanted to maintain some control over land management after title was determined and some means of retaining, developing and using land themselves.

The assumptions and beliefs held by Government officials were important in developing and promoting land purchase policy in the Rohe Potae district. They believed they had a duty to manipulate the court system to make it more effective in enabling Maori land to be freeholded. They also played an active role in promoting the many legislative amendments designed to facilitate the court process and land purchasing. The monopoly situation the Government had created for itself in the Rohe Potae through the Native Land Alienation Restriction Act 1884, made the alliance of land purchase officers, senior officials and Ministers even more powerful. They also had access to the wider Cabinet and Native Land Court judges and officials as necessary. With competition excluded, there was little opportunity for effective public scrutiny and they were able to develop district wide strategies with little fear of competition.

There is plenty of evidence of the power of this close relationship between various officials and Ministers. For example, Lewis seemed to have developed a close working relationship with the Chief Judge of the Native Land Court. He was apparently able to discuss issues of court policy and practice that affected land purchasing with the Chief Judge and also discuss possible remedies. For example, in 1889 he was able to confirm his views over the effects of recent legislation and obtain agreement on the priorities to be set for the court when it next sat in the Rohe Potae.⁵⁴

53. 1891 Rees commission report, AJHR, 1891, sess ii, G-1, pp 145–151

As the 1891 commission report had predicted, the task of defining relative interests was far too large for the Native Land Courts, including those sitting in the Rohe Potae. However, officials still appeared to think the task was possible, and continued to seek assistance from the chief judge in the matter. In 1891, Wilkinson again asked Lewis to intervene with the chief judge to have the court due to sit in Otorohanga instructed to make defining relative interests its first priority. He was convinced by this time that:

whatever may be the policy that it is intended to adopt hereafter with regard to Native lands and their acquirement and settlement by Europeans, I think that it is clear that it is absolutely necessary that the extent of each owner should be defined as soon as possible.

Lewis agreed, and advised the Native Minister about their concerns. He informed the Native Minister that he had been concerned about the matter since the Native Land Court began operations in the Rohe Potae and that it ‘has been the subject of frequent conversations between the chief judge and myself’. Lewis explained his belief that the court should declare relative interests when it made its first decision and if the owners refused to assist with this then the court should declare that all the interests were equal. Otherwise, he explained, purchases by the Crown were attended by great risk. He sincerely hoped that when the court reopened at Otorohanga the settlement of relative interests would be the first work undertaken. This convinced the Native Minister, A J Cadman, and he instructed Lewis to attend to the matter as soon as possible. Lewis wrote the required note to the chief judge, asking him to kindly suggest or arrange a way by which the ascertainment of relative interests might be hastened. Chief Judge Seth Smith was sympathetic and replied, ‘This can be arranged’.⁵⁵

As will be seen, Lewis and Wilkinson were also apparently successful in persuading the chief judge to agree to having two courts sit in the district in late 1891 in another attempt to try and clear the backlog of definition of interests.

Government officials also had the distinct advantage of having relatively easy access to the legislative process. Legislative amendments were regularly approved to assist with land purchasing. For example, in 1890, Lewis commented on a proposed Native Land Court Bill, that the ‘attached Bill has been drawn to meet the requirements of the Land Purchase Department in removing legal difficulties in the way of the Crown acquiring Native land’. Lewis asked the chief judge for comments and sent the draft to the Native Minister asking that, if possible, such legislation should be drafted to facilitate the land purchase operations of the Crown. This was approved by the Native Minister.⁵⁶

In the more detailed investigation of some early purchases later in this report, it will also be seen that the land purchase officers were able to manipulate and use the court processes to advantage for land purchase aims. This included for example, the

54. Lewis to Wilkinson, 28 December 1889, MA 13/78, attachment to NLP 89/332

55. Wilkinson to Lewis, 26 March 1891; attached file notes, April 1891, MA 13/78, NLP 91/65

56. Lewis to Native Minister, 24 May 1890; approval by Minister, 27 May 1890, MA-MLP box 27, NLP 90/193

manipulation of the timing of hearings, the process of applications for subdivisions and surveys, and the use of costs and fees to force further subdivisions and sales. In much of this they had the close support of senior officials and often Ministers, who could remove difficulties through amending legislation and the adoption of sympathetic policies.

The influence wielded by officials was in stark contrast to the difficulties owners often appeared to face in obtaining Government assistance with the Native Land Court process. The usual response in these cases was that the Government could not interfere with court. For example, in 1891 the Government refused requests for assistance to stop fences being built on disputed land in Otorohanga, on the grounds that it could not interfere in the court process.⁵⁷

There was nothing necessarily illegal in the influence wielded by officials involved in land purchasing in the Rohe Potae and efforts were generally made to observe the letter of legal and constitutional requirements. However, the spirit and intention of these requirements, where the protection of Maori interests were involved, was another matter entirely. The close involvement of all levels of the Government, along with the monopoly situation, gave officials enormous advantages. This combined with Treaty obligations suggests that the Crown had a corresponding obligation to ensure that Maori interests were fairly protected. However, from the evidence available, it seems that any such obligations were allowed to become subservient to the needs of purchasing.

5.3 OVERALL GOVERNMENT POLICY AND THE LEGISLATIVE FRAMEWORK

Officials were also taking their cue from overall Government policy. It is beyond the scope of this report to investigate Government policy in detail, or the legislative framework supporting Government purchasing policy in the Rohe Potae. However, it is clear that by at least the mid-1880s, successive governments had become increasingly committed to extensive state purchasing of Maori land. Tom Brooking has argued that the Liberal land buying programme of the 1890s was the biggest of any administration after the New Zealand wars, both in terms of expenditure and the area of land acquired.⁵⁸ According to Brooking, between 1891 and 1911 the Liberal Government purchased some 3.1 million acres of Maori land for an average price of 6s 4d an acre, and most of it was purchased in the 1890s. As will be seen, the first Crown purchases of interests in Maori land in the Rohe Potae (Aotea block) were made in April 1890. By 1900, the Crown had acquired between one-third and half of the whole block, or some 687,769 acres. Brooking argues that the overall Liberal buying programme of the 1890s, together with a further land buying spree in the years from 1909 until 1920 meant that such ‘Large scale land purchase was more effective as an agent of colonization than war’.⁵⁹

57. MA-MLP, box 29, NLP 91/210 and attachments

58. Tom Brooking, “‘Busting Up’ The Greatest Estate of All: Liberal Maori Land Policy, 1891–1911”, NZJH, vol 26, no 1, 1992, p 78

59. Ibid, p 78

The legislative framework established during this time and the constant refinement of it, was crucial to land purchasing. Brooking argues that in the 1890s the Liberals were:

able to acquire so much Maori land so quickly because they passed a range of legislation which locked together like the pieces of a meccano set . . . it was characterized, like all Liberal legislation, by constant amendment and improvization – to make it work better.⁶⁰

In looking behind the reasons for the Liberal land buying programme Brooking has also noted that purchasing policies while at times seeming to be questionable economically, did nevertheless have the desired effect of undermining iwi and hapu authority. As will be seen, the scattered nature of some Crown purchases restricted settlement for some time. There were also significant expenses involved in making some purchases, especially those involving secret purchasing. In those cases, expenses were high and could include substantial travel expenses and the costs of bonuses paid to assist in acquiring signatures. The land then had to be further developed for European settlement, including survey and roading work. There was also interest to be paid on the loans for the purchase money. More research is required on this, but it seems likely that Crown optimism that settlement could be entirely self-financing may have been misplaced in some instances, even with cheap Maori land. For example, Brooking has noted that, ‘The land-buying sprees of the 1890s and 1912–20 made little economic sense’. However, he argues, that:

Liberal Maori land policy was clearly about much more than economic gain and racial prejudice; it was also concerned with completing the process of colonization and of extending Pakeha power and dominance.⁶¹

Both Brooking and Ward have noted that the Liberals were not loath to employ coercive legislation in pursuit of their aims. Brooking has argued that many aspects of Liberal Maori land policy were ‘coercive and punitive’.⁶² Ward has also described the Liberal tendency to ‘resort to compulsory measures to assist private development’.⁶³ The introduction of legislation to establish native townships on Maori land in 1895 was largely a result of frustration with the slowness in acquiring Maori land in places such as the Rohe Potae. The Minister of Lands, McKenzie, introduced the Native Townships Bill to Parliament in 1895, arguing that it was intended to overcome the inability of Europeans to acquire legal title to lands in certain areas. Although it was clear by 1900 that the Government intended to establish such townships in the Rohe Potae, this did not actually happen until after a 1902 amendment. Further comment on the townships will therefore be included in chapter 8 of this report, a brief summary of alienations of Maori land in the period from 1900 to 1920.

60. *Ibid*, p 81

61. *Ibid*, pp 90–91, 93

62. *Ibid*, p 84

63. Alan Ward, ‘Whanganui ki Maniapoto’, report commissioned by the Waitangi Tribunal, 1992 (Wai 48, doc A20), p 112

Government Land Purchasing – the Overall Framework

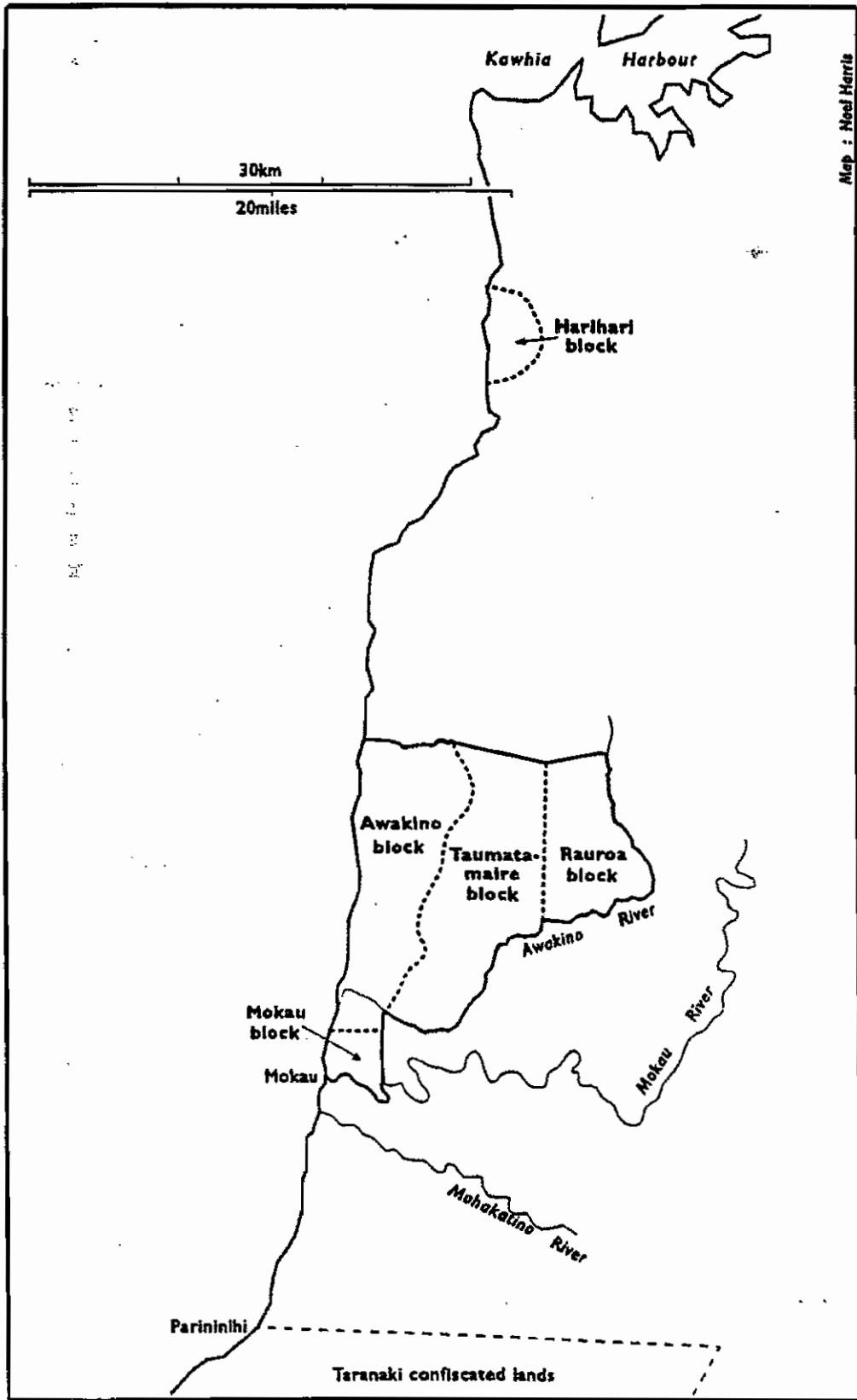


Figure 3: Early Crown purchases in the Rohe Potae in the 1850s

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.¹ 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

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'.²

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'.³

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'.⁴ 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.

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.⁵ 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.⁶

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.⁷ 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.⁸

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.⁹ 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.¹⁰

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.¹¹ 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.¹² 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).

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.¹³ 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.¹⁴ 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.¹⁵ 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

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'.¹⁶ 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.¹⁷ 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.¹⁸ 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 1888.¹⁹ The slow pace of definition of interests continued throughout the 1890s. Even by 1907, the Stout–

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

Government Land Purchasing Policy in the 1890s

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.²⁰

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.²¹ 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

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.²² 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’.²³ 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

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.²⁴

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.²⁵ 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.²⁶ 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.²⁷

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.²⁸ 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.²⁹

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.³⁰ 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'.³¹

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'.³²

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,

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'.³³ 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.³⁴ 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.³⁵ 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.

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.³⁶

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.³⁷ 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.³⁸ 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'

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’.³⁹ 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.⁴⁰ 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’.⁴¹ 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.

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.⁴²

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.⁴³ 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'.⁴⁴

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

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.⁴⁵

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.⁴⁶

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.⁴⁷ 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.⁴⁸ 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

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.⁴⁹ 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’.⁵⁰ 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.⁵¹

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.⁵²

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.⁵³

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

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.⁵⁴ 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.⁵⁵ 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.⁵⁶ 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.⁵⁷

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.⁵⁸

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

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.⁵⁹

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.⁶⁰ 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

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'.⁶¹ 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

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.⁶² 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.⁶³ 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.⁶⁴

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.⁶⁵ 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'.⁶⁶

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

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

clear that they wanted to control their lands themselves, in their own way, and having the right to deal with whoever they wished.⁶⁷ 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.⁶⁸

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.⁶⁹

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.⁷⁰

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

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.⁷¹

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.⁷²

The Native Minister responded by setting an outside price of five shillings per acre for land to be purchased.⁷³ 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.⁷⁴ 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.⁷⁵ 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

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.⁷⁶ 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.⁷⁷ 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.⁷⁸

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'.⁷⁹ 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.⁸⁰

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.⁸¹

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

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.⁸²

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.⁸³ 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

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'.⁸⁴ 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.⁸⁵ 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.⁸⁶ In contrast, at the same time,

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.⁸⁷

87. Ibid

CHAPTER 7

THE IMPLEMENTATION OF GOVERNMENT LAND PURCHASING IN THE ROHE POTAE (AOTEA BLOCK) IN THE 1890S

The main elements of Government land purchasing policy were considered separately in the previous chapter. The following is a brief overview of what appear to be the main features in the implementation of land purchasing policy in the Aotea (Rohe Potae) block. As seen, land purchasing in the district officially began in late 1889, with Government Ministers and officials optimistic that the ‘ice would soon be broken’ and offers to sell land would soon begin to flood in. However, it turned out to be much more difficult than this, and it took some months, even with secret purchasing, before any breakthrough was made. Iwi and hapu remained determined not to be pressured into selling land and still preferred leasing to selling. This was understood and acknowledged by officials, who simply responded with more aggressive purchasing tactics. In March 1890, W H Grace was employed to assist Wilkinson. Wilkinson was based at Otorohanga, while Grace operated out of Kihikihi. Even their combined efforts appeared to be failing at first. In late March 1890, for example, Grace reported:

I have seen a good number of the owners in some of the blocks available for purchase but I am sorry to say that I have not been as yet able to induce any of them to agree to sell.¹

The actual purchasing process in the district during the 1890s varied according to circumstances. However, a general pattern still often emerges through the official records. The process usually began with the land purchase officer reporting on blocks that he thought might be suitable to begin purchasing in. This could be based on the quality and location of the land. It was often also based purely on possible purchasing opportunities, for example, if the owners were known to have financial problems, or there were known conflicts among owners. Once the land purchase officer was authorised to begin purchasing in a block, and a price was set, he could then press for a survey of the block and notify the owners that he was beginning purchasing in their block.² At the same time he was issued with deeds for the

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

2. For example, see MA 13/78, NLP 90/286 attached to NLP 90/255

authorised block. These contained the purchase agreement with a Maori translation and a rough plan of the block. In the Rohe Potae they also commonly contained a provision for a 10 per cent reserve for sellers. The purchase officer also had lists of owners for each block, obtained from the Native Land Court. He would then calculate the value of an individual share in the block, by dividing the estimated acreage by the number of individuals and multiplying by the price to be offered. He would assume each share to be of equal value where interests were still undefined. It was possible to have a number of purchase deeds for one block. If the owners were scattered and lived in a number of different districts, there might be separate deeds for each district where they lived. It could also take years to purchase all or sufficient interests. The price offered per acre might change over this time, or it might be changed because of other reasons such as a more accurate acreage or a policy decision to raise the price to tempt sales. When the price was altered, a new deed was often drawn up for signatures bought under the new price.

The purchase officer was expected to take the deed and actively seek signatures on the list in return for payment of the share value. Sometimes he was offered a partitioned block by owners seeking to sell. Often however, he had to secretly purchase interests against the wishes of the majority of owners. Once he had obtained what he felt were enough signatures in a block, he could then apply to the Native Land Court to have land, representing the value of the Crown's interests, partitioned out. At this point his role in the Native Land Court process became very important. He had to use the process to try and ensure that those who had sold their interests were found to be significant owners whose shares had as much value as possible. He also had to try, either through out-of-court agreements or through court determinations, to have the Crown's interests located in the best possible part of the block.

The tactics the land purchase officers employed to make a breakthrough and 'break the ice' have been explained in more detail in the previous chapter. By March 1890, for example, the Government had approved taking the risk of purchasing in the Otorohanga block. This had good land for settlement and was bisected by the railway. However, interests were still not defined, surveys had not been completed, the exact acreage of land available for purchase was not known, and there were known errors in the lists of owners' names that still had to be corrected.³ When Wilkinson asked for advice on whether he should begin purchasing under such circumstances, Lewis advised, and Native Minister Mitchelson approved, that if the block could be obtained on reasonable terms, it should be included in negotiations anyway.⁴

Eventually, in early April 1890, Wilkinson succeeded in what is now his notorious first purchase of interests from Maori owners in the Aotea (Rohe Potae) block. He reported that on 2 April 1890, he had managed to buy two shares in the Mangauika block from two owners.⁵ This caused great elation in Government. Lewis confidently replied that now the ice was broken, he expected shares would

3. Wilkinson to Lewis, 20 March 1890, MA 13/78, on NLP 90/70 and attachments

4. Correspondence, March to April 1890, MA 13/78, NLP 90/70 and attachments

5. Wilkinson to Lewis, 5 April 1890, MA 13/78, NLP 90/75

fall in rapidly. In a following, longer report, Wilkinson explained just how difficult the purchase had been. In order to show how ‘great is the objection’ most owners had in selling their interests and how ‘fearful’ they were, in case others got to know they had sold, Wilkinson described how:

the two who have just disposed of their interests in Mangauika block were fully a fortnight, after discussing the matter with me, before they would screw up their courage to sell, and, instead of coming to me in the day time they waited upon me at 9pm on 2nd inst having ridden 12 miles since sundown (they would not leave their own settlement until dark) and returned that night lest any of the local Natives should see them and surmise that they had been land selling. It goes without saying that they refused to wait and cash their cheques at the stores here, preferring to take them to the Bank at Te Awamutu.⁶

However, this was not the beginning of a collapse into land selling as Lewis and Wilkinson expected. After several months’ more effort, Lewis still had to admit to the Native Minister in October 1890, that he was sorry to say that very little advance had been made in the acquisition of lands in the Rohe Potae. He believed this was not any fault of Mr Wilkinson, but arose from a ‘very strong disinclination on the part of the Natives to sell at all’, and the ‘exaggerated idea they have of the value of their interests’.⁷

As a result, the Government felt it necessary to continue aggressive purchasing tactics, such as purchasing early in the court process and taking the initiative in trying to pressure sales. Officials also continued to criticise what they saw as the tardiness of the Native Land Court process. In August 1890, for example, Wilkinson reported that there were a number of blocks, and numerous subdivisions, where he could pick up a few shares here and there, if only the surveys were complete and the area known. He explained that there was no point in only concerning himself with blocks where the owners might want to sell:

because Natives here do not as a rule, yet look upon land purchase operations with such favour as to go to the Land Purchase Officer to sell land, although there have been a few such cases . . . If therefore we want to acquire land in this district we must for some time to come, take the initiative and, having first decided which are suitable purchases, get those blocks surveyed as soon as possible and let the owners know we are purchasing in them.⁸

At about this time, Maori owners also appear to have decided to take the initiative, in responding to the circumstances they now found themselves in. They had unsuccessfully objected to the operation of the Native Land Court in the district and they still preferred to lease, rather than sell land. The court process was moving inexorably on, however, and they now needed to develop tactics to try and limit the damage the combined court and secret purchasing processes could bring about. It seems clear that groups of owners decided to take the initiative and partition off

6. Telegram from Wilkinson, 7 April 1890, MA 13/78, NLP 90/76

7. Lewis to Native Minister, 14 October 1890, MA 13/78, NLP 90/395

8. Wilkinson to Lewis, 21 August 1890, MA 13/78, NLP 90/286 attached to NLP 90/255

blocks of land for sale. This appeared to contradict their policy to only lease land. It seems to have been a pragmatic response to the aggressive purchasing tactics of Government and the fact that the court process required cash payments for costs. By partitioning off 'sale' blocks, owners could retain some control over the process. They decided what land had to be sold and what would be retained and avoided having partitions forced on them. In the process they sought to limit any known Crown incursions through secret purchasing, to the 'sale' block. In this way they sought to protect their remaining, most valuable land. They might also force the Crown to reveal the extent of its interests when the proposed partition went to court. The Crown might reveal the extent of its interests in seeking to have them located in a more desirable part of the block. This tactic did not always work. Sometimes, especially when they wanted to continue purchasing in a block, purchase officers were wary of revealing the extent of the interests they had bought. In that case, the partition proposal might be allowed to go ahead unchallenged, and the owners succeeded in locating the Crown in the poorer areas for the moment. However, the Crown considered that a temporary loss was worth the possibility that future purchases might more than compensate for it.

It is clear that the 'sale' blocks were intended to ease financial pressures, where there were few alternatives to making an income other than land selling. The 'sale' blocks were intended to produce enough cash to pay off debts often unavoidably incurred through the court process. In addition, in some cases they were also used to provide money to develop more important blocks so that those could be used to provide a sustainable income, for example, through leasing or through sheep farming. Owners were working against time, and taking a gamble in this. They had decided that it was necessary to sacrifice some land in order to save the rest. In doing so however, they relied on the hope that other land would begin to produce a sustainable income. If this failed then they would unavoidably be dragged into the process of more debts and more land sales. It seems for example, that when they made the agreement with Government in 1889, that survey costs would be held over for two years, they did so in the expectation that leasing income would be sufficient in that time to pay off those debts when they fell due.⁹

The Maori owners were therefore not simply passive victims of the land purchasing process. Instead there is evidence that they responded to circumstances and developed tactics designed to minimise their losses and protect as much land as they could. As will be seen, much of the evidence of land purchasing reveals these tactical attempts to limit Crown incursions and to find alternative means of using land to earn an income to pay off debt and avoid forced sales. The 'sale' blocks can often be identified by the early partition of a block into two parts. Very few owners were listed in the 'sale' part of the block, in order to facilitate the sale. The non-sale part of the block, then commonly had many more listed owners. As will be seen, in cases where 'sale' blocks were offered, the chiefs made efforts to establish a process they had consistently told Government they wanted followed in the Rohe Potae. This was that all the owners were involved in consensus-based decisions regarding the partition for sale, based on the needs of owners and a rational

9. Wilkinson memo, 23 June 1891, MA 13/78, NLP 91/163

consideration of the possible economic use of the land. Once the decision was made, representatives of the owners then made a public approach to the land purchase officer about the possible sale, with no attempt at secrecy. The sale was then discussed with the amount and location of the land marked out and understood. As will be seen, there is evidence of attempts to establish this process in the official records. These attempts were often obscured or misrepresented by land purchase officers, however, who were eager to claim credit for initiating all sales.

The Government decided to undermine this process by continued secret purchasing of individual interests, and all the tactics associated with this, such as forcing debts and discouraging leasing opportunities. The Government was determined to conduct purchasing on its own terms without allowing Maori owners any effective participation. As part of this, the Government sought to undermine and breakdown, chiefly and hapu authority over the land.

The process of Maori owners partitioning off 'sale' blocks began to occur quite early in purchasing, some months after the Government succeeded with the first secret purchases of interests. In August 1890, a group of owners proposed a partition to subdivide the Kopua 1 block. This appears to be one of the first tactical partitions into 'sale' and 'non-sale' blocks in the Aotea (Rohe Potae) district. The Ormsby family were large owners in the block and offered a 'sale' portion to the Crown for purchase. The court hearing for the proposed partition took place on 5 August 1890. The partition was largely made to cover court costs still outstanding in determining ownership of the block. The owners also knew that the Crown had secretly purchased some shares in the block. Wilkinson accurately suspected that the proposed partition would locate the area, represented by shares that were known to have been sold to the Crown, in the worst part of the block, at the bush end. However, in this case, Wilkinson reported that he was not unduly concerned about the proposal. He believed the Crown had gained in other ways. He reported that 'there are other shares the purchase of which is not known that are located in favourable position'. He felt it was also important that he had been:

able to establish my position in Court as representing the Crown in cases of subdivision of blocks in which shares have been bought without raising any antagonistic feelings between the owners and Govt For the time being, he believed he had achieved enough.¹⁰

In a longer memorandum, Wilkinson reported in more detail on the proposed partition. The Crown had actually done quite well out of it. He had purchased seven shares, assuming they were worth £133 10s 6d. However, when the interests were defined by the court, the shares were found to be worth £203 19s 3d. The Crown had therefore made £70 8s 9d over what it paid. He was confident that this was more than enough to cover the cost of surveys and the 10 per cent reserve for sellers. He admitted that the shares the owners knew about had not been allocated by any means in the best position on the ground. As was to be expected, it had been almost impossible to keep the sale of all interests secret. Wilkinson believed however, that tactically it would be best not to oppose the proposed subdivision. It

10. Wilkinson to Lewis, 6 August 1890, MA 13/78, NLP 90/255

was not a good idea to raise further antagonism to land purchase at this time, ‘they having frequently expressed their opinion that Govt was too hasty in commencing to purchase land before the numerous interests and shares were defined’.¹¹

The full implications of Crown preemption in the Rohe Potae had become clear to Maori owners by this time. They rightfully saw it as a real threat, not least in effectively undermining other sources of income, especially sources of sustainable income that would have prevented land sales. Ngati Maniapoto complaints to the 1891 Land Laws Commission and to the Government and Native Minister at this time, have already been described.¹² Leading owners, such as John Ormsby, also challenged the Government to buy up improved land or repeal the restrictions against private dealing. John Ormsby and John Hetet complained directly to the Minister that the Government was only interested in buying up large blocks of land for settlement, but they were not allowed to sell small areas of improved land privately. They challenged the Government directly, by offering a section of about half an acre of land in Otorohanga township for purchase. It had improvements on it, including the substantial two storey Temperance Hotel and outbuildings, and a butcher shop and other outbuildings and it was right beside the railway station. They offered to sell it to the Government for £700. They pointed out that they could not sell it privately because this was legislatively prohibited. Internal Government correspondence shows that officials advised the price was ‘absurdly high’ even though the local surveyor, Hursthouse, believed it was worth about £650. No reply was made to Ormsby for some time. After pressing for a response, he was eventually informed that the Government was only interested in land for settlement and not in buildings. The question of the owners being denied any other market, was not addressed.¹³

Even though the Government had succeeded in forcing Maori owners to make tactical partitions and offer some land for sale, it was still determined to continue with aggressive purchasing tactics to pressure further sales. In January 1891, Wilkinson sought and gained approval to begin purchasing, at an approved price, in the Turoto block, west of the Waipa River. At this time there was still close ministerial involvement in these decisions. Wilkinson intended to rely on secret purchasing, picking off interests where he felt owners would be most likely to sell. He reported that the: ‘Native owners in Rohepotae do not yet sell openly and in concert with others but each sells his own share as secretly as possible’. He also intended purchasing early in the court process. The relative interests of Turoto owners were still not yet defined:

so I quite expect that those who are amongst the first to sell will be those owners who have been put in through aroha or who have only small shares.¹⁴

Wilkinson also suggested that if prices had to be increased to gain sales, then the Government might be able to compensate by omitting reserves. Purchasing in the

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

12. Minutes of Evidence, 1891 Land Laws Commission, AJHR, 1891, sess ii, G-1

13. Correspondence, 1890–91, MA-MLP, box 29, NLP 90/105 and attachments

14. Wilkinson to Lewis, 27 February 1891, MA-MLP, box 43, NLP 97/66

block was slow and Wilkinson admitted this to Lewis in September 1891. It is quite clear that the owners were interested in leasing rather than selling and Wilkinson acknowledged this. He reported that some of the owners had signed a Maori document of lease to Arthur Ormsby for a temporary sheep run.¹⁵ By this time, as previously described, Lewis was having doubts about whether purchasing ahead of having interests defined was saving much time. He advised Native Minister Cadman against any more purchases in the Rohe Potae until interests were defined, but Cadman overruled him. If the land was within the railway area, then Wilkinson was to be instructed to purchase: 'The Court will soon sit there again and we can afford to run some little risk in purchasing at that price'.¹⁶

As explained further in the policy chapter, the slowness of sales resulted in suggestions of more aggressive tactics and possible sources of costs that might be used to force sales. In June 1891, for example, Wilkinson reminded the Native Minister of the two year time period that had been agreed before the owners would have to pay survey costs. This agreement had been made between the Government and Ngati Maniapoto leaders in 1889. This time was now up and Wilkinson advised that this should be taken advantage of:

It is very likely that a movement of that sort on behalf of Government, if not at variance with the arrangement above referred to, will have the effect of causing the owners to either give up portions of these blocks and possibly sell the remainder, or else to sell other blocks in order to enable them to pay their liabilities for survey charges.¹⁷

At the same time, it also seems clear that court records were in a chaotic state and the inaccuracies in them were a cause of concern. Wilkinson had noted mistakes in early 1890. In July 1891, Native Land Court officials at Auckland requested that purchasing cease for a while, until the lists were put in better order and corrected.¹⁸ It is not clear if the Land Purchase Department took any notice of this. Lewis' advice to the Minister, as in so many cases when he felt the information was of no consequence, was that the memorandum needed no reply.¹⁹

It seems clear that by October 1891, and in spite of the aggressive efforts with purchasing, officials felt that progress was too slow. Lewis admitted as much to the Native Minister, reporting that overall, there had been very little advance in purchasing in the Rohe Potae.²⁰ In their efforts to overcome this, officials sought to address the constant frustration they felt with the slowness of the Native Land Court in defining interests and individualising title. Lewis and Wilkinson agreed that the problem might be helped by seeking to have two land courts sit in the Rohe Potae. Lewis sought the assistance of the chief judge of the Native Land Court in

15. Wilkinson to Lewis, 22 September 1891, MA-MLP, box 43, LP 97/66

16. Lewis to Native Minister, 23 September 1891; Cadman to Lewis, 26 September 1891; the instruction was relayed to Wilkinson, 28 September 1891, MA-MLP, box 43, NLP 97/66 and attachments

17. Wilkinson memo, 23 June 1891, MA 13/78, NLP 91/163

18. MA 13/78, NLP 91/193

19. Note to Minister, 22 July 1891, MA 13/78, NLP 91/193

20. Lewis to Native Minister, 14 October 1890, MA 13/78, NLP 90/395

this. Preliminary research suggests he was successful and in late 1891 two courts were apparently sitting in the district, at Otorohanga and Kihikihi.²¹

Even as officials were showing signs of increasing desperation, it seems that Wilkinson's persistence was also beginning to achieve some results. The flood of sales he always confidently expected never really happened. Nevertheless, some large sales were beginning to take place by late 1891, even if they were not always in the most desirable locations for settlement. The reluctance of Maori owners to sell, had a great deal to do with the slowness of purchasing. To some extent, the tactics of secret purchasing over the whole district also contributed to the delays. It could, and often did, take years of buying up a few interests here and there, before a purchase officer had enough in any one block to justify making an application to the court to have the Crown's interests cut out. However, it was only at this stage that progress with purchases seemed really tangible.

It is beyond the scope of this report to cover every purchase in the Rohe Potae in detail. However, there are two relatively early purchases that appear to illustrate the processes by which Government land purchase policies were implemented in the district. The purchases also reveal the way in which the Government appeared to shut Maori owners out of participation in managing the process, and appeared to place the interests of government and settlers above possible duties to protect Maori interests. The purchases were of the large Taorua block in the southern part of the Rohe Potae district and the Wharepuhunga block towards the northern part. In the Taorua block purchase, Ngati Maniapoto leaders attempted to establish a process for offering a 'sale' block to the Crown for purchase and sought Government cooperation with this. In the Wharepuhunga block purchase, Ngati Raukawa wanted to protect their land from secret Government purchasing of individual interests. Both sales took some years before they were completed.

7.1 THE TAORUA BLOCK PURCHASE

In August 1890, the Government received a letter from Te Pamonga of Whanganui. He stated that when the Umukaimata and Ohura blocks went through the court they would be offered for sale so that the owners could support themselves.²² The need for cash was apparently motivated by Native Land Court and associated survey costs. In September 1890 another letter from Te Pamonga and others, informed the Government that the matter had been discussed with Taonui and other chiefs. According to the letter, all had agreed, including the entire Maniapoto tribe, about the Umukaimata and Ohura blocks. A boundary had been made defining the portions agreed upon. The court was due to hear the application on 22 September. The writers asked for Government support in the matter, as they were in difficulty on account of the land and because no one knew when these cases would end.²³ It seemed clear that the owners intended to sell some land to pay costs that were

21. See correspondence, MA-MLP, box 30, NLP 91/339; MA-MLP, box 61, NLP 91/264 attached to NLP 1901/95

22. Letter, 14 August 1890, MA 13/78, NLP 90/263

23. Letter from Te Pamonga and others, 15 September 1890, MA 13/78, NLP 90/336

causing them financial difficulty. This was an example of a 'sale' block being offered for purchase. The decision about the sale and what land would be sold had been reached publicly and by consensus. The Government was now being asked to assist in the process. There was no official reply to this letter. It was simply noted to file.

In November 1890, Te Pamonga wrote another letter to Lewis. He described how the Whanganui tribes had considered the sharp axes of the Government. They believed the sharpest of them were the imposition of stamp duty and the cost of land surveys. Te Pamonga informed Lewis that he was acting on behalf of the owners in the blocks previously mentioned. The blocks were partitioned and he had been given responsibility for the part that would pay the costs of survey. The balance would go to all the people. Arrangements would be made about the blocks 'before all the people' and when the arrangements were made he would then go and settle matters with Mr Wilkinson, 'and so make matters clear for both the Government and the Natives'. He asked for Government support in this approach. He informed Lewis that Wahanui, Whaaro and himself had made arrangements with their people for the partitions so some land could be set apart to pay expenses. The 2000 acres for such payment was in the Taorua block. He hoped there would also be sufficient for some land for himself for a little kainga and to make him free from difficulty. Again there is no comment on file and there is no record of any reply.²⁴ Lewis also apparently did not inform Wilkinson of this correspondence.

By this time Wilkinson had separately spotted a possible entry into purchasing in the blocks. In December 1890, he reported that the large Taorua block had come before the Native Land Court for subdivision. It contained some 50,000 acres. One subdivision was 6000 acres, with only seven owners listed. He had opened negotiations with them. Other subdivisions were still to be made and, 'I am endeavouring to get as few names as possible put in the order'.²⁵

Wilkinson wrote his report to make it seem as though he had taken the initiative. In fact, it is clear that this was the partition the Government had already been informed about. Wilkinson was excited about the opportunity. He felt it might be the breakthrough he wanted. He explained to his superiors that Wahanui had stated some time ago that he had not yet sold land because the portion owned by himself and his hapu had not passed the court. However, he had promised to sell some land when it did. The land that Wahanui and his people owned were the Taorua and Waiaraia blocks. Wilkinson now wanted to hold Wahanui to his promise to sell, and he believed that Wahanui seemed inclined to do so. In fact, Wilkinson knew that the seven owners of Waiaraia, already offered for sale, were specially selected to facilitate the transfer.

Wilkinson also reported that the subdivisions of Taorua were now complete. There were seven of them and the numbers of owners in each were so limited, there would not be much difficulty in completing the purchase if the owners wanted to sell. Wilkinson believed they would and had therefore asked for urgency in having the blocks reported on by the survey office. Wahanui had asked Wilkinson to meet

24. Te Pamonga to Lewis, 3 November 1890, MA 13/78, NLP 90/383

25. Wilkinson to Lewis, 12 December 1890, MA 13/78, NLP 90/399

him and other owners in the next week to talk the matter over and Wilkinson intended to do so. Wilkinson was very excited. He saw it as a great opportunity to make arrangements to acquire several thousand acres in the King Country. This was a real breakthrough and he felt that it should be taken advantage of. He was sending in the applications for the survey of the blocks at once.

Lewis was not so sure. He pointed out that the land was just outside the railway area, for which purpose purchase money was available. The land in question appeared to lie between the Mokau and Whanganui Rivers.²⁶ Lewis also advised the Native Minister of this and added that it was not likely to be useful for settlement for years to come. Mitchelson therefore instructed Lewis that the land should not be purchased, if it was outside the railway area and unfit for immediate settlement.²⁷ As a result, Wilkinson's applications for a report on the land and a survey were not actioned.

Wilkinson was extremely disappointed. He sent a long telegram to Lewis expressing his great regret. He believed that such an opportunity should have been taken advantage of. In addition, Wahanui and his people had been very helpful in assisting with the purchase, by, at his suggestion, only putting a few owners on the list of some blocks to make the purchase easier. By doing so they had also kept faith with the Government regarding their promise to sell some land. He felt that this kind of refusal was very damaging to land purchasing as it was likely to bring the Government's good faith into question. It was also likely to fuel the efforts of those who wanted Crown restrictions on alienations lifted. Lewis replied that the land had originally been excluded from the railway area for special reasons, but he agreed to put Wilkinson's telegram before the Minister when he returned.²⁸ Later correspondence revealed that the Government was unlikely to make much profit out of purchasing the land. It was part of an endowment area where the Taranaki Harbour Board had first call on the purchase money when it was sold. This was why it had been excluded from the railway area originally.²⁹

In January 1891, Wilkinson reported that Wahanui wanted a reply.³⁰ At about the same time, Lewis provided the Native Minister with more detail on the proposal. He advised that the subdivision offered for sale and the greater part of the block within which it was located appeared to be outside the railway area. The country seemed to be broken and isolated and out of the way of settlement. He was not sure whether purchase money should be spent on this sort of land. However, he had received a long telegram from Wilkinson, who felt that not buying it would have a bad effect on purchases in the King Country. As Lewis admitted, although Wilkinson had been supplied with deeds and the necessary funds for land within the railway area, 'he has been unable to make any progress worth speaking of in acquiring land for settlement'. Lewis suggested the survey office could perhaps advise on the purchase, without going to the expense of a survey.³¹

26. Wilkinson to Lewis, 19 December 1890; reply, 19 December 1890, MA 13/78, NLP 91/30

27. Lewis to Native Minister, 29 December 1890; reply, 29 December 1890, MA 13/78, NLP 91/30

28. Wilkinson to Lewis, 31 December 1890; reply, 31 December 1890, MA 13/78, NLP 91/30

29. Lewis to Native Minister, 11 February 1891, MA 13/78, NLP 91/30

30. Telegram, 23 January 1891, MA 13/78, NLP 91/30

31. Lewis to Native Minister, 26 January 1891, MA 13/7, NLP 91/31

Implementation of Government Land Purchasing in the 1890s

In late January 1891, Wahanui wrote to the Government himself. He had heard that the Government had complained that he opposed land sales in the Rohe Potae but he insisted this was not true. He had cut off portions of the Taorua and Waiaraia blocks for sale to the government. This was some 10,000 acres or more at 3s 6d per acre. He asked for an early reply about this.³² The rumours of complaints may well have originated with Wilkinson in his attempts to hold Wahanui to his promise. Native Minister Cadman replied in February, apologising for the delay, and denying that the Government had accused Wahanui of opposing land selling. He was pleased that Wahanui supported the sales of surplus land to the Government. Cadman assured Wahanui that in doing so, he would undoubtedly be much benefited:

You are however aware that although several large blocks have passed the Court and Mr Wilkinson has been supplied with deeds and the funds to purchase, very little progress in acquiring the land has been made due to the disinclination of owners to sell.

Regarding the blocks of land Wahanui had offered, Cadman regretted that they were outside the boundary of lands the Government had provided funds for. Mr Wilkinson should have informed Wahanui of this. Cadman explained that he was carefully considering with other ministers, whether funds could be provided before Parliament met. If this could be done, he promised to inform Wahanui.³³

The Native Minister also approved Lewis' suggestion that the surveyor general report his views on the blocks. As requested, the surveyor general reported on the basis of very little detailed information and without an inspection. He was not sure where the actual land offered for sale was located within the block. He felt it might be worth acquiring, however, as it was known that there was coal in the block itself. There was also some land in the block suitable for settlement. One part of the block had a frontage on the proposed new road from Waikato to Taranaki. He advised purchasing the whole block.³⁴ The matter went to Cabinet where it was discussed and the purchase of the whole block was approved.³⁵ On 3 April 1891, Sheridan informed Wilkinson that he was authorised to begin purchasing in the block.³⁶

At this stage the subdivisions of the Taorua block had orders for title made but not yet signed. The subdivisions were Waiaraia, Mangaroa, Taurangi, Mangakahikatia, Taorua, Waikaukau, and Pukeuha. The Survey Department also still had to produce a sufficiently accurate plan to place on the deed of conveyance.³⁷ The Native Minister nevertheless approved instructions for Wilkinson to begin purchasing, with a portion of the money to be retained until the blocks were surveyed and the areas ascertained. In the meantime, the purchase deeds were to be based on the lowest estimate of areas.³⁸

32. Wahanui to Government, 31 January 1891, MA 13/78, NLP 91/30

33. A J Cadman to Wahanui, 4 February 1891, MA 13/78, NLP 91/30

34. Note from Surveyor General, 9 February 1892, MA 13/78, NLP 91/30

35. Note of Cabinet approval, on MA 13/78, NLP 91/30

36. Sheridan to Wilkinson, 3 April 1891, MA 13/78, NLP 91/30

37. Correspondence, April 1891, MA 13/78, NLP 91/61

38. Lewis to Native Minister, 6 April 1891; approved by Native Minister, 6 April 1891, MA 13/78, NLP 91/61

It is clear that without consultation with the owners, and after only considering its own interests, the Government had unilaterally changed the whole basis of the purchase. The Government had only been offered some land within the blocks. It had decided, however, that its interests were best served by buying the whole block. Instructions, authorised at the highest level, were issued accordingly. This made a mockery of the notion of buying 'surplus' land. Wilkinson was expected to buy the land offered, but to also continue with secret individual purchasing throughout the whole block, undermining the authority and wishes of the chiefs.

Wilkinson met with Wahanui and Whaaro as soon as he received his instructions. With the aid of a rough tracing of the area, he explained to them that the Government proposed to purchase all the subdivisions of Taorua block and also the Waiaraia block. In fact the government wanted to buy all the land in the tracing at 2s 6d per acre. Not surprisingly, he reported of the chiefs that: 'They seemed rather astonished at the proposal'. He reported that they could not guarantee the sale of all the subdivisions, because if they were sold 'some of the owners would not have any land to live upon'. Wilkinson explained that the Government wanted to purchase all the land to save unnecessary expense with surveying dividing lines. He seemed unconcerned with the plight of owners. He reported that the interview was long and the matter fully discussed. It was, however, 'clear from what took place that it will not be possible to get them to part with all the land at the present time'.³⁹

Wilkinson also tried to persuade the chiefs to agree to sell more land, by arguing that the land they proposed to sell was a difficult shape. He explained that the Government would be more interested if an extra portion were added, making the shape more regular and therefore easier to survey. This was a remarkable assertion given the state of the survey at the time. Nevertheless, it is clear that the chiefs made an effort to accommodate some of Wilkinson's demands. On this point, they said they would go and discuss the matter and ask the opinion of the people actually living on the extra land Wilkinson wanted. It is clear from this that the chiefs were following their stated objectives of having sales that were agreed to by the owners. The chiefs met Wilkinson the next day and offered to try and get an agreement to add in the extra land. However, Wilkinson reported that there was a marked reluctance to part with more land than had been offered.

Wilkinson's remedy was to effectively suggest to his superiors that secret individual purchasing should be used to overcome this reluctance. In the blocks where the owners were most unlikely to agree to a sale he suggested, 'we could go on buying shares in each as opportunity offers and perhaps eventually acquire the whole of each block'. Senior officials agreed. Wilkinson was also instructed that no reserves would be allowed and the Government would follow the normal policy and pay the survey cost of the land it acquired.⁴⁰

Wahanui continued to act helpfully in the sale of the blocks that had been offered publicly for sale. He was apparently unaware at this time that Wilkinson also intended to purchase individual interests secretly. For example, senior officials

39. Wilkinson to Lewis, 10 April 1891, MA 13/78, NLP 91/61

40. Wilkinson to Native Department Under-Secretary, 10 April 1891; reply, 1 January 1891, MA 13/78, NLP 91/61

conceded that his offer that the whole payment could stand over until the survey was finished was 'extremely fair and liberal'. As a result of progress with this purchase, officials were more optimistic about purchasing operations in the Rohe Potae in general. In April 1891, Lewis advised the Native Minister that the prospects of land purchase in this 'much desired district' were now looking much better than before. He was again confident that 'when these blocks are acquired the ice will be fairly broken'.⁴¹

This purchase revealed that the Government was determined to decide on the pace, scale and methods of land purchase without real participation from Ngati Maniapoto leaders. Even when leaders offered surplus land for purchase, as the Government had requested, this did not mean the Government was necessarily prepared to cooperate with them. The Government was prepared to override their concerns and wishes in pursuit of its own ends and to undermine their carefully attempts to manage the sale process in order to do so. Where the land offered did not meet the extent of Government requirements, then the Government simply resorted to secret purchasing of individual interests to acquire the rest.

It is beyond the scope of this report to investigate the subsequent purchasing history of every subdivision of the larger Taorua block in detail. However, the way in which purchasing in the blocks was begun is a clear example of the way in which the Government subverted chiefly attempts to manage or even participate in the sale process. Instead, the Government authorised aggressive secret purchasing of individual interests in the subdivisions with little regard for the interests of Maori owners. This process, once started, continued in the subdivisions for many years.

It was not long before many of the problems associated with secret purchasing of individual interests began to emerge in the subdivisions. For example, in August 1891, a Native Land Court judge received so much criticism about the activities of the Land Purchase Department in the blocks, that he felt obliged to report the matter to the chief judge and note the criticism in his minute book. He found that it appeared certain that the boundaries of some of the blocks had been drawn up in error and did not follow the original court judgment when title was determined. As a result, about 6000 acres had been included in the Waiaraia block, instead of in the surrounding Umukaimata and Mohakatino Parininihi blocks. This appears to have occurred as the result of pressure to undertake surveys once a decision was made to begin purchasing as much land in the blocks as possible. The Maori owners were naturally very angry. In court, owners repeatedly accused the Government, through the Land Purchase Department, of having successfully swindled them of the 6000 acres. They alleged that no proper survey had been done that was sufficient to properly locate the boundary place names mentioned in court evidence and in the original awards. The judge also reported that they were 'exceedingly severe' in remarking that the plan of Waiaraia block had never been exhibited in court for objections, as provided by law, 'and they naturally blame the Land Purchase Dept for the indecent haste displayed in forcing forward the title'.⁴² Wilkinson attached a

41. Lewis to Native Minister, 21 April 1891; approved by Cadman, 22 April 1891, MA 13/78, NLP 91/61

42. Judge Gudgeon to the Chief Judge regarding the Waiaraia and surrounding blocks, 15 August 1891, MA-MLP, box 30, NLP 91/291 and attachments

copy of the judge's comments to paperwork concerning his completion of some of the purchases. In a covering letter to his superiors, his main concern was that officials should realise that in using the term 'indecent haste', the judge was quoting owners, not using his own words. Apart from that there is no comment on file on the allegations raised. Presumably, if the owners wanted to have the boundaries corrected they would have been obliged to seek redress from Parliament, a lengthy, expensive, and uncertain undertaking. Once the purchase was completed, the issue was of no further concern to the Land Purchase Department.

It is also clear from later evidence that Government purchase officers continued with secret purchasing even into subdivisions the chiefs and majority of owners had made considerable efforts to protect from sale. In 1895 for example, Wilkinson reported that he was attempting to move into the Pukeuha subdivisions, although the chiefs had intended to exclude these from any sales.⁴³

7.2 THE WHAREPUHUNGA BLOCK PURCHASE

The Wharepuhunga block purchase was an example of the type of purchase conducted by land purchase officers entirely against the wishes of the principal owners, in this case, a hapu of Ngati Raukawa. Officials first considered purchasing in this block in April 1890. At this time land purchase officers had still made little progress in purchasing and officials remained desperate to 'break the ice'.⁴⁴ In reporting on the land in the block, Hursthouse found that the quality was variable. The block did however contain some excellent land for potato crops, some useful bush, and some developed pasture land. There was evidence of a considerable number of Maori settlements, Aotearoa for example, and cultivations and associated activities. The Maori owners had several hundred acres under crop and fenced, as well as grass pasture land. Nevertheless, Hursthouse advised that the purchase price should be set at no more than 2s 6d per acre.⁴⁵ Lewis agreed. He believed that a price of 3s 6d per acre (which presumably was closer to what he actually thought the land was worth) would result in a loss to the Government, as the non-sellers would undoubtedly 'swallow up' the best part of the land.⁴⁶ In effect, the Government had realised that the only way it would be able to buy land was through secret purchasing. It therefore decided to keep the price low to protect its own interests from any losses associated with this.

When the principal owners realised the Government was interested in purchasing in the block, they immediately sought to have the land protected from sale. In August 1890, they wrote to the Government asking that the land be placed under restriction under the Lands Frauds Prevention Act.⁴⁷ This presumably referred to

43. Correspondence, MA-MLP, box 38, NLP 95/368

44. Correspondence, April 1890, suggested as possible purchase by W H Grace – decision approved by Native Minister was to have surveyor's report done, MA-MLP box 61, NLP 90/71 attached to NLP 1901/95

45. Report and tracing by Hursthouse, MA-MLP, box 61, NLP 90/259 attached to NLP 1901/95

46. MA-MLP, box 61, NLP 90/260 attached to NLP 1901/95

the Native Lands Frauds Prevention Act and amendments which included provisions requiring commissioners to be satisfied that Maori owners in a block had sufficient land left for their occupation and support before further sales could be made.⁴⁸ In September, Lewis, with the approval of the Minister, informed them that they had written to the wrong branch of Government. He replied that applications for restrictions had to be made to the Native Land Court. The next day, Lewis instructed Wilkinson to begin purchasing in the block at 2s 6d per acre. The individual shares were calculated to be worth £16 18s each. Officials knew that there had been a survey problem resulting in an overlap in estimated land, between the Wharepuhunga block and a nearby block. Lewis simply instructed Wilkinson not to generally notify the price until the matter was rectified. In the meantime, sellers were to be told that once they sold they would have no further claim. In a further memorandum, Lewis clarified that there would be 10 per cent reserves and this had been taken into account when the price was set. This was approved by the Native Minister.⁴⁹

Secret individual purchasing in the block was unwelcome. In February 1891, Rangitutia Wehou, whom Wilkinson recognised as one of the principal owners, wrote to him and asked him to stop paying for shares in the Wharepuhunga block. He told Wilkinson that the people he was giving money to had only been put in the list of names through aroha. They had no real title to the land. The only title they had was because Wehou's people had shown affection to them because of their connection to an ancestor who owned the land. Those people had never lived and their fires had never burned on the block. Wehou reminded Wilkinson that the law recognised permanent occupation as the strongest claim. He asked him to stop giving money to those people and to pay attention to his letter. In a covering memorandum to Lewis, Wilkinson acknowledged that the writer was one of the leading men of Ngati Raukawa and one of the principal owners in the Wharepuhunga block. The owners who had sold interests so far nearly all belonged to one hapu called Ngati Paretekawa. Wehou had probably heard about this and it was them he was referring to. Wilkinson acknowledged that he was probably right. Nevertheless, there was nothing official to say so, as it had not been determined by the court. It would be out of place for a land purchase officer to say who were the big or small owners. Wilkinson maintained that this was simply another case of the court's inadequacy of the court in not determining relative interests when the lists of owners were passed.⁵⁰ However, he was prepared to use the advantage this gave him in buying up small owners.

There was no Government consideration of the need to protect Ngati Raukawa rights and interests as a result of this letter. Instead official discussion of the letter centred on the risk it indicated that the Crown might be running in purchasing before interests were defined. Lewis explained to the Native Minister that in all

47. Letter from Whiti Patato of Aotearoa, 7 August 1890, MA-MLP, box 61, NLP 90/294 attached to NLP 1901/95

48. For example, Native Lands Frauds Prevention Act 1881, s 6 and 1888 Amendment s 4

49. Correspondence, September 1890, MA-MLP, box 61, NLP 90/296 attached to NLP 1901/95

50. Memo from Wilkinson with attached letter, 13 February 1891, MA-MLP, box 61, NLP 91/37 attached to NLP 1901/95

such cases, the Crown ran the risk that when shares were settled they might be worth less than was supposed. However, so far they had made no loss in this way. He felt that since unfortunately so little progress had been made in Rohe Potae purchases, the risk was therefore not worth mentioning and no notice need be taken of the letter.⁵¹ It was typical of Lewis, that when Maori owners raised issues of Government protection of their rights, and this conflicted with Government interests, he simply advised that they should be ignored. There is no record of any acknowledgment or reply to this letter.

Although Wilkinson was quick to claim he should not become involved in determining the value of an individual's share when a known non-seller asked for assistance, he managed to overlook this point when he was offered a share from a man he knew had very slight interests in the block. He knew the man might well lose his claim to interests when they were properly defined. In spite of his instructions, he therefore refused to buy the man's share when it was offered because he was certain that the Crown would almost certainly lose on it. Senior officials were concerned about this because of the matter of principle. Native Minister Cadman was not worried and instructed that Wilkinson should be assured his instructions were not in 'cast iron' and he 'must use a little discretionary power when he is aware that interest being acquired may be likely to be a smaller one than that of other owners'.⁵²

In April 1891, the Government also received an offer from William Moon. This was the same individual who had been closely involved with W H Grace in land purchase activities in the Taupo area. As already shown, the dubious nature of these activities had been revealed in a subsequent inquiry into the Tauponuiatia block.⁵³ Moon informed Wilkinson that his wife and son and 15 others of her hapu were amongst the largest owners in the Wharepuhunga block and if they sold others would follow. They objected to the price of half a crown per acre and wanted more. However, if this was not possible then he offered to get them to sign if he was paid a bonus of £5 per signature. Wilkinson reported that, at his suggestion, Mrs Moon and the others had already applied for a partition of their interests and he had posted the application to the Auckland Native Land Court that day. If the application could be dealt with by the court sitting at present then:

I think there would be a general burst up of Wharepuhunga block as other hapus would also go in for subdivisions and then we should have blocks with smaller and fewer owners and defined interests.

Wilkinson believed Mr Moon's suggestion of £5 per signature was absurd, but felt it was his duty to report it.⁵⁴

It is not clear from preliminary research what the connection between the Moons and Grace brothers was. However, it seems they had joined forces in the Rohe Potae, much as they had already done in the Pouakani blocks in the Taupo area.

51. Correspondence, February to April 1892, MA-MLP, box 61, NLP 91/37 attached to NLP 1901/95

52. Correspondence, March to April 1891, MA-MLP, box 61, NLP 91/67 attached to NLP 1901/95

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

54. Wilkinson to Lewis, 28 April 1891, MA-MLP, box 61, NLP 91/264 and attachments to NLP 1901/95

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They also expected to gain financially from their activities. It seems highly possible that they were indulging in many of the tactics they had used previously in the Pouakani blocks as well. This time however, it seems that Lawrence Grace took the most active role. By August 1891 he had apparently organised a system of buying up the signatures that Wilkinson needed. In his eagerness to buy, Wilkinson seems to have been happy to go along with this. However this time, Grace and Wilkinson made sure that they had Government authority before they conducted their activities.

In August 1891, Lawrence Grace contacted the Land Purchase Department. He offered the assistance of himself and Ngakura te Rangikaiwhiria to obtain the signatures of about 100 of the owners in the Wharepuhunga block. The price offered had to be right and they wanted a bonus for the signatures. At the time, only 29 of 991 owners had sold shares. Senior officials were willing to consider the scheme. Lewis advised the Native Minister that if:

the chiefs could get the majority to sign it might be worthwhile to pay them so much per signature – say half a crown, but that is the extent to which I think the Govt should go.

Cadman approved this, but with the proviso that the offer would last for only two months. Wilkinson was more dubious. He pointed out that the Crown now risked not only losing when interests were defined, but the premiums paid as well. Nevertheless he obeyed his instructions and informed Grace and Ngakura that the Native Minister:

has authorised bonus payment of two shillings and sixpence (2/6) for signatures obtained during two months through the agency of Ngakura, or any other chief who influences his people to sign.⁵⁵

Ngati Raukawa owners were becoming increasingly concerned by this time, and made another plea for Government protection in August 1891. A letter from Hapeta Inurangi and 33 others tried appealing to the Government's own self interest. They pointed out that interests in the Wharepuhunga block had still not been defined and the shares would not be equal. If the Government persisted, it would be likely to incur losses, as it was known that many of the sellers had very small interests. Again, in considering this, officials were only interested in the possible loss to the Crown. Lewis reminded the Native Minister that it was not absolutely safe to purchase interests in any blocks where shares were not defined and Wharepuhunga was no exception. However, the Government had to run the risk or await the tardy operations of the Land Court, and they had generally come out all right. This was noted as seen by Cadman and filed. Again no effort was made to acknowledge the letter or reply to it. Ngati Raukawa concerns were simply ignored.⁵⁶

Meanwhile Wilkinson, Lawrence Grace, and Ngakura sought approval to make a three week trip between Otorohanga and Taupo to collect signatures. Being a

55. Correspondence, August 1891, MA-MLP, box 61, NLP 91/264

56. Correspondence, August 1891, MA-MLP, box 61, NLP 91/264 attached to NLP 1901/95

Justice of the Peace, Grace was also able to officially attest to signatures when they were collected. Their travel and expenses were approved by Lewis and the Native Minister in September 1891. At the same time, Wilkinson was collecting signatures on applications for court hearings that he had filled out himself. He then posted the applications himself to the Native Land Court. Wilkinson asked his superiors to have these hearings gazetted for the present sitting of the court. This would make purchasing easier. He also explained that once one application was heard, he was sure others would follow. A hearing would also bring in owners and that would save on travel in obtaining more signatures.⁵⁷

To assist with purchasing, Lewis also sought information on what costs could be charged to the owners of the Wharepuhunga block, in order to increase pressure for individuals to sell. In September, the Auckland Native Land Court informed Lewis that unpaid court fees for hearings in the whole Rohe Potae block during the last five years should indeed be apportioned over the various divisions. Part of this would be charged against the Wharepuhunga block. A statement was being prepared showing the amount of fees unpaid, so this could be done. In addition, a survey lien of £562 10s had been registered against Wharepuhunga. Lewis was obliged to inform court officials however, that the owners had paid some of this and the total amount had to be reduced.⁵⁸

In late September 1891, Wilkinson reported that he had been obliged to cut short part of the trip to collect signatures because Lawrence Grace had other urgent work assisting with the preparation of lists of owners for another block. Nevertheless, Wilkinson intended to finish the trip as soon as possible and he had managed to collect eight signatures at Hingaia and seven at Maungaorongo. His report was passed on to Native Minister Cadman. Attached correspondence shows that bonuses were in fact paid to chiefs who had assisted with obtaining signatures.⁵⁹

Wilkinson also reported that, as suspected, there was an overlap in the acreage of Wharepuhunga and another block. The correct area of Wharepuhunga was now known to be some 133,706 acres, instead of 135,000. This reduced the value of a share from £16 18s to £16 17s 3½d, but as it was not much he had not bothered to alter the money being paid.⁶⁰ Wilkinson apparently continued seeking signatures for the block, including those of owners who lived well outside the district.⁶¹ As previously, he targeted those individuals whom he felt were most likely to be tempted to sell secretly.

In May 1892, Ngati Raukawa owners appealed to the Government again. This time they gave up appealing to Government self-interest and openly asked for protection for themselves. The letter was dated 2 May 1892, and addressed to the Native Minister from about 70 men and women of Raukawa. In the letter they told

57. Correspondence, August to September 1891, MA-MLP, box 61, NLP 91/264 attached to NLP 1901/95

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

59. Memo from Wilkinson, 21 September 1891; note, 21 July 1892, re bonuses on NLP 91/311 on NLP 1901/95 on MA-MLP box 61

60. Memo from Wilkinson, 22 September 1891, MA-MLP, box 61, NLP 92/50 attached to NLP 1901/95

61. Wilkinson to Sheridan, 26 May 1892, MA-MLP, box 61, NLP 92/112 attached to NLP 1901/95, re mention of a Wellington deed

the Minister that they and their hapu were the principal owners in the Wharepuhunga block. They wanted the Government to stop purchasing because it was the only land they had. If the Government persisted, most would become landless. They described how they had already written a number of letters to the land purchase officer, to the Under-Secretary and to the Native Minister, and none had been replied to. If the Government persisted with the purchase then its action would be regarded as unjust. The Government was taking advantage of those who wanted money to spend and did not think of the future. The Government was supposed to be protecting Maori and this hapu was asking for protection in this instance. They declared that the letter conveyed the wish of the majority of people, especially those who were most concerned with the future and with the well-being of their hapu, that they should not become landless. They asked that the provisions and protections of the Native Lands Frauds Prevention Acts Amendment be made applicable to the purchase of native lands by the Government, so that the same law governed the purchase of land for both Government and private Europeans alike. The writers also did not want the Government to start purchasing in any block before title was ascertained. Until that was done, the extent of each owners share was not known, and this was the case with Wharepuhunga. The Government had begun purchasing in this block before it had been through the Native Land Court and before the court issued orders. They argued that the proper course, according to the law, was to allow three months to lapse after the passing of the court decisions to see if an application for rehearing was made, and to wait until an order had been issued by the court. This law should apply to the Government in the same way as it applied to other Europeans.

Sheridan commented on this letter that the Native Minister had replied to it verbally at the meeting at Kihikihi.⁶² This was a reference to a recent visit by the Minister to the district where many Maori owners had aired their grievances. More research is required on the series of meetings between ministers and owners that took place in the Rohe Potae over these years. It seems, however, that as previously, the Government made general assurances at these meetings that did little to alter the course of land purchasing as it was being implemented.

The Native Land Court hearing on the Wharepuhunga block was held from April to May 1892. The hearing resulted from an application for a partition of the block. The partition application was supported by Ngati Raukawa owners, apparently in an attempt to have the Crown interests cut out and to protect the rest of the block. The Crown successfully opposed a hearing on a partition, however, on the grounds that no certificate of title had been issued due to an outstanding survey lien. The Crown argued that as a result, technically the court could not make a partition without a title, but could only define interests. The court agreed. The hearing then became one to define relative interests. This was quite a different matter to what Ngati Raukawa owners had expected and wanted.

Wilkinson reported on the Land Court hearing in some detail. By this time he and W H Grace appear to have fallen out. Wilkinson noted that W H Grace was now

62. Men and women of Ngati Raukawa to Native Minister, signed by 70 people, 2 May 1892, MA-MLP, box 61, NLP 92/112 attached to NLP 1901/95

actually acting as agent at court for the non-sellers, Ngati Raukawa. Grace had also criticised Crown purchasing activities in the Wharepuhunga block in court. When informed of this, Sheridan simply noted that it was W H Grace who had originally suggested purchasing in the block, when he was still a Government land purchase officer. Wilkinson was also quick to report the allegation made on oath by a witness in the case that W H Grace had coached the same witness to give false evidence in the Maungatautari case in 1884.⁶³

Wilkinson reported that after preliminary arguments, five cases had been set up for hearing. Four of these were by the sellers and one by the non-sellers or King supporters, Ngati Raukawa. Ngati Raukawa had claimed rights of ownership over the whole block and a greater share of interests in it than anyone else. The court had been asked to define interests not in acres, but the proportionate share in the whole block each individual was entitled to in cases where they had not already been defined by mutual arrangements outside of court. Wilkinson originally intended to represent all four seller cases. In the end however, he decided to allow them to fight independently, as the cases were based on separate arguments. Each case was conducted by an agent at court, or Kaiwhakahaere, who was being paid by Maori themselves.

Wilkinson decided that it would be better not to push for the court to go on and make partitions after interests were defined. He had objected to a partition originally and he decided that to push for one after interests were defined would be likely to cause unnecessary animosity. After the hearing he would at least be purchasing defined shares and he felt this would now assist him. He hoped that those who had received smaller shares might sell out of disappointment and chagrin, while those who had received larger shares might well be tempted to sell them for the extra money. He was aware that Ngati Raukawa from Kapiti and Otaki were represented at the hearing. He believed that out of compliment to them, local Ngati Raukawa might offer them equal shares. In that case they might sell them as soon as they returned to their homes. Wilkinson was confident that in six months time he would have a much larger area than he had already purchased so far. This would mean he would then be in a much better position to have the court partition out the Crown's interests.⁶⁴

Mr Moon contacted the Native Minister, immediately the hearing finished, and asked for help with expenses associated with the hearing. Wilkinson advised the Native Minister that the sellers had been at pains to prove their case in court, at considerable expense. Their expenses included court fees, travel, food and the court agents' expenses. Their actions were not entirely altruistic. They did have something to gain with minors' interests and their share in reserves. However, this was not a huge incentive and they had greatly assisted the Crown. In return, he had paid their court fees and an allowance of up to £10 which he felt was fair.⁶⁵

63. Wilkinson to Native Minister, April 1892; 7 April 1892, MA-MLP, box 61, NLP 92/112, attachment to NLP 1901/95

64. Ibid

65. Memo from Wilkinson, 28 April 1892; letter from Moon, 20 April 1892, MA-MLP, box 61, NLP 92/112 attached to NLP 1901/95

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The court gave its judgment on the Wharepuhunga block in late May 1892. Mr Moon immediately telegraphed the Minister to complain that they were out of pocket as a result.⁶⁶ His relatives had been awarded shares worth 1722 acres but had only been paid for the equivalent of 786 acres. He asked the Government for help with this, and with expenses and costs. In return, he offered further assistance with the subdivisions of the block.

The Native Minister telegraphed Wilkinson for details of the judgment. Wilkinson reported that the total number of owners in the block had been reduced from 991 to 954 because of duplicate names on the lists. The court had found the shares were unequal. It found a full share represented just over 287 acres. 159 owners had sold to the Crown before their interests were defined, including those who had signed a Wellington deed, for owners living in that district. The total area acquired from this had been found to represent 17,038 acres. The Government had purchased under the assumption that the shares were equal. On that basis one share would have represented about 134 acres. 159 shares would have therefore represented 21,454 acres. The Crown had in fact ended up with 4416 acres less than this. At 2s 6d this represented a loss of £552. Overall, the Crown had therefore lost by buying before interests were defined. Although it had made an overall loss, within the shares it had purchased, the Crown had made some gains and some losses, according to what an individual's share was determined to be worth. According to Wilkinson, most of the loss had occurred through the court only awarding one-quarter shares to Ngati Te Kohera and Ngati Parekaawa hapu, among whom Wilkinson had purchased about 70 shares during his trip to Taupo in the previous October. Ngati Raukawa who lived at Otaki and Kapiti, among whom Wilkinson had also purchased, had also been awarded one-quarter shares.⁶⁷

Mr Moon continued with his efforts to win more expenses from Government. He wrote another letter to the Native Minister in May, explaining how he and Mrs Moon had fought what was really the Government case and had incurred expenses over £60. This time he had attached a note from Native Land Court Judge Gudgeon, who had presided at the hearing. Moon claimed this note bore out his contention that if he had not fought in court, the Government case would have been thrown out and as a result it would have lost most if not all of the money advanced to the Maori owners. Gudgeon had written in part:

I say distinctly Mr Moon has not exaggerated but for the stand taken by Areta Karaiohira (Mrs Moon) the Kapiti people would in many cases have come in as large owners and a full share in such case would have been much smaller than it now is. The Kotuka family were the only anchor the govt had.⁶⁸

In further reports on the case, Wilkinson confirmed that overall the Crown had lost 4416 acres or £552 after definition of interests. He agreed that Mrs Moon's people had definitely helped the Government case in court. They had already sold

66. Letter from Moon, 21 May 1892, MA-MLP, box 61, NLP 92/112 attached to NLP 1901/95

67. Wilkinson to Sheridan, 26 May 1892, NLP 92/112 attached to NLP 1901/95 in MA-MLP box 61

68. W Moon to Native Minister, 16 May 1892; W Moon to Native Minister, MA-MLP, box 61, NLP 92/112 attached to NLP 1901/95

their interests but had fought their case well. In fact they had caused the Government to gain £115 7s 10d on their interests where it might otherwise have lost £39 16s. (The Government paid them about £16 per share but the court defined their interests at the equivalent of about £35 per share. This made a profit for the Government, on their particular shares, of £115.) Wilkinson did not believe they were entitled to anything extra under the recent agreement they had made with the Native Minister at Kihikihi however. That had been based on the Government making an overall profit, in which case it would have been used to make up the difference for those who had been paid less than they were later found to be entitled to. However, as there was no overall profit, they were not now entitled to anything. Wilkinson denied that the Government would have been thrown out of court without their help, but he agreed they did fight well and it was hard on them that now they were out of pocket.⁶⁹

Sheridan noted to the Native Minister that Mr Moon was the kind of person 'to whom a Govt Land Purchase Officer should give a very wide berth'. Under the circumstances however, he advised that Wilkinson should be authorised to pay Mrs Moon the difference between what was paid at the time for her share, and what had been found to be its present value. He advised this should be paid as a remuneration for services and should be paid only to Mrs Moon individually. Cadman approved this, while noting that the Government loss should be pointed out to Wilkinson. Wilkinson reported that he had offered to pay Mrs Moon the amount authorised, but she refused to accept it.⁷⁰

It is clear from official correspondence that the Moons thought they were entitled to more than they were getting. Much of what happened between them and the land purchase officers and others such as L M Grace was obviously not recorded. Further correspondence contains requests from Mr Moon for more generous consideration of their services and also complaints from other Maori about the payments rumoured to have been made to the Moons. In reply to one such complaint, the Native Minister denied the Government had paid any extra consideration to Mrs Moon for shares sold to the Government before the interests were defined, although he did admit that a small payment had been authorised for her services and expenses regarding proceedings in the Native Land Court.⁷¹ As the Government had indeed been paying bonuses and the payment for services was a thinly disguised compensation, this was barely truthful.

Wilkinson carried on purchasing in the block as opportunities arose. It was April 1894 before the Crown's interests were partitioned out. The court partitioned the Crown's interests as Wharepuhunga 1 block of 37,767 acres. (The Crown had been awarded the equivalent of 17,038 acres in 1892). The balance of the block, called Wharepuhunga 2, went to the non-sellers. Wilkinson immediately had a deed made up so that he could start purchasing in the number 2 block. This time there were to be no reserves.⁷²

69. Wilkinson to Sheridan, 29 May 1892, MA-MLP, box 61, NLP 92/112 attached to NLP 1901/95

70. Sheridan memo and Cadman approval, 9 June 1892; Wilkinson memo, 14 July 1892, MA-MLP, box 61, NLP 92/112 attached to NLP 1901/95

71. Mr Moon to Native Minister, 24 June 1892; A J Cadman to Te Maketu, 18 August 1892, MA-MLP, box 61, NLP 92/113 attached to NLP 1901/95

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In 1894 the Moons were still trying to get extra reimbursement from the Government for their losses. Wilkinson and Sheridan were both sympathetic to Mrs Moon's request for a refund of the money she had originally contributed for the original survey of the block. This had been collected by the owners to avoid indebtedness to the Government. As previously explained in the chapter covering reserves policy, as a seller she would not normally have had to pay survey costs. However, the owners in this block, in common with those in many other blocks, had sought to avoid debts by paying at least some survey costs as soon as possible. She had contributed to this before she had sold her interests. Officials recognised that she had also been very helpful in the court hearing defining interests. Wilkinson strongly recommended some assistance for her. As the refund of survey costs might set a 'troublesome precedent', Sheridan advised a 'gift' of a similar amount instead. The Minister of Lands, McKenzie, approved a payment of £5 15s for services in connection with Wharepuhunga block. Wilkinson pointed out that this was too much, if it was supposed to be equivalent to what she had paid towards the survey lien. However, as it was a gift, he supposed it probably did not matter. Sheridan however, instructed Wilkinson to pay only what was needed 'to get shot of her'. She was eventually paid about £3.⁷³

In December 1894, surveyors began work on cutting up the Crown block for roads and settlement. Wilkinson and the surveyor had decided between them the best location for any reserves, in accordance with Government policy. Any requests from sellers as to their preferred location were resisted if they appeared to interfere with Crown interests or the interests of settlement.⁷⁴

By 1907, the Stout–Ngata commission reported that the Crown had acquired 54,311 acres in the Wharepuhunga block (after deducting a reserve of nearly 4000 acres made out of the purchased land).⁷⁵ The Maori owners still held 76,955 acres, including the reserve already mentioned of 3776 three-quarter acres. The report noted that most of the Maori owned land in the block was owned by Ngati Raukawa. They maintained close links with Waikato iwi and opposed having their land dealt with in any way by the 1907 commission: 'They desire to be left alone to do as they please with the land'. They also had very little other land than what they owned in the Wharepuhunga block. According to the 1907 report, 'The insufficiency of other lands was taken into consideration by the Land Purchase Officer (Mr W H Grace), who would not negotiate for the purchase of this block'. However, the report made no mention of the land purchase activities of Wilkinson and L M Grace in the block.

The 1907 commission recommended that a further area of 27,000 acres in the Wharepuhunga block should be sold. This included two subdivisions that the Land Court had found were owned by a section of Ngati Tuwharetoa of Taupo. The commission believed that Ngati Tuwharetoa had sufficient other lands and was unlikely to ever utilise these subdivisions, so they would be better sold. The

72. Correspondence, April 1894, MA-MLP, box 61, NLP 94/82 attached to NLP 1901/95

73. Correspondence and file notes, July to September 1894, MA-MLP, box 61, NLP 94/122 attached to NLP 1901/95

74. Correspondence, MA-MLP, box 61, NLP 94/414 attached to 1901/95

75. Supplementary report on native lands, AJHR, 1907, G-1d, pp 1–2

commission also recommended the leasing of some of the land, including the reserve. The commission recommended that the rest of the block should be left for the Maori owners to use.⁷⁶

The process of the practical implementation of Government purchasing has been covered in some detail for the above two blocks in order to show the way in which the Government began implementing purchasing regardless of Maori wishes. These two purchases are relatively well documented because they were some of the first large purchases the Crown undertook. Once purchasing began in these two blocks, it is also clear that the Crown continued trying to buy up more land in them wherever possible and over a number of years if necessary. It has not been possible to investigate all Crown purchases in the 1890s in the Rohe Potae (Aotea block) in the same level of detail. It seems possible given the filing system used, that a more intensive search of later records of the Land Purchase Department, say from 1901 to 1920, than was possible for this report, could well reveal later purchases that were also well documented. However, a brief investigation of further Crown purchases in the district in the 1890s, indicates that Crown purchasing appears to have followed much the same pattern set by these early purchases.

7.3 CONTINUED PURCHASING IN THE AOTEA (ROHE POTAE) BLOCK IN THE 1890s

There were some administrative changes in Crown purchasing in the Rohe Potae (Aotea block) during the 1890s and there was a period in the mid 1890s when attempts were made to increase the pace of purchasing. Nevertheless, official correspondence on later purchases reveals much the same tactics and policies that were apparent in the earlier purchases. As will be seen, Wilkinson continued to secretly purchase individual interests in any block he could. These purchases often took years, but Wilkinson's local knowledge and his sheer persistence achieved some success. In addition, there were a significant number of 'sale' blocks offered by owners, usually to pay off costs and debts. As had happened with the Taorua block, the Government often treated sale offers as a means of entrance into a wider block for continued secret purchasing. In the process, Government consistently ignored and undermined Maori wishes to establish a managed system of choosing and offering land for sale. The wishes of Maori to participate in new alternative economic opportunities were also apparently ignored.

There are many examples of the continuation of these kinds of purchases in the district in the 1890s. For example, in early 1892, purchasing began in the Kakepuku blocks. Progress was difficult as the owners were reluctant to sell and indeed the process took many years. At each stage the owners made efforts to reduce their losses and to save their most valuable land, even if they had to sell some less valuable areas to do so.⁷⁷ Wilkinson apparently managed to begin purchasing in the

76. Ibid, p 2

77. MA-MLP, box 62, NLP 1901/96 and attachments

block in the first place because he found an owner who had large debts and wanted to pay them off to save her other land.⁷⁸

The use of charges and costs remained an important tactic and the Government did little to offer assistance unless forced to. In 1894, for example, owners in a block were threatened with having to sell land to pay off debts from remaining survey liens. In this case W H Grace came to their assistance (one of the owners was his wife). He suggested that some of the charge might be paid off by the outstanding compensation money due when some of the land had been compulsorily taken for the railway. The compensation money had been awarded in 1890 but had still not been paid for reasons Grace did not make clear. However, after some persistence he was successful in having it paid so that it could be put towards paying off the survey lien. He also argued that any interest due on the lien should be offset by interest due on the compensation.⁷⁹

The tactical battles in manipulating the Native Land Court process also continued. Wilkinson did not always get his own way. There were times when owners successfully outmanoeuvred him. For example, in 1892, Wilkinson complained that the court definition of interests in the Takotokoraha block, and in nearby Waiwhakaata, had taken place when he was absent. The owners had proposed a partition and succeeded in having it heard while he was out of the district. As a result, when overpayments and underpayments were taken into account, the Crown had lost a total of £9 12s 11d. Due to his absence, 'it was not possible for me to take any steps to prevent the interest acquired by the Crown suffering at the hands of the Natives'.⁸⁰ From preliminary research, it is difficult to say how significant these victories ultimately were. They seem to have been won against the trend. As previously shown, officials had significant advantages in being able to effectively manipulate the court process.

By 1894, Government land purchase officers were also beginning to make progress in the Kawhia area. It seems clear that much the same tactics were used as had been developed earlier. The Native Land Court issued a judgment in August 1894 on the Taharoa block. This had been claimed by Ngati Maniapoto and Ngati Mahuta. Ngati Mahuta were dissatisfied with the result and asked the Government to hold off from purchasing in the block while they took their case to Parliament for redress. Sheridan ignored this and issued instructions to purchase anyway, on the basis that the court decision was final. As soon as the court had partitioned the block between sellers and non-sellers, the Government began purchasing, including attempted secret purchasing in the non-sale block. This proved difficult because the owners had developed the land into pasture and it seems to have been one of the few areas where Maori owners had been successful in obtaining good rents from leasing. However, with determination, and the help of survey liens and interest on them, Wilkinson was able to report in 1898 that a partition (Taharoa B, section 2) had been awarded to the Crown by the Native Land Court. This was made up of shares purchased representing about 6297 acres, plus survey liens and interest of

78. Wilkinson to Sheridan, 22 December 1892, MA-MLP, box 62, NLP 92/213

79. Correspondence, MA-MLP, box 61, NLP 1901/96 and attachments of 1892–1894

80. Wilkinson to Sheridan, 26 September 1892, MA-MLP, box 34, NLP 94/75

£58 18s. The non-sellers' share of this was £12 5s which at 3s 6d per acre represented just over 60 acres. The total awarded to the Crown was therefore just over 6357 acres.⁸¹

The Government even appears to have attached little significance to gestures of goodwill or good faith by Maori owners. For example, in 1899, non-sellers were partitioning their interests in Te Kumi block. They gifted an acre surrounding the Te Kumi railway station to the Crown. They believed the present station area was too small and gave the land so that everyone in the district would benefit. When officials were notified of the gesture, they simply ignored it. There is no record of any acknowledgment on file.⁸²

There were some administrative changes in land purchasing during the decade. In 1893, the Land Purchase Department was moved from the control of the Native Department to the Department of Lands. The Minister of Lands, McKenzie, took much the same close interest in the purchasing of Maori land in the Rohe Potae, as previous Native Ministers had done. In June 1893, for example, he instructed that all papers and questions regarding native land purchase were to be brought before him.⁸³

It seems that by the mid-1890s, the effects of some land purchasing policies were also having an impact on the Crown. For example, the policy of purchasing in any block possible, and of cutting out Crown interests for tactical reasons, apparently also resulted in the Crown acquiring pockets of land spread throughout the district, not necessarily useful for settlement. For example, in the printed return of lands leased and purchased for 1894, the Surveyor General, Percy Smith, noted with regard to the Rohe Potae lands that:

It may be found advisable not to do much – beyond meeting urgent demands – in the way of settling lands acquired in the King country (Rohepotae) until some further progress has been made in the purchase of the intermediate and adjoining blocks.⁸⁴

This may have been one reason why, in late 1894, Seddon appears to have decided to re-energise and rationalise purchasing in the district. In October 1894 he requested the Minister of Lands, McKenzie, to take steps to increase the number of land purchase officers and to give all of them instructions to purchase land as near roads and settlements as possible. He also instructed McKenzie to review prices if that might possibly achieve more sales. Seddon was confident that, with the recent increase in money available for purchasing and recent legislation, more land might be purchased in the district in the coming year than in any previous year: 'this year we ought to break the record'.⁸⁵

There were some attempts to rationalise and review prices the Crown paid for land.⁸⁶ This has already been described in some detail in the previous chapter on

81. See correspondence, MA-MLP, box 49, NLP 98/101 and attachments

82. MA-MLP, box 61, NLP 99/51 attached to NLP 1901/66

83. McKenzie to Sheridan, 30 June 1893, MA-MLP, box 33, NLP 93/117

84. Note accompanying report re lands purchased and leased from natives in North Island, 15 June 1894, AJHR, 1894, G-3

85. Seddon to McKenzie, 29 October 1894, MA-MLP, box 35, NLP 94/290

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

purchasing policy. It seems that by this time, the use of costs and debts to force sales was also a very important part of purchasing policy. It is not clear from preliminary research how many sales were forced by costs such as survey charges. This policy was clearly significant however. The 1907 Stout–Ngata commission found that in terms of survey costs alone, by 1907 it had ‘already cost the Ngati Maniapoto in land for surveys of original blocks and for partitions nearly 40,000 acres’. This presumably was based on Native Land Court awards of land for survey costs. There were many more cases where owners offered blocks for sale themselves, in order to pay off survey costs and avoid the court making compulsory awards in land. The Stout–Ngata commission was unable to find any reliable figures on what surveys had cost Ngati Maniapoto in cash.

It seems clear that throughout the 1890s, Government purchasing continued along much the same lines as described in the early block purchases. By May 1895, Wilkinson was able to report on partitions awarded to the Crown in the Otorohanga, Hauturu, Maraeroa, and Pirongia blocks that totalled over 48,000 acres. From the details in his report, it seems that these resulted from a mix of secret purchasing of individual interests and purchases of ‘sale’ blocks. The ‘sale’ blocks were deliberately partitioned out by owners to pay for costs and debts, and were also intended to limit Crown intrusions through secret purchasing.⁸⁷

In mid-1895 Rohe Potae owners apparently took part in an attempted boycott of the Native Land Court. This proved to be no more feasible than the attempts to ignore the court had been in the late 1880s. Failure to claim land simply meant it was awarded to someone else and officials could always find some means of ensuring an application was made. Official records of this time contain some discussion of tactics designed to defeat the boycott and reveal the advantages the Crown had in being able to manipulate the timing of hearings, for example, so that owners were forced into court.⁸⁸

In late 1895 and early 1896 the Government seems to have attempted an even more aggressive purchasing effort in the district. Wilkinson, for example, had to temporarily put off an offer of a share from outside the district because he was too busy with purchasing inside the district.⁸⁹ By late 1895 Wilkinson was also beginning to make some progress in what owners had originally partitioned off as non-sale blocks. Once again, he was able to use his considerable local knowledge to target those who were in financial difficulties. Often when he suggested moving into a block in a report, it was clear that he had already made contact with at least one individual who he felt was likely to sell.

Progress with purchasing in non-seller blocks was slow. Owners who had fought hard to protect and retain the land were obviously reluctant to sell. For example, in 1895, Wilkinson was trying to move into the Pukeuha block. This was one of the original subdivisions of the Taorua block where the original implementation of purchasing has been described in some detail. It is clear that the owners had originally been determined not to sell this portion. Wilkinson explained to officials

87. MA-MLP, box 37, NLP 95/236 and attachments

88. For example, correspondence on file where file number lost but top page starts with memo 338/7, 2 May 1895, MA-MLP, box 37, and attachments

89. Correspondence, MA-MLP, box 39, NLP 95/456

who wanted the block acquired quickly that ‘these purchases are not likely to be completed quickly’. There were too many owners. At the time he had been able to buy only one share in Pukeuha–Taorua 2. He explained that this was a very good block and the owners knew it. The prices being offered also did not tempt them.⁹⁰

Nor was the Crown always successful in forcing purchases. Even in the late 1890s, Wilkinson was still reporting on some blocks where all efforts at purchasing had consistently failed.⁹¹ These owners had often been able to find sufficient alternative income to stay out of debt. Wilkinson shrewdly suggested that the Crown should try and create a need for more cash among these owners. He suggested building roads near where the owners lived, so that they might acquire a desire to have buggies, waggons and horses for use on the roads. However, his suggestion was received with little enthusiasm from the Survey Department. Survey officials were only interested in putting in roads after the land had been transferred from Maori ownership.⁹²

By 1897, some leasing was permitted in the district and, as was often the case, leases seemed to turn rapidly into outright sales. In some cases, owners had problems collecting the rents owed to them. Their only option was to sue in court for unpaid rent but this required cash for court expenses and possibly the sale of more land to fund a case. It is clear that owners hoped that leases would generate sufficient funds to pay off debts and expenses associated with the initial determination of title and surveys. It was hoped that rents would then continue to provide sufficient income to develop land and provide a sustainable source of income. More research is required into the whole issue of leasing in the Rohe Potae at this time.

In some cases, owners appear to have been successful with leasing. For example, in 1898, a European settler, H D Coutts, who was living in the Kawhia district, noted that the greater part of the Taharoa block was leased to Europeans by the Maori owners. It was grassed and good pasture land and he was certain that the main reason it had not been sold was because the owners were making good rents from it.⁹³ However, there were other cases where leases failed to provide the expected benefits, apparently because rents often went unpaid. An example of such a lease involved the Mangoirā block, just north of the Mokau River. A lease was confirmed by the Native Land Court in 1894 but the European lessee refused to pay rent. A private surveyor had a survey lien on the land which would have been paid off within a couple of years if the rent had been paid. However, the rent was not paid and the surveyor took action to have the land sold under the Native Land Court Act 1894. The court failed to make the lease arrears a first charge on the land as it should have done, which could have paid off the lien. Government officials were convinced the surveyor and lessee had actually been working together to force a sale. The owners had no cash to sue for arrears and were forced to agree to sell 260 acres to pay the surveyor. In the Rohe Potae at this time, ministerial approval was required before such a lien could be paid off. Officials advised against the Minister

90. MA-MLP, box 38, NLP 95 /368

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

92. Ibid

93. H D Coutts to Minister of Lands, 3 June 1898, MA-MLP, box 49, NLP 98/101

giving approval to the lien being paid off for their own policy reasons. They wanted private acquisitions of land in the district to remain as restricted as possible. Seddon agreed and the Government took over the lien. Fortunately for the owners, a new lessee agreed to pay enough to cover the lien, and in this case, they did not have to sell the land.⁹⁴

By 1897, Wilkinson was also trying to assist the survey office by tidying up previous purchases. For example, he was trying to buy up pieces of land that would allow small scattered blocks of Crown land to be amalgamated. He was also buying land where it had been decided roads were required. The comments on one list the survey office supplied to Wilkinson for urgent purchasing, reveal that Government interests and concerns were still driving purchasing. Some of the blocks listed had Maori settlements on them but this was not apparently a consideration. Other blocks were listed as being required urgently because roads were rapidly approaching them, and officials wanted them purchased before roads improved the value and prices of Maori land. Other blocks on the list were noted as already dealt with by Europeans. At this time they were presumably under lease but there was a clear assumption that this would end in a sale.⁹⁵ Similarly, in 1899, the survey office required land purchase assistance in buying up land to provide outlets to Kawhia harbour for road lines as settlement progressed.⁹⁶

It is clear from official correspondence in the late 1890s that charges and debts through survey liens were still being used as an important means of pressuring sales. There is evidence by this time that liens were also being used to force sales in seller reserves and in areas where Maori had settlements and cultivations. The notion of buying only surplus land had been well and truly abandoned by this time and there seems to have been little consideration of whether Maori were actually being left with land on which they could live, as opposed to being left with simply some interests in land.⁹⁷

By the late 1890s, it seems that the Liberal Government had been persuaded to try out a new system of administering Maori land, including processes by which alienations of Maori land could take place. Under section 3 of the Native Land Laws Amendment Act 1899, all new Crown purchases of Maori land were prohibited. This was to allow the new system to be brought into place.⁹⁸ The 1890s system of Crown purchasing in the Rohe Potae was legislatively ended. Practically, however, land purchase officers could still continue finishing purchases they had already begun. Given the secret nature of much of the purchasing this apparently meant that significant purchasing continued in many blocks, even though it might not have been on the same scale as previously. Wilkinson apparently continued completing purchases in the Rohe Potae (Aotea block) right through the years new purchases were prohibited until widespread purchasing began again in 1905. In the year up to 31 March 1904, for example, Wilkinson ‘partially acquired’ some 8000 acres in the Rohe Potae.⁹⁹

94. MA-MLP, box 56, NLP 99/214 and attachments

95. Correspondence, MA-MLP, box 44, NLP 97/145

96. MA-MLP, box 54, NLP 99/98

97. For example, MA-MLP, box 60, NLP 1901/6

98. Native Land Laws Amendment Act 1899, s 3

Rohe Potae

It is difficult to be totally precise about sale figures at any one time because, as seen, the Crown purchases were often a ‘theoretical’ figure for many years before actual areas and location were defined. As such, purchases listed as completed in any year could actually represent efforts over a number of previous years, and incomplete purchases might still be outstanding. This makes identifying yearly trends difficult. The yearly figures given by the Stout–Ngata commission for the Rohe Potae (Aotea block) show enormous variations in sales between years in the 1890s, but this could well be a result of waiting for court awards before final figures were announced. The yearly totals are set out in the table below.

Land sales in the Rohe Potae (Aotea block) during the 1890s. Source: AJHR, 1907, G-1b, p 4.

Period	Acres acquired
January to December 1892	17,213
January 1893 to August 1894	146,512
September 1894 to May 1895	50,722
June 1895 to July 1896	4419
August 1896 to September 1897	11,218
October 1897 to June 1898	278,250
July 1898 to June 1899	67,139
July 1899 to July 1900	6110

According to the Stout–Ngata commission, the Crown acquired a total of some 687,769 acres of land in the Rohe Potae (Aotea block) during the 1890s, either by purchase or in payment of survey liens and including interests afterwards defined by the Native Land Court.¹⁰⁰

It seems apparent from the evidence available that Crown purchasing in the Rohe Potae (Aotea block) during the 1890s was conducted primarily in the interests of the Crown and European settlement. There is very little evidence of any consideration of any Crown obligation to protect or balance Maori interests and wishes, or to allow effective Maori participation in the process. In fact, the system of Crown purchasing also appeared to be intended to undermine traditional chiefly, iwi, and hapu authority in favour of a new system of dealing in individual transferable interests in land.

The ultimate success of the Crown in actually making purchases in the district is more difficult to judge. According to the Stout–Ngata commission report, by 1900, the Crown had acquired some 687,769 acres of Rohe Potae land out of the original 1,844,780 acres of the Aotea block. This was made up of sales and through the payment of survey and other costs and interest charges.¹⁰¹ The Crown had therefore

99. For example, see AJHR, G-3, 1900–05; for 1904 year see, AJHR, 1905, G-3, p 3

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

101. Stout–Ngata commission report, AJHR, 1907, G-1b

acquired between one-third and half of the total block. This was a significant alienation and was undertaken against the wishes of chiefs and the majority of owners who had consistently opposed sales and expressed a preference for leasing. Nevertheless, it was still not nearly as successful as the Government had anticipated. More research is required into the quality and usefulness of the land retained by Maori. Even so, after a decade of extremely aggressive purchasing by the Crown, Ngati Maniapoto had been able to retain at least half of their land.

There is some evidence to suggest that the Crown found the difficulties of the Land Court process at least as obstructive to purchasing as Ngati Maniapoto resistance. It is not clear from preliminary research exactly why Seddon was persuaded to review the Liberal's land purchase programme and adopt a new system of Maori land administration. This new system initially at least, adopted Carroll's taihoa policy of leasing rather than purchasing Maori land and allowed for increased Maori participation in managing their land through the new district Maori land councils created in 1900. It has been suggested elsewhere that the Liberals may have become increasingly concerned about Maori landlessness and the possibility that Maori might become a burden on the state. There was also considerable pressure on Government from Maori political movements of the 1890s such as the Kingitanga, the Kotahitanga, as well as the numerous petitions to Parliament. These all sought greater iwi management of remaining Maori lands.¹⁰² This was certainly acknowledged by the Government and may well have been a factor in the wider New Zealand context.

These concerns do not seem particularly evident in official records of land purchasing in the Rohe Potae (Aotea block) at this time however. Although by the late 1890s there were issues arising concerning seller reserves, overall landlessness does not seem to have been a concern.¹⁰³ Instead, there was considerable concern with the Native Land Court and the difficulties in making sufficient progress for purchasing to continue and for land to be utilised. In 1907, for example, the Stout–Ngata commission reported that the unsatisfactory state of titles in the Rangitoto and Rangitoto Tuhua blocks prevented the Crown from purchasing in the blocks prior to 1900.¹⁰⁴ The commission also noted that in 1907, an enormous amount of work was still required for surveys to be made under existing partition orders.¹⁰⁵ The Land Court was also believed to be seriously hampered in its effectiveness by other problems such as the seemingly endless litigation associated with it.

As early as 1891, the Rees commission had foreshadowed something similar to the proposed district Maori land councils of 1900, in the interests of more effectively making land available for settlement, if only by lease.¹⁰⁶ It noted that such a system, that concentrated mainly on leasing as Maori wanted, had the near unanimous support of both the European and Maori witnesses it examined. Even T W Lewis, no advocate of hapu and chiefly authority as such, had suggested in

102. For example see John A Williams, *Politics of the New Zealand Maori, Protest and Cooperation, 1891–1927*, Auckland, 1969

103. Papers on promised reserves of 1898, MA 13/78

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

105. Stout–Ngata report, pp 9–11, AJHR, 1907, G-1b

106. Report of Native Land Laws Commission 1891, AJHR, 1891, sess ii, G-1

evidence to the commission that a runanga system should be established whereby Maori could determine title themselves in their own way and have this ratified by the Native Land Court. Lewis and other Europeans hoped that this would provide a more effective system of making land available for European settlement, even if it was by lease.

It seems therefore, that the sheer logistical difficulties that eventually built up in the Land Court process may have been an important factor in why Ngati Maniapoto managed to retain so much of their land in the 1890s. This may also have been an important consideration in bringing in the new system of Maori land administration from 1900 which finally seemed to offer Ngati Maniapoto the opportunity they had consistently been seeking – to engage in large scale leasing, rather than selling their land.

Implementation of Government Land Purchasing in the 1890s

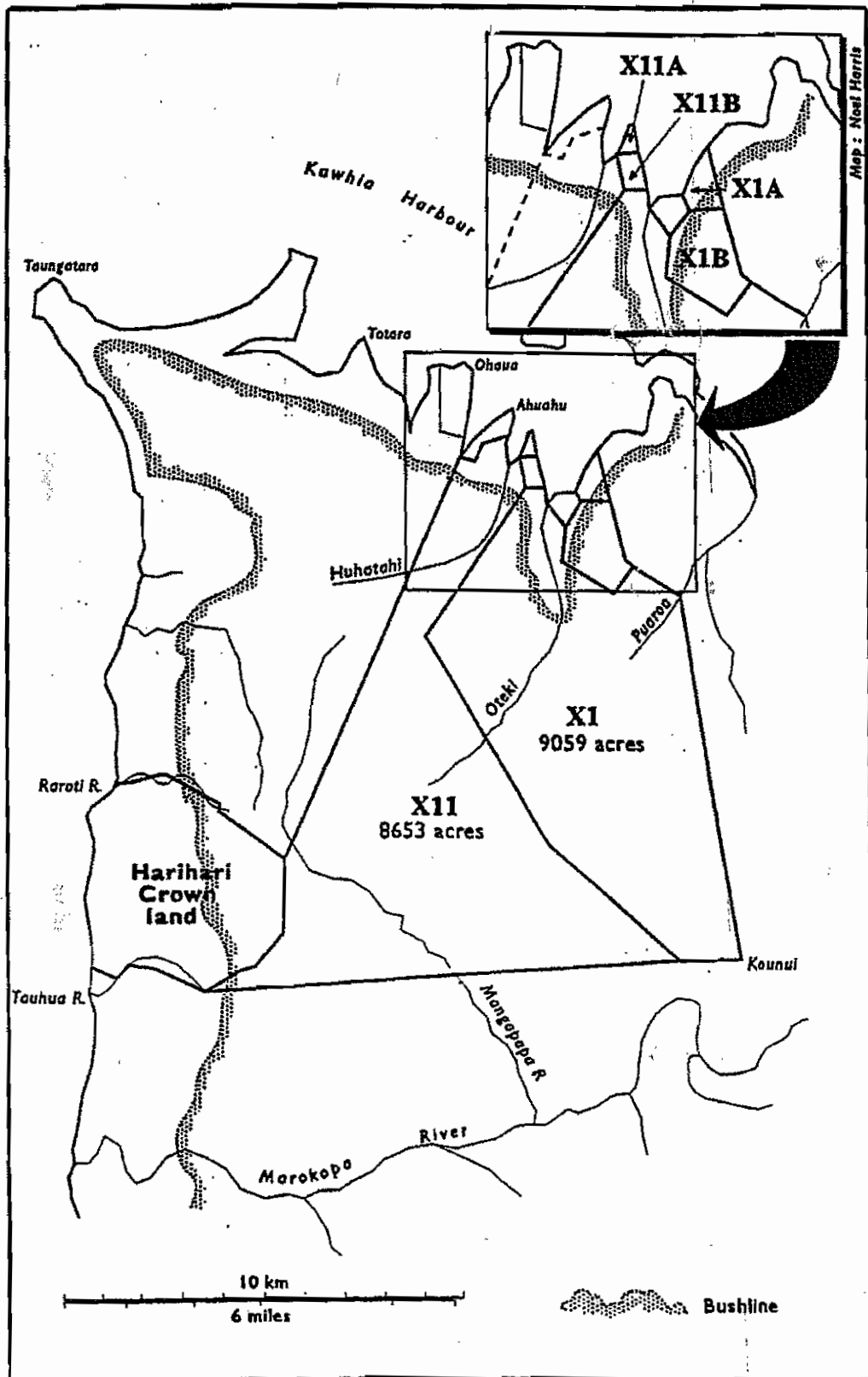


Figure 4: Kawhia blocks in the Rohe Potae (Aotea block). Based on 1888 tracings.

Rohe Potae

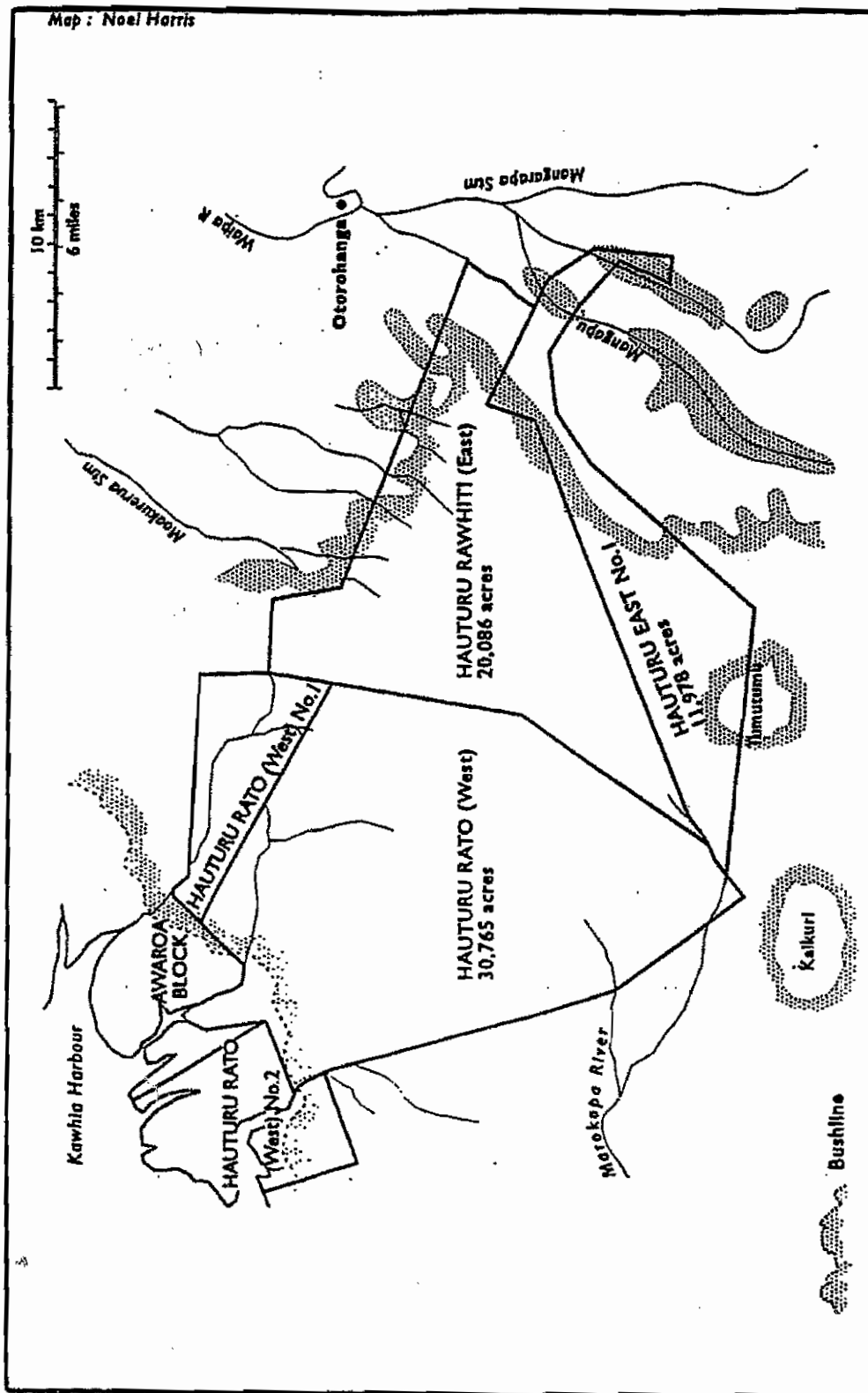


Figure 5: Hauturu blocks in the Rohe Potae (Aotea block). Based on 1888 tracings.

Implementation of Government Land Purchasing in the 1890s

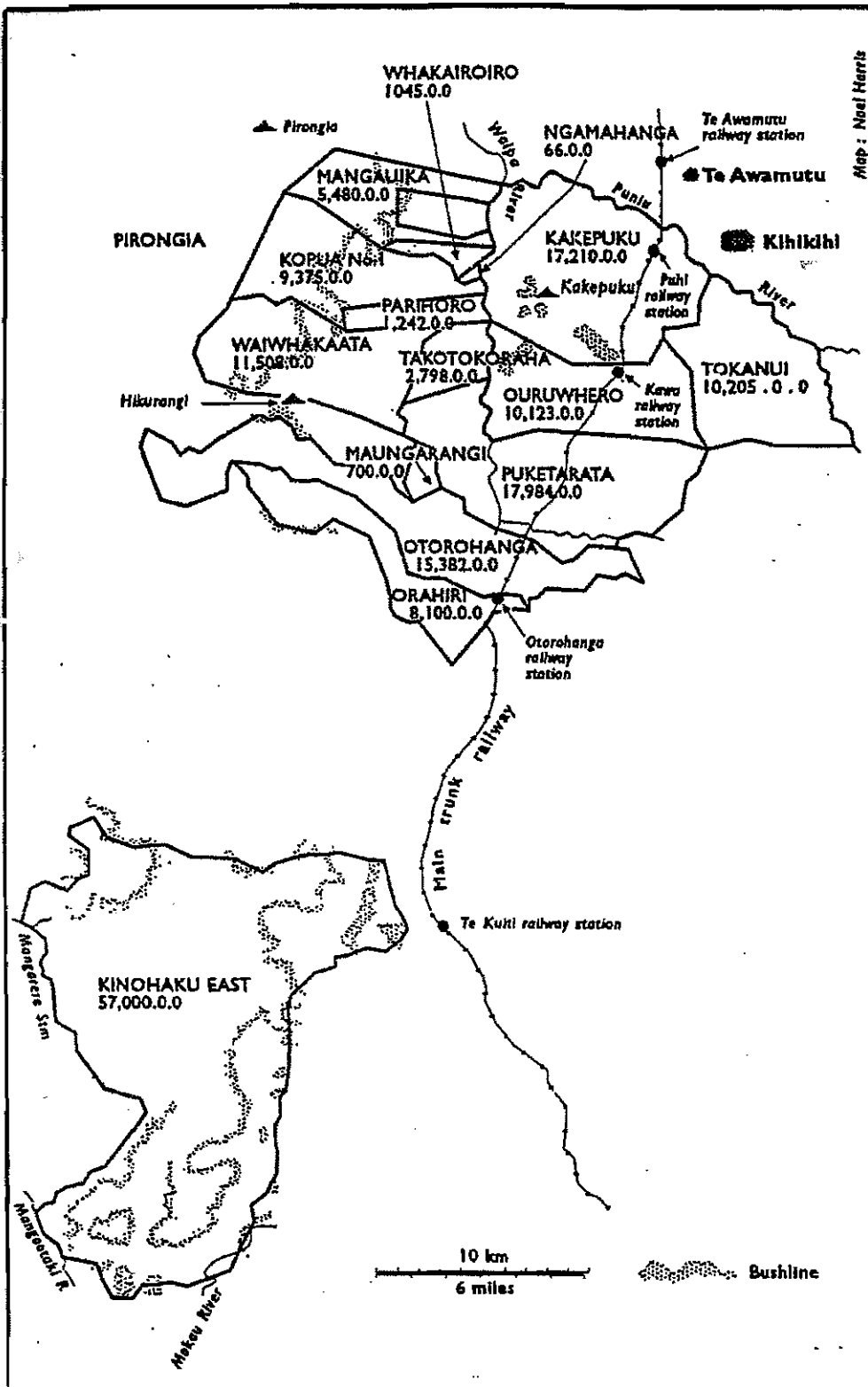


Figure 6: Rohe Potae (Aotea block) blocks passed through the Native Land Court in close proximity to the railway line and likely to be suitable for purchase. Based on tracing of 1889.

CHAPTER 8

ALIENATION OF MAORI LAND IN THE ROHE POTAE (AOTEA BLOCK), 1900–20

8.1 NATIVE TOWNSHIPS

In 1895, the Liberal Government introduced the concept of ‘native townships’. This system was apparently created out of frustration at the difficulty and length of time it was taking in purchasing some Maori land in the North Island for European settlement. The system contained clear elements of compulsion, as Maori agreement was not required before a township could be proclaimed on Maori land.

The native township system was devised to cater for pressing European land needs in areas other than traditional farming. Pressure for the townships tended to come from Europeans interested in potential economic opportunities associated with activities such as tourism, saw milling or providing services to surrounding farmland. The land required was not as great as that required for a farming settlement, but improvements were usually erected on the land and it was located in the form of a township. It appears that the Government also hoped that such townships might act as small centres of European settlement in areas that were otherwise difficult to open up. This might then encourage European settlement into the district around the townships. The townships were aimed at opening up Maori land. Woodley quotes Sheridan, head of the Land Purchase Department, commenting in connection with a proposed township in 1895, that the township system was ‘never meant to apply to lands in the very centre of European settlement’.¹

Native townships were originally created under the Native Townships Act 1895, but townships were not proclaimed in the Rohe Potae until after amending legislation had been passed in 1902. The 1895 Act contained coercive provisions aimed at Maori landowners, where purchasing had proved unsuccessful. The role of native townships was explicitly expressed in the Act’s subtitle as: ‘An Act to promote the Settlement and Opening-up of the Interior of the North Island’. In general, the 1895 Act enabled any area of up to 500 acres of native land to be proclaimed a native township area. This was possible whether or not the land had already passed through the Native Land Court (s 2). The proclaimed area was to be surveyed and laid off into allotments, streets and reserves. Of the allotments, Maori were able to retain in their own use as much as the Surveyor General thought

1. Suzanne Woodley, *The Native Townships Act 1895*, Waitangi Tribunal Rangahaua Whanui Series (first release), 1996, p 16

‘reasonable’ but not exceeding 20 per cent of the area proclaimed as a township. Every building actually occupied by Maori and every urupa was to be included in these native allotments (s 6). Maori wishes as to the location of these native allotments were to be complied with, as long as they did not interfere with the rest of the proposed township (s 7). Maori also had a limited right of objection regarding the location of these allotments (ss 8–9).

All streets and reserves laid out in the township were to be vested in the Crown as under the Public Works Act and the Public Reserves Act. All native allotments were to be vested in the Crown ‘in trust for the use and enjoyment of the native owners’ subject to certain regulations. All other allotments were to be vested in the Crown ‘in trust for the Native owners according to their relative shares and interests therein’ (s 12).

The allotments not allocated to Maori could be leased by the commissioner of Crown lands on prescribed terms and conditions. Leases could be of terms up to 42 years (ss 14–15). Rents collected were to be paid into a common fund and distributed to the Maori owners according to their interests in the land. This was to be done only after the deduction of costs for surveying, administration, and compensation due for improvements already on the land when it was proclaimed (ss 19–20). Local government of the township was to be a matter to be decided by the Governor in Council (s 24).

Although initially at least, there was an emphasis on leasing land, this first 1895 Act allowed for the possibility that Maori owners could sell their interests in the non-native allotments to the Crown (s 18). In effect this was a form of Crown pre-emption and the Crown could then on-sell the land to lessees and others.

The Act made no explicit mention of compensation for land taken for public reserves and streets. Apparently the lack of compensation was intended to be offset by the promised increase in value of the rest of the land, although this ignored the compulsory nature of the legislation. The compulsory provisions of the 1895 Act have been described by Ward as a ‘further example of the Liberal government’s tendency to resort to compulsory measures to assist private development’.² Owners were expected to forgo compensation, even at an unimproved value, and bear substantial survey and administration costs, all in anticipation of future profits to be gained from their share in the promised increase in the value of the township land.

The proclamation under the Act declared the Crown’s intention to establish a township. After the township was surveyed and laid off, which could be some years after proclamation, it was then ‘declared’ a township. The native township system effectively bypassed the Native Land Court where it was felt that this was proving too slow at overcoming ‘difficulties’ in opening up Maori land for purchase. The preamble to the Native Townships Act 1895, for example, referred to the problems where:

in many cases the native title cannot at present be extinguished in the ordinary way of purchase by the Crown, and other difficulties exist by reason whereof the progress of settlement is impeded.

2. Ward, ‘Whanganui ki Maniapoto’ p 112

The Minister of Lands and Immigration, McKenzie, explained in Parliament that the 1895 Act was intended to overcome problems where Europeans were already building stores and dwelling places on native land. This was likely to be a source of trouble in future and there were areas where townships were necessary, but it was impossible to get land. He cited Pipiriki as an example. Pipiriki was native land and although a steamer was engaged in trading on the river, it had proved very difficult to obtain Maori consent to build there. McKenzie was supported by another member, Duthie, who noted that the Bill ‘appeared to be of a very arbitrary character’ but he had also visited Pipiriki, and believed that the tourist traffic there, ‘ought to be a very large source of income to our settlers’.³ About 14 native townships were created under the 1895 Act.

There was considerable Maori suspicion about Government intentions regarding native townships. The member for Northern Maori, Hone Heke, had serious concerns about the 1895 Act. He believed Maori were amenable to having townships but they objected to their lands being utilised when they could not receive market value for their property. In criticisms that turned out to be prophetic, he reminded Parliament that a similar system of leasing land had been tried at Rotorua but had achieved little benefit for the Maori owners. He also warned that the reserves being created for Maori appeared to be of benefit, but the situation with regard to the West Coast reserves (in Taranaki) should be noted. The Crown was actively acquiring interests in those reserves and they were passing into Crown ownership. The original intention of the law was being departed from and the reserves had become of no value to Maori. Heke went on to criticise Crown purchase activities under pre-emption, including the fairness of the price in the absence of market values and the shady practices of Crown purchase agents. He argued that:

Honourable members would find that whenever the prosperity of a township was assured the Crown stepped in and sent their agents amongst the Native owners and asked them whether they desired to dispose of their interests to the Crown . . . the same result would occur in the case of these new townships.

Heke went on to detail some of the shady practices undertaken by purchase agents to pressure Maori to sell interests including engineering debts and constant pressure to sell land to pay for necessities.⁴ However, his request that township land at least be made inalienable was rejected.

In Parliamentary debates in 1910, Carroll presented himself as having originally drafted the 1895 Bill. He explained that he had become impressed with the ‘necessity’ of such legislation after visiting various places in the North Island. He had found European traders established in Maori settlements in anticipation of the ‘opening up’ of the country but who had no legal title to the land and seemed unlikely to be able to get one. In some cases they had even built business premises or houses on the land.⁵ It seems likely that the Bill was Carroll’s attempt to find a

3. NZPD, 1895, vol 87, pp 180–181

4. NZPD, 1895, vol 87, pp 593–597

5. NZPD, 1910, vol 151, p 271

‘solution’ that would defuse agitation for even more compulsory measures to acquire sought-after Maori land. Carroll was well known for supporting measures he had no particular enthusiasm for, in order to gain more time for Maori land owners or to deflect even more draconian measures from being implemented. Later in the same debates, he referred to the establishment of the townships as a distinct policy conceived to meet a number of ‘emergencies’ at the time. He explained that the 1910 Bill dealt only with existing townships and did not envisage the creation of any new ones. The township system had been created to meet a public demand and had served its purpose. In future if townships were necessary: ‘well, the Crown will have to buy land for that purpose’.⁶

The township system did appear to have some merit for Maori. It seemed to offer an alternative to the massive and relentless land purchasing process already taking place. Total alienation through land purchase almost always resulted in the marginalisation of Maori from new economic opportunities. Maori were also hampered in taking advantage of new opportunities by the slow, expensive land court process. The township system bypassed much of the court process in dealing with the land. Maori might also continue to participate in the future prosperity of the township with income from leasing and from any future increase in value of township lands. The fact that the Crown was acting ‘in trust’ for Maori owners may also have indicated some form of partnership between the Crown and iwi, including the future management of the township.

However, even by 1899, there were problems for Maori with the native townships. In 1899, an amendment was made to the 1895 Act in recognition of the fact that Maori owners in townships were in many cases receiving no rental income from the leases. This was because survey charges and other costs were taken off first. These were so high that the owners were unlikely to receive an income for many years. The amendment changed the payment of the charges to a system of instalments so that the owners would at least get some income from the rentals in the meantime.⁷ Even where leases were relatively successful and a reasonably good rental was received, there were still problems for Maori owners with fragmentation of title where the rental was split among numerous owners. An example was Pipiriki, where in 1902 it was expected that the large number of owners would receive less than sixpence each every six months. There were also problems in distributing the money to large numbers of owners, many of whom lived in isolated places and never came near the offices from where payments were made.⁸ The Crown also had the usual problems with leased land, in collecting rents from those lessees who were unable or refused to pay. In many cases, the Crown dropped legal actions to recover rents in the face of pressure from lessees.

In 1903, Carroll made another amendment to the 1895 Act. This allowed township plans to be altered and the purpose for which lands were vested in the Crown to be changed. The aim was to protect Maori against any ‘glaring mistakes’ in the layout of a township. Apparently there were already grievances, as Maori

6. NZPD, 1910, vol 151, p 292

7. NZPD, 1899, vol 108, p 593

8. Government official, Sheridan, quoted in Woodley, p 21

wishes concerning important sites had been ‘utterly disregarded’. Traditional cultivation sites, for example, had been taken as recreation reserves.⁹

The legislative measures in creating townships were clearly coercive and Government officials tended to prefer to act accordingly. For example, in discussions over the creation of Parata township in 1900, Government officials decided that it was a:

matter of indifference to the government as to who was the legal owner of the land, for the consent of the owner is not necessary to proclaiming a township under this Act. The ownership merely involves the question as to whom the rents should be paid to.¹⁰

Nevertheless, Carroll appeared to be strengthening the advantages for Maori in his amendments in 1902. The Native and Maori Land Laws Amendment Act 1902 vested township lands in district Maori land councils (s 8) and gave the councils certain management powers over the layout and administration of the townships (s 10). The district Maori land councils were created under legislation of 1900, and in 1902 there were some elected Maori members and the possibility of majority Maori membership. This may well have made the township system appear more acceptable to Maori.

Four native townships were proclaimed under the Native and Maori Lands Laws Amendments Act 1902 (s 8). Three of these were in the King Country. These were Taumarunui, Te Kuiti, and Otorohanga (see figure 7)¹¹

Native townships were often new creations, created when a proclamation was made. However, the three Rohe Potae townships were already long established townships when they were officially proclaimed as native townships. The re-establishment of Crown preemption in 1884 had meant that Europeans were unable to deal in land in the townships but improvements had been made by Maori owners. There had been some growth due to the railway and there were already some Europeans in the townships living on leased land. All three Rohe Potae townships were proclaimed native townships in 1903.¹²

Otorohanga township was in the north of the Rohe Potae and situated on the North Island main trunk railway. It was already a well-established township when it was proclaimed. Government services were located in the town and the Native Land Court was also situated there. In 1903, when the town was proclaimed a native township, the land was laid off into approximately 292 sections. Leases were advertised in 1904, and Otorohanga was described as the oldest European settlement in the King Country. However, before 1903 Europeans could not obtain valid titles in the township. The township was described as being some 36 miles south of Hamilton and 12 miles north of Te Kuiti. In 1904, there was a daily train service to Auckland and the township boasted a number of thriving businesses including a sawmill. There was a school, a temperance hotel, a church, and a nearby

9. NZPD, 1903, vol 126, pp 165–166

10. Surveyor General to Minister of Lands, 12 January 1900, quoted in Woodley, p 16

11. NZPD, 1910, vol 151, pp 271–272

12. Te Kuiti and Otorohanga proclamation, 29 January 1903, *New Zealand Gazette* 1903, p 254; Taumarunui proclamation, 3 May 1903, *New Zealand Gazette*, 1903, p 2506

Rohe Potae

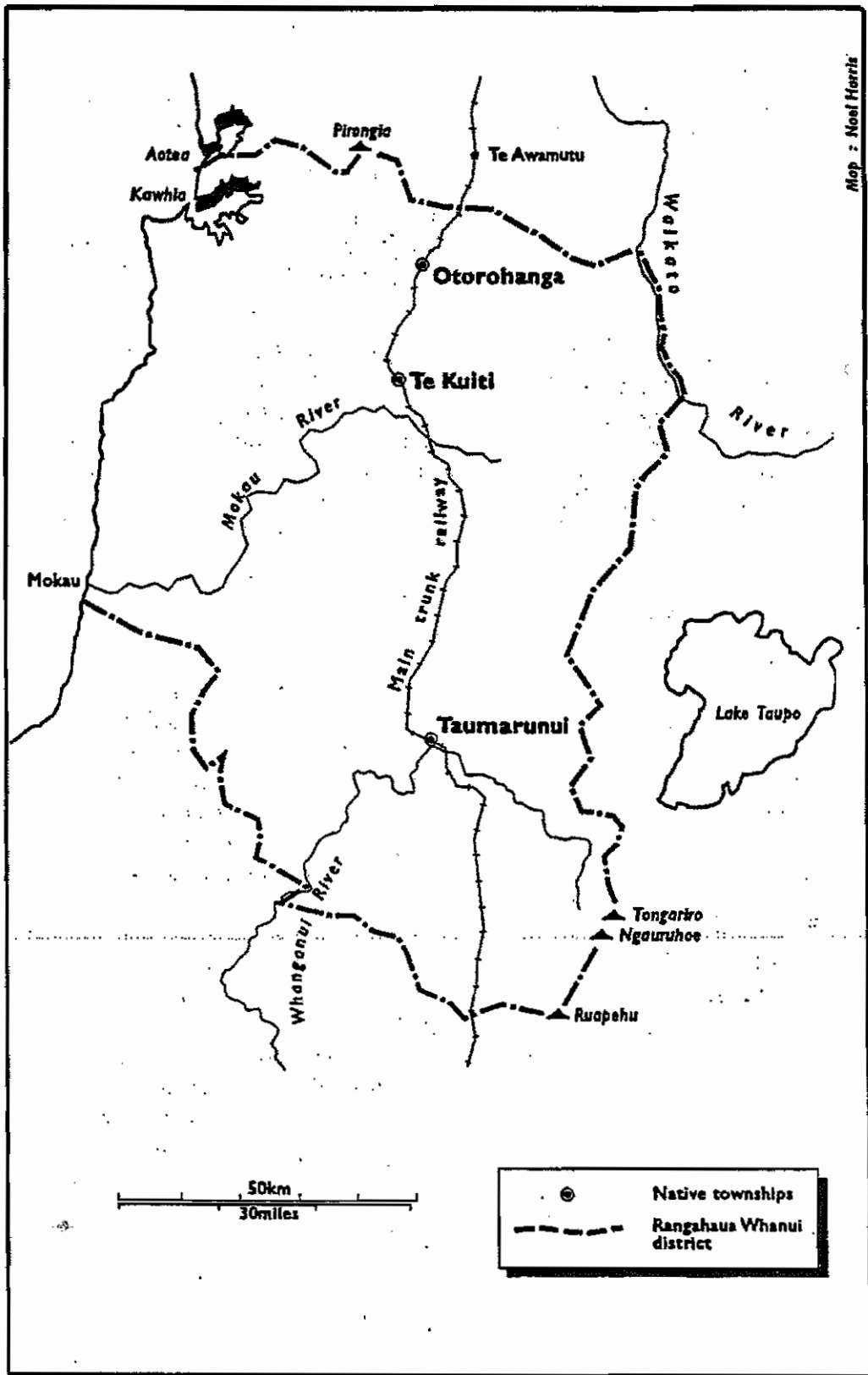


Figure 7: Native Townships in the Rohe Potae

dairy factory. There was a road from Otorohanga to Kihikihi, Te Awamutu, and places north. Otorohanga was described as being within easy distance of the celebrated Waitomo caves and as the nearest place to them with proper accommodation. Tourists could also go trout fishing in the nearby Waipa River. Advertisements optimistically declared that there was a great deal of Crown land in the vicinity and large amounts had already been taken up. In later years, Otorohanga became mainly a service town for dairy and sheep farming.¹³

Te Kuiti was another well established township when it was proclaimed a native township in 1903. It was situated south of Otorohanga, some 48 miles south of Hamilton, at the mouth of a limestone gorge on the Mangeokewa stream. It was also situated on the main trunk railway. When it was proclaimed a native township over 200 sections were laid off.¹⁴

Taumarunui was in the southern part of the Rohe Potae and was also on the main trunk railway some 100 miles south of Hamilton. The 1905 advertisements for leases described it as the northern gateway to the 'Rhine of New Zealand', the Whanganui River. Taumarunui was the last stop south on the main trunk railway line at the time. It was promoted as an ideal stopover for tourists before carrying on to either the central North Island mountains or down the Whanganui River to Pipiriki and Wanganui. The railway had also provided access to the timber lands around Taumarunui, particularly the totara forests, and this was also advertised as presenting opportunities for the township to service the growing sawmilling industry of the time.¹⁵

Statistics on the size of the three townships vary. A report in 1906 described Otorohanga as just over 243 acres, Te Kuiti as just over 238 acres, and Taumarunui as 342 acres.¹⁶ According to the Stout–Ngata commission report, the total area of land in the three townships in 1907 was just over 893 acres.¹⁷ All three townships were vested in the Maniapoto–Tuwharetoa District Maori Land Council.

According to Woodley, the three King Country townships were all proclaimed as a result of settler agitation.¹⁸ Woodley cites evidence that rumours were widespread from at least 1900 that officials were planning to proclaim Te Kuiti and Otorohanga as native townships. In September 1900, John Ormsby wrote to Seddon asking him to defer plans for the townships until Maori were fully consulted. Officials then apparently conceded that the Maori owners should be consulted as there were thousands of pounds of improvements in the townships. Ormsby was sent a plan of the proposed Te Kuiti township for consideration.¹⁹ In September 1900, Hone Heke, the member of Parliament for Northern Maori, also wrote to the Minister of Lands about the rumoured townships at Te Kuiti and Otorohanga. McKenzie replied that Ormsby had been sent the plan for Te Kuiti and there was no proposal yet for Otorohanga. It seems in fact that a draft plan of Te Kuiti township had been

13. 'Report of Commission on Maori Reserved Land', 1975, AJHR, 1975, H-3, pp 234–235

14. Ibid, pp 239–40

15. *New Zealand Gazette*, 1905, p 2978; acreages are given in MA series 19/9 N06/269

16. Report by Puckey 22.6.1906 in N06/269 in MA series 19/9

17. Stout–Ngata report, AJHR, 1907, G-1b, p 7

18. Woodley, p 15

19. Woodley, p 17 citing Te Kuiti native township file LS1, no 42821 in box 416

prepared in May 1900 and the proclamation drafted in June 1900 without any consultation with owners. It was only when Ormsby asked for information that officials conceded that the Maori owners ought to be allowed some say.

It seems that officials were originally responding to European pressure to have the townships proclaimed. For example, Woodley cites continued pressure to proclaim Te Kuiti a township in 1901.²⁰ Carroll reported to Parliament in 1903 that the few Europeans living in Te Kuiti had complained about their inability to gain legal title for land they were informally leasing from Maori owners. Carroll had visited and met with the Maori owners and 500 acres had been 'handed over' to Carroll.²¹ More research is required into negotiations with Maori owners over the proposed townships. It seems likely that when Maori owners realised that plans for the townships were underway, they responded by pressing to have them vested in the district Maori land council. Woodley argues that when the plan for Te Kuiti was put to Maori again in 1903, there had still been little consultation. For example, sections lived on by Maori were proposed as reserves. In the end, the district Maori land council submitted an alternative plan which was adopted, Government officials having reluctantly acknowledged council authority in the matter.²²

In Parliament in 1910, Carroll also referred to visiting Taumarunui in 1904 to 'treat with Natives for the surrender of the land' for the native township.²³ However, more research is also required on the background to these negotiations as, for example, among the official reports on the townships and the itemised costs, there is mention in 1904 of the costs associated with opposition from Maori in Taumarunui.²⁴ Carroll also claimed that the townships created under the 1902 Act were the most successful in terms of leases taken up, but this may well have been because the lessees believed in these cases that the leases would be perpetual.

The subsequent history of these townships has raised a number of issues about the Crown's commitment to the protection of Maori interests, the Crown's willingness to balance conflicting Pakeha and Maori interests, and the Crown's commitment to enabling Maori to participate in modern economic developments and opportunities. In general much of this history appears to confirm Heke's fears that the Crown would inevitably tend to give priority to settler interests.

It was not long before the Crown began a series of legislative measures that from 1905 effectively eroded Maori control and influence over the boards managing the native townships. The Maori Land Settlement Act 1905 abolished the Maori land councils. It had been possible to have a Maori majority on the councils and the Maori membership had been partially elected. The councils were replaced by boards, which were wholly Government-appointed and there was only one Maori member. The previous self-management powers in the townships were now effectively handed over to a European-dominated board. In the same year the Native Townships Local Government Act 1905 provided for a local council to be elected to provide local government for a native township. In the first election the

20. Woodley, p 18

21. Ibid, p 17

22. Ibid, p 18

23. NZPD, 1910, vol 150, p 272

24. AJHR, 1904, C-1, app 2, p 81

Government would appoint one Maori member to the five-person council. In subsequent elections the five members would be elected as under local body election rules (ss 3, 4, 8).

It is also clear that from the time they were created, there was considerable European pressure for the Government to freehold the township lands and then on-sell the land to those lessees who wanted to buy it. For example, in 1907, 85 European settlers in Te Kuiti asked for the option to freehold the land they were leasing. At that time, in a long debate in Parliament, Carroll and Ngata insisted that freeholding would be detrimental to Maori.²⁵ However, pressure for freeholding continued and the Native Townships Act 1910 was a response to this. According to Ward it was also a response to the immediate political need of the Liberal Government to hold the seat of Taumarunui against Massey and the Reform Party in the 1911 election.²⁶

The Native Townships Act 1910 repealed and replaced the 1895 Act, while preserving existing leases. The Act made the Maori land boards leasing authorities (s 13) and vested Maori township land in the boards to be held in trust for the beneficial owners, and to be administered by the boards. All reserves made in the townships were vested in the Crown as public reserves under the Public Reserves and Domains Act 1908. Leases could be made perpetual, and native allotments could be leased with the consent of the owners. Township land could also be sold to the Crown with the consent of the owners, or sold privately with the consent of the owners and the Governor in Council.

Some of the Maori members of Parliament protested against the provisions allowing the freeholding of leases, alleging that they breached the original terms creating the townships.²⁷ Nevertheless, the new provisions were passed into law. As a result, sales of land in the townships increased in momentum from 1910 and leases decreased.²⁸ The Crown also embarked on strenuous efforts to purchase land from Maori owners to speed up the process of freeholding.

The three Rohe Potae townships were no exception to this pattern. In Taumarunui, for example, the Crown purchased two large blocks in the township in 1915, on the agreement of a resolution of assembled owners and confirmation by the district Maori land board. The Crown made further strenuous efforts to buy up the township land and in about 1916 proposed to buy up the whole township to on-sell, in the interests of more rapid development. At a meeting of assembled owners in March 1919, the President of the Maori Land Board, Judge McCormick, advised the owners to sell the whole township to the Government. However, the Government's offer, turned out to be half the Government valuation of the land and the sale did not proceed. In the war years, the Government was not prepared to buy at the valuation price and the proposal lapsed. The Crown continued, however, to buy up township land on a piecemeal basis.²⁹

25. NZPD, 1907, vol 142, p 176

26. Ward, 'Whanganui ki Maniapoto', p 116

27. Woodley, p 27

28. Ibid, p 29

29. 'Report of Commission of Inquiry into Maori Reserved Land', AJHR, 1975, H-3, pp 241–243

Similarly, in Te Kuiti native township, shortly after the 1910 legislation, the Crown set about buying up all the shares in township land that it could, whether or not the lessees had undertaken to purchase them from the Crown. By 1924, the Crown had acquired the freehold of all but a few sections.³⁰ According to Woodley, most of the early Crown purchasing took place in the early 1920s and by 1927, based on figures where alienations were approved by the district Maori land board, over 50 per cent of the land in the three townships had been sold.³¹

It appears that the Crown took an active role in these early purchases. In some cases, the Government agreed to proceed with the acquisition of the freehold if there were sufficient applications received by the settlers. The settlers were required to pay a deposit to the Crown as evidence of their intention and when the Crown decided enough applications had been received, land purchase officers set about systematically buying up shares in sections required by settlers. Considerable pressure was placed on owners to sell where sections were required but little effort was made to acquire land settlers did not want.³² However, in Te Kuiti, the 1975 Maori reserved land report noted that the Crown through the Lands and Survey Department set about acquiring all the land it could there, regardless of whether or not tenants wanted to purchase it from the Crown.³³

The necessity of freeholding to allow townships to ‘progress’ was a constant refrain from settlers and the Government. It is true that lessees did face some difficulties, although this was often the result of the Government losing interest in completing its obligations, for example in failing to provide adequate access roads or sufficient provisions for local government.³⁴ However, there was rarely the same agitation about speculators buying up many of the freehold sections and then simply waiting for values to improve. This was in spite of the fact that officials often believed that this was the real reason for a lack of progress in many townships.³⁵

The agitation for the Government to assist in freeholding native lands in the townships continued in a series of cycles for many years until freeholding was virtually completed. Although private sales were possible, the fragmentation of ownership and the need to adjust titles and interests to coincide with the land lessees wanted to buy meant that the Crown continued to be asked to carry out purchasing on behalf of lessees. Partitions followed and when the Crown had acquired the freehold of all the land in any lease, it sold the land to the lessees for either cash or deferred payments.

The Crown acknowledged that it was often caught out over this process, as after having gone to the trouble of buying up interests and having partitions made, many lessees then failed to carry out their purchase contracts, causing the Crown

30. *Ibid*, p 239

31. Woodley, p 29

32. *Ibid*

33. ‘Report of Commission of Inquiry into Maori Reserved Land’, AJHR, 1975, H-3, pp 239–40

34. For example, see the correspondence regarding the completion of Pipiriki roads 1904–05 on LS1, file 26153 box 163.

35. ‘Report of Commission of Inquiry into Maori Reserved Land’, AJHR, 1975, H-3, on Tokaanu township, p 245

considerable losses. For example, the Crown was less keen to respond after another round of agitations in the 1950s, as a result of the losses it had made in this way in the 1920s.³⁶

Nevertheless, the legal provisions had the intended result and the Maori land in the townships was rapidly freeholded. Another result of the 1910 Act was that land could be perpetually leased. This meant Maori received notoriously low rentals and lost effective control of their land. Most of this later history is outside of the time period of this report. However, in brief, half the land in the three townships was already sold in the first two decades of this century. By 1975, when the Commission on Maori Reserved Land reported, only a few acres of Maori land remained in the townships and most of that was leased.³⁷

8.2 DISTRICT MAORI LAND COUNCILS AND BOARDS

In the late 1890s, new purchases of Maori land were stopped and a new system of Maori land administration was created and introduced in the Maori Councils Act 1900. A more detailed administrative history of the district Maori land councils and later boards created under this system is contained in reports by John Hutton.³⁸

The Liberal Government appears to have adopted the new system in an attempt to overcome the problems becoming evident in acquiring Maori land under the purchasing system of the 1890s. The new system also had some support from Maori in that it appeared to be offering more Maori control over remaining Maori lands. The preamble to the 1900 Act described the apparent compromise between Maori and settler interests:

Whereas the chiefs and other leading Maoris of New Zealand, by petition to Her Majesty and to the Parliament of New Zealand, urged that the residue (about five million acres) of the Maori land now remaining in possession of the Maori owners should be reserved for their use and benefit in such wise as to protect them from the risk of being left landless, and whereas it is expedient, in the interests of both the Maoris and Europeans of the colony, that provision should be made for the better settlement and utilization of large areas of Maori land at present lying unoccupied and unproductive . . .³⁹

The 1900 Act established district Maori land councils in the North Island, which was divided into six districts. These districts were equivalent to the Native Land Court districts. The councils had at least equal Maori and European membership and the potential for a Maori majority. Up to three (out of seven) members could be elected by Maori and one Maori member was to be nominated by the Governor

36. MA1, 54/16/5, accn 2490, fols 5, 9

37. 'Report of Commission of Inquiry Maori Reserved Land 1975', AJHR, 1975, H-3, pp 231–245

38. John L Hutton, "'A Ready and Quick Method': The Alienation of Maori Land by Sales to the Crown and Private Individuals, 1905–30', report commissioned by the Crown Forestry Rental Trust, 1996; 'The Operation of the Waikato–Maniapoto District Maori Land Board' report commissioned by the Crown Forestry Rental Trust, 1996

39. The Maori Councils Act 1900

(s 6). The Maori land councils could exercise all the powers of the Native Land Court, including those concerned with ascertaining ownership, partition, and succession, but not until directed to do so by the Native Land Court (s 9).

Maori owners could voluntarily transfer their lands to the councils through deeds of trust. The council would then manage the vested lands on terms agreed in writing between the owners and the council (s 28). Management was to be mainly by way of leases. The sale of land held in trust (later called ‘vested’ lands) was not permitted. Some areas of vested lands could be made inalienable or reserve land, and then could not be leased. These reserved lands could be used for burial grounds, eel weirs, fishing grounds, protection of native birds, or for conservation of timber for future use. The councils also had powers additional to managing the vested land. All other sales of Maori land in the district were prohibited unless first approved by the council. Where there were more than two owners the consent of the Governor in Council was also required. The council also had to be satisfied that a Papakainga area existed sufficient for the ‘maintenance and support and to grow food’ for every Maori man, woman, and child affected by the sale (ss 21, 23). Papakainga areas were absolutely inalienable.

The Native and Maori Land Laws Amendment Act 1902 enabled native township land to be vested in Maori land councils. The councils were given certain management powers in relation to the native townships, and all three Rohe Potae native townships were proclaimed under this system, as already described.

The district Maori land council responsible for Rohe Potae lands was originally called the Hikairo–Maniapoto–Tuwharetoa District Maori Land Council. In 1902 this name was shortened to the Maniapoto–Tuwharetoa District Maori Land Council for convenience. Iwi leaders had asked that the name be changed to Turongo, the name of a common ancestor, because the Government name was too long and cumbersome. However, the Government apparently preferred to simply drop the word Hikairo.⁴⁰ Ngati Maniapoto and Ngati Tuwharetoa leaders agreed to be covered by the one council.⁴¹ There were some disputes about the boundaries with the Waikato district. This apparently delayed the declaration of these council boundaries, and personnel were not appointed until 1902.⁴² In 1901, for example, representatives of Rohe Potae hapu and iwi wrote to the Native Minister and referred him to the boundaries of the Rohe Potae as defined by the confederation of iwi in the 1883 petition. They claimed that those boundaries were now recognised by Maori as a separate district. They wanted them retained, and rejected having some of the district included in the Waikato district boundary.⁴³

The first president of the council was none other than G T Wilkinson, who was appointed in 1902. He was already well known to Maori in the district as a Government land purchase officer. He apparently continued completing his purchases of Maori land even while he was president and almost up to his death in 1906.⁴⁴ Other Government appointments were John Elliot of Mahoenui, and John

40. MA series 19/9 MLA 1902/8 attached

41. Te Heuheu and Taonui to Seddon, 24 October 1900, MA-MLA, 1901/34

42. MA series 19/2 Maori land boards – general and MA series 19/9 MLA 1901/225 attached

43. Letter to Seddon 18 January 1901, MA-MLA, 1901/34

44. See, for example, AJHR, 1905, G-3, p 3 (lands partially acquired in Rohe Potae)

Ormsby of Otorohanga.⁴⁵ The first elected Maori members to the council were Pepene Eketone, Erueti Arani, and Te Papanui Tamahiki.⁴⁶ The council apparently first held meetings at Otorohanga but by 1907, what was by now the board, was located at Auckland where the Native Land Court judge was based.

There was considerable pressure for the council system to make Maori land available for settlement from the time the councils were first established. For example, Wilkinson and other presidents who were previously land purchase officers, such as Butler in Aotea, now tried to get as much land as possible vested in the councils using their old strategy of seeking out and signing up individual interests. For example, in 1903 Wilkinson suggested that he start acquiring signatures to have the Rangitoto Tuhua 3 block vested in the council, if the Crown did not want to purchase it. A majority of signatures was binding.⁴⁷ In 1904, he reported on transfers of parts of the block to the council. He noted that others had been partly signed but that he had been too busy lately to go ‘after signatures’.⁴⁸ A 1902 progress report on an Aotea block partition also reveals that individual signatures were being sought so that once a majority had been obtained, the land could be vested in the council.⁴⁹

It seems clear that regardless of legislative possibilities for Maori representation on the councils, the Government intended that they were to be effectively controlled by Europeans. The president was required to be a European. It was also assumed that one of the European members would act as deputy president if the need arose. For example, in 1903, Carroll assured Mr Jennings, a member of the House of Representatives, that: ‘the European member of the Council will not infrequently be called upon to act as Deputy President’. Sheridan also regularly asked the European presidents for the names of likely Maori candidates as Maori members to ensure those appointed would be more likely to be amenable to the president’s views.⁵⁰

It is clear that Maori owners and their elected representatives on the councils were strongly opposed to leases being made perpetual. However, there was considerable settler pressure for this and apparently some presidents and some Government officials and Ministers assumed it was possible although in the early years at least, this was legally doubtful. There is evidence, for example, that as early as 1903 Carroll informed the Bank of New Zealand that it could not buy a site it wanted in native township lands but referred it to regulation 9(7) of the regulations published in the *New Zealand Gazette* of 26 February 1903. He felt this meant that ‘practically’, a perpetual lease could be arranged with the council. Sheridan then informed Wilkinson that when he was dealing with township lands he should not overlook the same regulation as it provided for what was practically a perpetual lease.⁵¹

45. MA-MLA 1905/63, MA-MLA, box 1/4

46. *New Zealand Gazette*, 1902, vol 2, p 636

47. Wilkinson report, MA-MLA 1903/88, box 1/2

48. Wilkinson report, 25 July 1904, MA-MLA 1904/76, box 1/3

49. MA-MLA 1902/67, box 1/2

50. MA-MLA 1903/174, box 1/2

51. MA-MLA 3/1, outwards letterbook 1901–08, pp 271, 273

However, the system did not produce land for European settlement as quickly as had been hoped and even by the time the Stout–Ngata commission reported in 1907, the Government had become impatient with the resistance shown by Maori owners. In March 1905, Carroll was sent a telegram of Seddon’s speech notes. These indicated that Seddon supported the new system of Maori land administration in the belief that if Maori were able to farm the land they wanted, they would then make their surplus land available for settlement. He wanted nothing compulsory but he believed that the advantages of settlement should be offered to enable Maori to farm their own land. He was sure that Maori would then voluntarily hand over surplus land to be settled. He also believed that Maori should have access to advances so that they could farm their own land and there was a need for interests to be consolidated so land could be usable. In the notes, Seddon complained that there had been too much taihoa and that the councils’ work was entirely too slow. He wanted a more progressive land policy to make things happen much faster.⁵² Seddon was still complaining to Sheridan of too much taihoa in council activities in November 1905. He marked papers on the Motatau blocks in the Tokerau district as ‘Urgent Pressing’ and instructed Sheridan: ‘Kindly put some life into this matter. There is too much “taihoa”.’⁵³

The Government response was a major change in legislation in 1905, within just five years of creating the councils and it did, in fact, contain compulsory provisions. The Maori Land Settlement Act 1905 effectively removed the Maori majority on the councils and reconstituted them as boards. Instead of being partially elected, the boards were now wholly appointed with one Maori and two Pakeha members, including the chairman. In addition, where it was decided that land was not required or not suitable for occupation by its Maori owners, it could be compulsorily vested in the boards. After reserving portions for the use and occupation of the Maori owners, the rest could be surveyed, subdivided into allotments, and the allotments disposed of by the boards for any term of up to 50 years (s 8). All restrictions on alienation were also removed so that private leases could be made with the approval of the board. There were some facilities for the Government to lend money to Maori owners to improve their land. Although the Bill was originally meant to allow only alienation by leasing, the Government inserted section 20 which allowed the Crown to purchase land from owners. In a 1906 amendment, lands could also be compulsorily vested in boards where there was a problem with noxious weeds (s 3) or where the Minister felt that land was not properly occupied by Maori (s 4).

The nearby Aotea Maori land district was the only one in which substantial quantities of land were vested in a district Maori land council or board. Some 100,000 acres were vested in the Aotea board by 1907.⁵⁴ In contrast, very little land was voluntarily vested in the Maniapoto–Tuwharetoa District Maori Land Board. Ngati Maniapoto still preferred to manage their own lands themselves and the problems encountered by Maori owners in the Aotea district may also have

52. MA-MLA 1905/20 in box MA-MLA 1/4

53. Memorandum from Seddon to Sheridan 28 November 1905, MA-MLA 1905/73, box 1/4

54. Stout–Ngata commission report, AJHR, 1907, vol 3, G-1a

hardened this approach.⁵⁵ The Stout–Ngata commission reported in 1907 that of Ngati Maniapoto lands, only the three native townships in the district, totalling 893 acres, plus the Maraetaua 10 block of 1800 acres, had been vested in the district Maori land board.⁵⁶ Instead, Ngati Maniapoto still preferred leasing land themselves. The commission also reported that the board had been asked to approve the leasing of some 120,000 acres of Ngati Maniapoto land.

The Stout–Ngata commission also reported that the board may have lost mana as far as Ngati Maniapoto was concerned when the Crown continued purchasing land intended for vesting in the board once title was sorted out. This may have also raised Ngati Maniapoto suspicions about the extent of Government support for the board.⁵⁷ The Stout–Ngata report raised a number of other problems with the boards such as the system of council management, where lands were surveyed and necessary roads built before the land was leased. These costs then had to be paid back before rents were received. Maori could not help noticing that these costs did not arise to the same degree when they leased privately. In effect they were being asked to partly fund the settlement of European farmers on their land. Ngati Maniapoto also complained that the board was no longer physically located in the Rohe Potae. The Stout–Ngata commission also described the ways in which Maori land could now be alienated. This was by sale to the Crown or private persons with certain conditions, or by lease, either directly or through the boards.⁵⁸

The new president of the Maniapoto–Tuwharetoa board, Puckey, described Ngati Maniapoto preferences in 1906: ‘Maoris in this district have shown the same reluctance to convey their lands to the Council as the Natives in other parts’. He confirmed that instead they preferred to lease directly to Europeans. He noted that apart from township lands and other lands conveyed by the owners to the council, considerable areas had been vested in the council for administration. This was:

not however by conveyance from the Native owners, but owing to moneys becoming due for survey costs, the surveyors or their representatives pressing for payment, the Government to prevent the sacrifice of the lands paid the liens and vested the lands in the Council.⁵⁹

This sounded very familiar. It seems clear that Maori owners were still determined to manage their lands themselves. Puckey complained that: ‘the Natives have kept back their good lands, and transferred to the Council those blocks only, which they could not deal with themselves’. Puckey noted that the major part of the work brought before boards was in fact applications for consent to lease:

this mode of dealing seems to meet with greater favour with the Natives for it allows them a say in the settlement of terms etc, though I think it is the more expensive course.⁶⁰

55. S Katene, ‘The Administration of Maori Land in the Aotea District, 1900–1927’, MA thesis, Victoria University of Wellington, 1990

56. Stout–Ngata commission report, p 7, AJHR, 1907 G-1b

57. Stout Ngata report, p 7, AJHR, 1907 G-1b

58. AJHR, 1907, G-1c, pp 7–8

59. MA series 19/9, report by A F Puckey, 22 June 1906, N06/269

The 1907 Stout–Ngata commission was actually established to investigate the areas of Maori land that were unoccupied or not profitably occupied, and to propose methods by which such lands could be best utilised and settled in the interests of the native owners and in the ‘public good’. The commission then made recommendations on land to be sold, leased, or retained for Maori use. This compromise was supported by Carroll and Ngata to try and save as much land for Maori as possible, while blunting Opposition demands for even wider compulsory measures concerning the acquisition of Maori land. Wherever alienation was considered necessary, Carroll and Ngata tried to promote the alternative of leasing rather than freeholding land. With the leasing they also tried to ensure that at least the land would be returned to Maori in a generation or two in good condition.

The Native Land Settlement Act 1907 was supposed to give effect to the commissioners’ initial recommendations. Where it was reported that land was not required for use by Maori and was available for sale or lease, the Governor could proclaim such land vested in the native land board of the district in fee simple, in trust for the Maori beneficial owners. The beneficial owners were then prevented from direct dealing with the land. However, the board was then required to divide such land into two approximately equal portions and set one apart for leasing and the other for sale (s 11). This was apparently a concession to those powerful interests who opposed leaseholding altogether. Where land was suitable for close settlement, the subdivision into allotments was authorised. Sale or lease was to be by public tender or auction to establish a market. Leases were for up to 50 years without right of renewal but with entitlement to be paid for improvements.

The board was to establish a sinking fund from rents to pay for such improvements. Funds for surveys, roads, and bridges would be charged against the land. After development costs, administration costs, rates, and taxes, the balance if any, would be payable to the Maori owners. The board could also sell the land to the Crown (s 53). Ngata introduced clauses in Part ii of the Act that allowed land recommended for Maori occupation to be leased through the board to recommended Maori lessees without competition. The first offer was to go to the owners themselves. Maori lessees could also borrow money on the security of their leasehold interest.

There were some features of the Act that Maori welcomed. Having commissioners go to hapu and consult them about the land was regarded as a major improvement in that it was a means of recognising hapu wishes and of dealing publicly over land at a hapu level. This was a welcome alternative to the secretive individual dealing in land by Crown purchase agents which had undermined hapu authority and brought about very low prices. The Act also allowed for leasehold and for assistance for Maori owners to farm their own land.

However, the 1907 Act, as it was eventually passed, was also coercive and authoritarian. While half the land vested would be leased, it required that the other half be sold. This in effect cut across any recognition of hapu wishes as half of all land vested would be sold regardless of what hapu wanted. In addition, the board

60. Ibid

was now able to sell vested land to the Crown at an agreed price, even though at the time the land may have been vested it was regarded as being protected from sales.

The flaws of the 1907 Act quickly became apparent when the Stout–Ngata commission resumed its work. When hapu found that half the land vested in the board had to be sold they responded with a widespread refusal to vest. The commission's inquiries and recommendations were also undermined by the Crown's own purchasing policy, which was that the Crown continued to buy up land where it could, even where this was land the commission had recommended should be retained for Maori use. The whole system of consultation with hapu was therefore again fatally undermined.

Another blow was delivered to the original scheme with the establishment of a native land purchase board under the Native Land Act 1909. This Act was in effect a massive consolidation of Maori land law with additional provisions. The 1909 Act established a system of Maori land administration that lasted until the 1960s. The Act provided that if there were only a few owners they could alienate their land by agreement. If there were more than 10 owners, alienation could be agreed by a meeting of owners following a set procedure. Either way effectively undermined any possibility of iwi or hapu control over the land. The 1909 Act also removed all restrictions on alienation then in existence (s 207). The board still had to approve each alienation and be satisfied that no owner would be made 'landless' but this provision was poorly defined and in practice appears to have had little effect.

Maori land could now be alienated privately by the owners themselves, by the Maori land board as the statutory trustee or agent of the owners, by a committee of management by the incorporated owners, and in pursuance of a resolution of a majority of owners assembled in a meeting called for that purpose by a board.⁶¹ An administrative change was made to the Maniapoto–Tuwharetoa District Maori Land Board in 1910. It was amalgamated with the Waikato District Maori Land Board and reconstituted as the Waikato–Maniapoto District Maori Land Board.⁶²

In 1913, all pretence of Maori representation on the boards was dropped. Under the Native Land Amendment Act 1913, the membership of the boards was reduced to two, the judge and the registrar of the Maori Land Court in the district. Effectively, this appears to have concentrated power in the judge, as given their relative positions registrars were generally deferential to judges. For Maori, the wheel had come full circle. The attempt to establish an alternative to the Native Land Court had effectively been eliminated.

Instead, Maori found that the management of their remaining lands had again been effectively removed outside their control. Their aspirations for self-management of their land had been set aside in favour of administration by Government-created agencies, largely run by Pakeha and apparently concerned above all with the interests of European settlement. The boards now effectively had control of the remains of the land originally vested, plus land compulsorily vested, as well as overall decisions on approving all sales of Maori land in the district.

61. Hutton, "A Ready and Quick Method": The Alienation of Maori Land by Sales to the Crown and Private Individuals, 1905–30', p 34, quoting Judge Fisher in *The New Zealand Yearbook*, 1910, p 714. See also Hutton, pp 35–44, for a more detailed description of methods.

62. Hutton, 'The Operation of the Waikato Maniapoto District Maori Land Board', p 8

It is beyond the scope of this report to investigate all possible issues raised by the administration of district Maori land councils and boards. Briefly, however, some issues that seem to arise from even preliminary research include the implications of boards approving sales, such as how well they met their obligations to protect important sites like urupa from alienation, and how well they ensured that Maori were not left landless or without sufficient land for their livelihood. Issues have also been raised about the boards' assumption that Maori only had an economic interest in land. The large area covered by the board also apparently raised some concerns because the small number of Maori members were not felt to be representative of all the major interests in the district. Possible conflicts of interest in the appointments to boards also arose, such as the appointment of G T Wilkinson to the Maniapoto–Tuwharetoa board. Cabinet also approved the appointment of P Sheridan, head of Government land purchase in the 1890s, to be superintendent of the new Maori Land Administration Department in October 1900, which controlled the district land councils and boards.⁶³

Hutton has pointed to settler pressure for the appointment of members that would protect or further their interests, and the problems of lack of adequate resourcing for the boards.⁶⁴ The boards were also under increasing pressure from settlers who could not tolerate seeing 'idle' Maori land but were unable to recognise that Maori preferred a different pattern of land settlement. As president, Wilkinson noted in 1904, for example, that pressure from county councils and road boards for 'idle' native lands really stemmed from perceptions that the land was 'idle' because Maori were not living on it in the way that settlers expected. Wilkinson explained that settlers failed to appreciate that Maori still preferred to live together in a 'communistic manner' in their Maori kaingas, with their land surrounding them, instead of following settler preferences for living spread out over scattered, isolated farms. Settlers therefore assumed that the relatively large areas of land surrounding Maori kainga seemed idle and 'unused'.⁶⁵

There are also issues of Government and board policies that appeared to put successful leasing before Maori aspirations to farm their own land, and quick action where settler interests were concerned in contrast to long delays where only Maori had an interest, such as in the creation of papakainga reserves.

Hutton has described how the Native Land Act 1909 reconstituted Maori land boards so that their principal purpose was to facilitate the alienation of Maori land.⁶⁶ In general, the legislative changes appear to have produced the expected results. The constraints on sales were also lifted by the Massey Government between 1912 and 1921, even though by then there was clear evidence that the Maori population was increasing and there was likely to be insufficient land left for future Maori needs.

Brooking has described how from 1909, the Government began another massive programme of purchasing Maori land. The mix of both Crown and private purchasing was so effective that by 1920 Maori overall owned less than five million

63. MA-MLA 1905/63 Cabinet decision of 24 October 1900

64. For example, Hutton, 'The Operation of the Waikato Maniapoto District Maori Land Board', pp 10, 13

65. MA-MLA 1904/72, box 1/3

66. Hutton, 'The Operation of the Waikato Maniapoto District Maori Land Board', p 18

acres. Of this, over three million acres was leased leaving Maori with less than one million acres of economically usable land. The Stout–Ngata commission reported that since Crown purchasing had resumed in 1905, a further 69,390 acres had been purchased by the Crown in the Rohe Potae (Aotea block), although most of these were of interests where the sale still had not been completed. Private individuals had purchased another 17,818 acres.

Purchasing continued after this, and in line with Maori land elsewhere, significant purchasing is likely to have occurred between 1909 and 1920. However, it is very difficult to separate out purchasing statistics for the Rohe Potae (Aotea block) for the years 1909 to 1920 because the district was effectively obliterated as an entity for the purposes of collecting official statistics from this time. It was split between two Native Land Court districts and two Maori land board districts. It was also subsumed into a much larger district under the amalgamated Waikato–Maniapoto board in 1910. Sales and lease statistics for the Rohe Potae (Aotea block) for these years may therefore require a much more time consuming block-by-block search than has been possible for this report.⁶⁷

67. AJHR, 1907, G-1b, pp 4, 10

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APPENDIX I

PRACTICE NOTE

WAITANGI TRIBUNAL

CONCERNING the Treaty of Waitangi Act 1975

AND Rangahaua Whanui and the claims as a whole

PRACTICE NOTE

This practice note follows extensive Tribunal inquiries into a number of claims in addition to those formally reported on.

It is now clear that the complaints concerning specified lands in many small claims, relate to Crown policy that affected numerous other lands as well, and that the Crown actions complained of in certain tribal claims, likewise affected all or several tribes, (although not necessarily to the same degree).

It further appears the claims as a whole require an historical review of relevant Crown policy and action in which both single issue and major claims can be properly contextualised.

The several, successive and seriatim hearing of claims has not facilitated the efficient despatch of long outstanding grievances and is duplicating the research of common issues. Findings in one case may also affect others still to be heard who may hold competing views and for that and other reasons, the current process may unfairly advantage those cases first dealt with in the long claimant queue.

To alleviate these problems and to further assist the prioritising, grouping, marshalling and hearing of claims, a national review of claims is now proposed.

Pursuant to Second Schedule clause 5A of the Treaty of Waitangi Act 1975 therefore, the Tribunal is commissioning research to advance the inquiry into the claims as a whole, and to provide a national overview of the claims grouped by districts within a broad historical context. For convenience, research commissions in this area are grouped under the name of Rangahaua Whanui.

In the interim, claims in hearing, claims ready to proceed, or urgent claims, will continue to be heard as before.

Rangahaua Whanui research commissions will issue in standard form to provide an even methodology and approach. A Tribunal mentor unit will review the comprehensiveness of the commission terms, the design of the overall programme, monitor progress and prioritise additional tasks. It will comprise Tribunal members with historical, Maori cultural and legal skills. To avoid research duplication, to maintain liaison with interested groups and to ensure open process:

Rohe Potae

- (a) claimants and Crown will be advised of the research work proposed;
- (b) commissioned researchers will liaise with claimant groups, Crown agencies and others involved in Treaty research; and
- (c) Crown Law Office, Treaty of Waitangi Policy Unit, Crown Forestry Rental Trust and a representative of a national Maori body with iwi and hapu affiliations will be invited to join the mentor unit meetings.

It is hoped that claimants and other agencies will be able to undertake a part of the proposed work.

Basic data will be sought on comparative iwi resource losses, the impact of loss and alleged causes within an historical context and to identify in advance where possible, the wide ranging additional issues and further interest groups that invariably emerge at particular claim hearings.

As required by the Act, the resultant reports, which will represent no more than the opinions of its authors, will be accessible to parties; and the authors will be available for cross-examination if required. The reports are expected to be broad surveys however. More in-depth claimant studies will be needed before specific cases can proceed to hearing; but it is expected the reports will isolate issues and enable claimant, Crown and other parties to advise on the areas they seek to oppose, support or augment.

Claimants are requested to inform the Director of work proposed or in progress in their districts.

The Director is to append a copy hereof to the appropriate research commissions and to give such further notice of it as he considers necessary.

Dated at Wellington this 23rd day of September 1993

Chairperson
WAITANGI TRIBUNAL