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# South Island High Country Land Reform 1992-2015

New Zealanders have long treasured their land, with poets (Bracken, 1893) and prime ministers calling it ‘God’s Own Country’, or Godzone for short. On his visit to New Zealand in 1897 Mark Twain wrote: ‘The people are Scotch. They stopped here on their way from home to heaven – thinking they had arrived’ (Twain, 1897).

As young as New Zealand is, conflicts about land and its uses have been fought about multiple values, only a few of which are tangible and locatable on a map. Land conflicts have arisen over sovereignty, cultural identity, and control of a resource located in, on or under land. Resources under contention have changed over time, from hectarage, to timber, to pasturage, to hard-rock and energy-producing minerals, to water. Recently, conflicts have started to feature a resource with new-found value in the New Zealand real estate market: beauty. In 2013 university student Daniel Kelly published a compelling ‘call to arms’ opinion piece describing New Zealand’s landscapes as an essential part of the

Kiwi national identity. He wrote: ‘our rich abundance of natural beauty ... is our most celebrated asset. Fortunately it’s one [prime minister] John [Key] can’t sell’ (Kelly, 2013).

While the prime minister cannot sell beauty, the Crown can sell land. This article describes a contemporary and continuing conflict over the reform of land ownership in the beautiful South Island high country. I attempt to make sense of the outcomes of this land reform, suggesting that the source of the conflict lies more in ideas about ownership – especially John Locke-infused ideas of political economy – than in the raw economic value of the natural resources at stake. I conclude with some Locke-

inspired recommendations for land reform implementation which might avoid the current pitfalls.

## **Background of South Island high country land reform**

Tenure review of pastoral leases started as a way to mediate a conflict over scarce land resources, in which some wanted the land for recreation, some for its aesthetic value, some for agriculture and some for subdivision (Brower, 2008, pp.34-5). In the 1980s New Zealand became a leader in a global trend towards market liberalisation. At the time, Crown-owned land was managed for multiple uses (such as timber, grazing, mining, recreation and wildlife), causing widespread discomfort. As the then director-general of the New Zealand Forest Service put it: ‘the highest attainable goal for managers [under multiple use] is a state of moderate dissatisfaction among all client groups’ (Kirkland, 1989). The fourth Labour government disbanded the two multiple-use land management agencies of the day, the New Zealand Forest Service and the Department of Lands and Survey. It corporatised, then privatised, productive forest land and shifted indigenous forest

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management to the new Department of Conservation.

These land reforms left out the Crown-owned pastoral leases of the South Island high country, 10% of the nation's land mass, because this land 'had an iconic value which would be more controversial politically' (Brower, 2008, p.30, quoting the commissioner of Crown lands). Indeed, many groups had much to say about the high country. By the 1980s the high country lessees themselves were advocating for the opportunity to purchase freehold title to the land they had leased, some for generations. Various Crown entities and boards of enquiry through the 1980s and 1990s pointed to the inefficiency of pastoral leases which prohibited land uses that could be more profitable than extensive pastoralism. At the same time, environmental and recreation groups were lobbying for more secure recreational access to high-elevation land and for exclusion of sheep from that land (ibid., pp.31-3).

By the end of the 1980s interest groups that paid attention to the high country were all advocating for some sort of change. That said, there were few in the population at large who were paying attention to the high country. But it was rabbits which started the high country land reforms. The Rabbit and Land Management Task Force, set up in 1987, responded to the rabbit plague of the 1980s by initiating a change of land tenure. In the late 1980s it reviewed the tenure of Mt Difficulty Station in Central Otago, with the goal of intensifying land use in the lowlands and relieving the highlands from grazing pressure. The land was split three ways: some was privatised, some retained for conservation as a protected natural area, and some remained in pastoral lease (Brower, 2008, pp.33-4). Thirty years later, oenophiles on both sides of the Tasman enjoy fine pinot noir from the Mt Difficulty and Roaring Meg labels produced on freehold land that came out of the review.

In 1991 the commissioner of Crown lands initiated a process called tenure review, in which a pastoral leaseholder could enter talks with the Crown to divide the lease land in a two-way split. The more productive land was privatised,

in freehold title, while the land with conservation, recreation and landscape values shifted into the conservation estate. Tenure review proceeded *ultra vires* until Parliament passed the Crown Pastoral Land Act 1998 (ibid., pp.34-5). Almost everyone who was watching supported South Island land reform because each group stood to gain something: farmers received freehold title; conservationists saw sheep removed from hilltops and new parkland; and recreationists secured access to the backcountry for fishing, hunting and tramping.

#### South Island land reform on the ground

Tenure review affects 2.4 million hectares

the pastoral rights to 1,214 hectares for \$202,500, or \$166.83 per hectare. After tenure review the Crown transferred those 1,214 hectares into a conservation reserve, and the former leaseholder subdivided the new freehold land, selling off 193 hectares for \$10.1 million, or 658 times the per-hectare price recently paid to the Crown.

Alphaburn is just one of 110 reformed leases along the length of the Southern Alps. Between 1992 and late 2015 the Crown sold freehold rights to 370,981 hectares of Crown-owned South Island high country land leased for pastoral sheep grazing. By law the Crown sells its rights to the land most 'capable of economic use'

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of land along the eastern slope of the main divide. This represents 10% of the nation's land mass. It is an area slightly larger than Israel and just smaller than Belgium.

One affected property, Alphaburn, is on the south shore of Lake Wānaka, on the way to the Treble Cone ski field. Until 2002 Alphaburn was 4,579 hectares of land owned by the Crown and leased for 'pastoral purposes only'. The leaseholder could run sheep and maybe deer, but the law clearly prohibited subdivision and industrial development. That prohibition on subdivision and development is precisely why the shorelines of the southern lakes – Wakatipu, Wānaka, Hāwea, Tekapo, Pūkaki – have remained so quiet during the day and so dark at night. In 2002, under tenure review, the Crown sold freehold title to 3,365 hectares of Alphaburn Station to the leaseholder for \$265,500, or \$79.50 per hectare. At the same time the Crown bought the leaseholder's remaining leasehold rights to run sheep on the less productive, higher altitude land with conservation and recreation values. The Crown bought

(Crown Pastoral Land Act 1998, section 24(a)(2)): that is, the most productive land, usually at lower elevation and often on lakeshores or along roadways. Former leaseholders paid the Crown \$65.2 million for freehold title, or an average of \$176 per hectare (median of \$77). At the same time, the Crown bought pastoral leasehold rights to 330,854 hectares of land for conservation reserves. By law, the land to which the Crown buys rights is the land with recognised conservation and recreation values, which is usually the least productive, steeper, higher and more remote land. The Crown paid leaseholders \$116.8 million for this land, or an average of \$353 per hectare (median of \$278).

Two things are of note here. First, on net, the Crown has paid high country farmers considerably more than the farmers have paid the Crown, although the resources and rights the Crown sold appear far more valuable than those it bought. This is illustrated in Table 1. Former leaseholders have received freehold title to 371,000 hectares and nearly \$52 million on net in exchange

**Table 1: The 12 largest Crown payouts to former pastoral leaseholders in 110 tenure reviews from 1992 to 2014**

Name of lease	Area to conservation (ha)	Area to freehold (ha)	\$ paid by Crown for conservation land	\$ paid by lessee for freehold	Year tenure review completed	net to lessee
Dingleburn	17,722	7,016	6,192,500	615,000	2004	\$5,577,500
Mesopotamia	20,728	4,973	4,742,000	142,000	2009	\$4,600,000
Braemar	13,386	1753	2,718,381	81,381	2012	\$2,637,000
Kyeburn	4,703	1,852	2,875,000	375,000	2009	\$2,500,000
Lake Hawea	4,855	6,470	2,200,000	\$0	2011	\$2,200,000
Allandale	4,421	124	1,890,000	10,000	2012	\$1,880,000
Mt Cook	1,546	1,005	1,956,000	156,000	2009	\$1,800,000
Mt Potts	8,670	1,022	1,820,000	130,000	2009	\$1,690,000
Mt Aspiring	8,017	2,309	2,047,500	437,500	2012	\$1,610,000
Lauder	3,020	1,205	4,000,000	2,560,000	2013	\$1,440,000
Barrosa	4,840	968	1,610,000	180,000	2010	\$1,430,000
Mt Cecil	1,265	1,188	1,410,000	\$0	2011	\$1,410,000

Source: these data were gleaned from successive Official Information Act requests to LINZ

**Table 2: What happens to land once privatised? The 12 largest gross revenues from subdivision and on-selling of land from former Crown pastoral leases**

Lease	Year tenure review completed	Gross on-selling revenue	Land area later on-sold (ha)	Price per ha paid to Crown by runholder for freehold	Average price per ha paid by new buyers
Hillend	1998	\$26,200,000	2671	\$126	\$9,800
Queensberry Hills	1998	\$15,148,000	1950	\$66	\$7,800
Wyuna	2004	\$14,185,000	8.8	\$543	\$1,611,900
Closeburn	1998	\$14,182,000	7.7	\$215	\$1,841,800
Glenariffe	2004	\$12,074,000	1664	\$157	\$7,300
Waiorau	1998	\$10,350,000	2561	\$72	\$4,000
Avalon	1998	\$10,200,000	1351	\$99	\$7,600
Alphaburn	2002	\$10,100,000	193	\$80	\$52,300
Cattle Flat (Otago)	2005	\$8,480,000	1780	\$132	\$4,800
Shirlmar	2003	\$8,350,000	3498	\$2	\$2,400
Waitiri	2002	\$8,200,000	5.5	\$91	\$1,490,900
Spotts Creek	1998	\$8,200,000	3108	\$85	\$2,600

Source: These data were gleaned from land sales records recorded in QuickMap-SalesView software. What was once 110 pastoral leases is now over 3,000 parcels of freehold. Thus, discerning which former pastoral land has on-sold for how much required examining the sales records for each of 3,000 parcels of former Crown land in the high country. Data collection ended in May 2015; no sales after May 2015 were recorded. It is worth noting that there are some sales missing from the software. As such, these data might underestimate but will not overestimate the on-selling revenues.

for giving up grazing rights to 331,000 hectares of the least productive land. In the exchange, the Crown sold, and the leaseholder bought, residual freehold rights not included in the leasehold agreement. So, all the previously prohibited land uses become possible (subject to the Resource Management Act

1991 and the relevant district plan). The Crown bought leasehold rights of grazing and occupation, which it then retired to create conservation parks or reserves.

At the outset of tenure review the Treasury set a rough guideline for comparing the value of what the Crown was selling against what it was buying.

According to Treasury, the pastoral rights were worth about 72% of the freehold rights sold by the Crown to the runholders. So, when exchanging rights the Crown should be willing to pay about 72% of what the runholders would pay for freehold. Thus the ratio of per-hectare prices (price paid by the Crown for pastoral rights/price paid by runholder for freehold) should vary around a median of 0.72 (Brower, Meguire and Monks, 2010, citing Treasury documents). Empirical economics of rural land prices in New Zealand suggests that the ratio should be lower (Stillman, 2005). Yet the median ratio, thus far, is 3.4. The ratio at Alphaburn was 2.1, and it has gone as high as 940.0, at Shirlmar. Of 110 deals to date, only 19 have a ratio of less than 1.0; 11 of those anomalous 19 were negotiated before 1998.

The second thing of note is the fate of the former Crown land once freehold. As of mid-2015, almost a third of the new freeholders had subdivided and on-sold some land. 74,000 hectares – about a fifth of what the Crown sold for \$65 million – has since sold for \$275 million. On average, those who have on-sold land have done so at 693 times the Crown's selling price. This is illustrated in Table 2. In other words, at only 65,700% of the purchase price, the capital gains realised at Alphaburn are decidedly below the median of 69,200%.

#### Understanding land reform outcomes

It is often easy, if a bit trite, to explain the outcomes of land conflicts by citing larger-than-life personalities or policy style. On the face of it, South Island land reform outcomes resist both of these possible explanations. Twenty-three years after its inception the policy has outlasted many changes of government and all the dominant personalities involved.

Another logically easy, but rather unlikely, explanation is corruption, graft or electoral influence. New Zealand is regularly perceived as one of the least corrupt nations in the world, according to Transparency International surveys, rendering the first two unlikely. The third is also unlikely, given that there are only 304 leaseholding families directly affected by, or benefiting from, land reform. Land

reform outcomes appear, rather, to be a series of micro-battles which render the conservation lobby powerless to fight the macro-war over the beauty of the South Island (Brower, 2008, pp.54-9).

Olson's (1965) logic of collective action predicts that those with a vested (that is, financial) interest in resource conflicts will show superior organisation and persistence, and often defeat more numerous opponents with a non-financial interest. High country leaseholders have a strong financial incentive for land reform, and collective action creates a playing field that is tilted in their favour from the start. However, several aspects of land tenure reform render the tilt even steeper. Perhaps most powerful is the devolution of the tenure review process and its case-by-case decision-making. Land reform outcomes are decided one by one, which tends to contain the scope of debate and keep it off the national radar (Pralle, 2006, p.29). This tends to favour the status quo (Schattschneider, 1960), which remains Olson's victory of the few with the vested interest over the many with the public interest. The local, particularistic policy style of tenure review is one which also tends to privilege local needs over national goals (Pralle, 2006, pp.207-9). Though seeming personal and friendly, case-by-case decision-making in fact makes it prohibitively expensive for dispersed national conservation interest groups such as Forest and Bird, Fish and Game and the Environmental Defence Society to scrutinise and challenge each land reform proposal. Hence, many sail through unchallenged and even unnoticed.

Land reform deals are negotiated by Crown contractors, who are instructed by their public service employers to be neutral: to avoid taking sides and not advocate for the Crown's interest (Brower, 2006; Brower, Meguire and Monks, 2010). Neutrality appears to have arisen from two seemingly innocuous sources. First, in the neo-liberal public sector reforms of the 1980s there was a desire to adhere to the policy/operations split, in which public service operatives are to be entirely separate from, and untainted by, political and policy decisions (Boston et al., 1991,

pp.258-9). Proponents of the split and its intellectual predecessor, the politics/administration dichotomy (Wilson, 1887), assume that a politically neutral and autonomous administrative branch of government will deliver unbiased results (Brower, 2006). Second, the contractors have the task of consulting with interested parties, not negotiating and not advocating for the Crown. Consultation involves a 'proposal not yet finally decided upon; ... keeping an open mind and being ready to change and even start again' (Queenstown Lakes District Council, undated). This has been interpreted as a prohibition on stating a

desired outcome for conservation and for the New Zealand public (Brower, 2006, pp.76-86).

The problem is that, as the holder of the residual ownership interest in the land it is selling, the Crown itself is an interested party. Hence, the Crown avoiding taking sides did not avoid allowing one side to dominate. When the Crown refused to take sides in its own two-party negotiation, it ceded its power from the start. It thus risked devaluing its own financial interest and selling the public short. The financial outcomes of tenure review suggest that apolitical administration has not avoided farmer dominance; indeed, it may have facilitated it.

Further, any time a government contracts out a job, it is prudent to examine the terms of the contract to discern the incentives operating on the contractor. A principal-agent problem (Niskanen, 1971) occurs when the agent ignores or subverts the principal's goals because their motivations are at odds (Laffont and Martimort, 2002; McCubbins, Noll and Weingast, 1987; Ricketts, 2002, ch.5; Waterman and Meier, 1998; Mueller, 2003). Several features of the contractual arrangements for Crown land reform negotiators suggest there might be a principal-agent problem.

1. The Crown is represented by contractors hired by Land Information New Zealand (LINZ) and employed by a property management, development and valuation firm (including, but not limited to, DTZ, Opus and Quotable Value). These contractors answer to LINZ officials.
2. Contractors are not paid on commission, but by pre-arranged contractual sums for administrative progress towards the ultimate goal (a signed land reform deal). Hence, the Crown neither rewards a contractor for

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striking a cheap deal, nor penalises them for an expensive deal. More tellingly, the Crown does not set a reserve price from which the contractors negotiate.

3. Until August 2006 tenure review outcomes were confidential, giving rise to asymmetric information. Only LINZ and the contractors knew who paid whom how much in a given deal.

Agency theory predicts that when agents are instructed to do X, but are financially rewarded when they do Y, they often do Y. This is especially true in conditions of asymmetric information, when it is difficult to ascertain which of X or Y (or Z, for that matter) the agent is performing. In land reform, the ministerial principal directs the agents to: 1) complete tenure review deals; and 2) get a 'fair financial return for the Crown' (Cabinet Policy Committee, 2003, 2005). But, until August 2006, not even the minister knew if they were fulfilling the second directive. In short, land reform implementation had serious structural problems.

#### 2007 reforms and thereafter

In 2007 an optimistic Labour-led government radically changed the rules of

**Table 3: Perceived policy failures and proposed solutions**

Perceived policy failures highlighted in 2006–07	Policy fixes proposed in 2007
Overly generous Crown payouts	Remove budgetary authority from officials and restore it into the minister’s hand. If someone spends too much money in the future, it will be the minister, not bureaucrats, and not contractors.
Principal–agent problem in which officials ignore ministerial pleas to get a ‘fair financial return for the Crown’	Enhance ministerial oversight of budgetary and conservation aspects of proposed tenure review deals. Remind officials that, in order for a deal to proceed, it must benefit the Crown.
Landscape carve-up	Institute a standard by which significant landscape values should not be compromised in any way, which all future deals must meet before they may proceed. If a station lies within five kilometres of a lake, the proposed deal must contain provisions to prevent subdivision or significant alteration of the lakeshore.
Detrimental effects on threatened native biodiversity	Institute a standard by which significant biodiversity values should not be compromised in any way, which all future deals must meet before they may proceed. This does not appear to include species, populations or ecosystems that would be impractical or unrealistic for the Department of Conservation to maintain.

Source: Brower, 2008, p.150

land reform (Cabinet Business Committee, 2007, paragraphs 22-3) in an attempt to address many of these problems (see Table 3). In July 2009 the newly-elected National-led government rescinded outright the landscape and biodiversity rule changes described in Table 3, but left intact the ministerial budgetary authority and information transparency clauses (Cabinet Policy Committee, 2009, paragraphs 15-20). If the only problems with land reform were structural, and if a National-led government in a recession were more careful with expenditures than a Labour-led government running a surplus, then we would expect land reform outcomes under National after the rule changes to be less costly to the taxpayer. But they are not. Since 2007 the Crown has trebled the median price it pays per hectare to buy leasehold rights to land shifting to conservation, while the leaseholders’ median per hectare has only doubled. So fixing the problems and the election of a purportedly more cost-conscious government have resulted in the Crown losing more money, not less. This is at odds with both the lefty-greenie and the hard-nosed neo-liberal policy styles for which New Zealand is known. Redrawing lines on the land reform playing

field has not changed the outcomes. There must be something else going on.

**Looking deeper: the Lockean political economy driver**

The image of a man and his dog battling against the odds in the empty, unforgiving, but hauntingly beautiful landscape of the Southern Alps tugs at the cultural heartstrings. Such imagery can be heartwarming. In the South Island high country it has become associated with the idea that ownership of land is established by the hard work and gritty determination of the occupier.

This idea of ownership originates in John Locke’s (1694) labour theory of property. It is a colonial and nation-building idea of property, which served the interests of young nations and colonies by providing incentive to colonise and conquer, and motivating development of natural resources (Bromley, 2000, p.20). Locke’s idea is plainly evident in the United States’ Homestead Act (1862) and the General Mining Act (1872), which promised freehold title as a reward for making economic use of a piece of the West. It is notably absent, however, in the New Zealand Land Act 1948, which

expressly prohibits the transfer of freehold (section 66). This reluctance to grant freehold title long predates the Land Act, and stems from the fragility and erosive nature of the high country soils (Page, 2009, pp.409-11). Yet it appears that land reform is progressing as if the Land Act employed Locke’s ideas of ownership.

In politics, interest groups promote a world view which serves their goals, be they political or financial, publicly or privately motivated. In land reform, the farming interest has promoted a Lockean idea of ownership that does not conform to today’s laws, but does conform to heartwarming and patriotic imagery, in which long-term occupation and labour are considered as good as freehold. Runholders have often implied that the land they farm is theirs: that they own it. Leasehold areas are seldom called ‘pastoral leases’; runholders are quoted in the media describing leasehold land as ‘their land’ (Fencepost, 2006), ‘their properties’ (Scott, 2004), ‘their pastoral lands’ (Bruce, 2005), ‘our properties’ (Rae, 2004) and ‘their high country land in perpetuity, signed by the Crown in 1948’ (ODT Staff, 2006).

According to the terms of the pastoral leases, set out in the Land Act 1948 and reaffirmed in the Crown Pastoral Land Act 1998, the leaseholders do have an ownership interest in the land under lease. That interest is long in tenure (33 years, perpetually renewable) and strong in nature (compensable if revoked). But it is very narrow in the land uses it allows (only extensive pastoralism, no subdivision or industrial use). The Crown explicitly retained all freehold rights and rights to the soil, in both 1948 and 1998. In other words, the idea of work-to-own died with the 19th century. The Land Act 1948 gave license to the runholders to make economic use out of the harsh landscapes of the high country. It also gave runholders ownership rights to that use and the improvements they created. But the Land Act made a special point to retain the Crown’s ownership of the land itself. In 1948 the pastoral use rights were worth more than the land itself. But times have changed. As Table 2 illustrates, the land itself is now

worth on average 693 times the value of pastoral use rights.

In tenure review, the Crown appears to be ignoring or under-valuing the economic potential of the land itself, once the pastoral constraints of the Land Act are lifted. Examining the valuation reports for all deals from 1998 to 2008 reveals that most ignored the value of the option to vary land use. But there are four cases in which Crown valuers took note of the value of subdivision and other uses (Brower, Meguire and Departe, 2012). One of the four is Alhambra, where the Crown's valuer estimated that the option to subdivide or otherwise change land on the shore of Lake Wānaka was worth about \$3 million. In negotiations, the Crown then sold those freehold rights for \$267,500; the former runholder then on-sold 6% (193 hectares) for \$10.1 million.

This discussion of who owns the value of the land itself brings us back to where we started: the role of beauty. The arresting beauty of the high country feeds a romanticised imagery of the Southern Man. This in turn fuels a do-it-yourself, work-to-own concept of property that is squarely at odds with the Land Act 1948 and the Crown Pastoral Land Act 1998. The pattern of prices in the land reform outcomes suggests that, regardless of the structure of the contracts and incentives operating on Crown negotiators, the harsh beauty, romantic imagery and Lockean ideas of property prevail. Herein lies the irony of the high country story. Adherence to the image of the Southern Man is transforming the landscapes that constructed the man himself. The dominance of the antiquated American model of acquiring freehold title by dint of hard work is destroying the physical, cultural and aesthetic substrate of the Southern Man. Clinging to the romance attached to the landscape is subsidising the destruction of the landscape itself.

### Conclusion

One could call land conflict a 'wicked problem' (Horst, Rittel and Webber, 1973), but I would call it a problem of meaning. Land is important to many people for many reasons. Many individuals and groups assign different meanings to the same landscape, geological feature or

hectare. As such, conflicts over land often relate more to identity, aesthetics, heritage or competing visions for the world than to the measurable dollar value of land itself. In such cases, it is less about dollars than about meaning.

When a conflict over land becomes about meaning, seemingly absurd financial outcomes almost make sense if all sides agree to subscribe to the same meaning. In the case of tenure review, the high country farmers succeeded in assigning a Lockean work-to-own meaning to high country land and the Crown seems to have accepted it. This mutual acceptance of a Lockean view of ownership runs counter to the text of the governing statutes and resembles hegemony (Brower, 2008, pp.19-25, 37-74).

There are several ways in which tenure review could have been implemented differently, and in a way more obviously beneficial to the New Zealand public. This article concludes with a few suggestions for how the Crown might simultaneously generate revenue, allow for land use diversification on productive land, protect conservation values, and provide universal recreation access to land with 'significant inherent values'.

### *Involve the courts*

When policy is unclear, let the courts decide. Perhaps the simplest option, this would maintain the current mechanism of redistributing property rights, but change the administrative arrangements. Currently, the redistribution and determination of equalisation payments take place in a process of consultation between LINZ contractors and the lessee, the Department of Conservation, iwi and other interested parties. LINZ is simultaneously a negotiating party with a vested interest and the referee in charge of the process. This option would place the judiciary, rather than LINZ, in the role of referee in charge, thus relieving LINZ of the conflicting roles of representing the Crown's interest while administering the process itself. It could make use of the Environment Court for this. The role of the court would be to determine the relative value of potential and actual property rights, rather than leaving this to

the negotiating powers of runholders and LINZ.

### *Buy and sell*

The Crown could buy the entire lease. Following the purchase, the government could identify the significant inherent values worthy of protection through a consultation process similar to tenure review. As the government would be the holder of the complete bundle of property rights, identification of protected land would not be constrained by the lessee's interest. After reserving some land for the Department of Conservation, the government could sell the remaining land 'capable of economic use' at auction. This would allow a market mechanism to determine the value of potential and actual property rights, rather than a private negotiation administered by LINZ. It would also increase the likelihood of the Crown capturing potential value from the assets it is disposing of. Though the initial cash outlay for the whole property purchase would be high, Table 2 suggests that the revenues generated at auction would be higher. Administrative costs would be much lower than currently.

### *Create reserves and amend the Land Act*

The Land Act 1948 gives ministers and the governor-general authority to create reserves on land under pastoral lease. Hence, the government could create reserves on land sections with desired values, and create access easements across the pastoral land surrounding the reserves. The Land Act does not explicitly require compensation to the lessee for creation of the reserves themselves, but posterity might require compensation for any value lost due to the easements or exclusion of sheep from the reserves. At the same time, Parliament could amend the Land Act to allow more uses on pastoral land – from viticulture to ski fields to golf courses – as desired by parliamentarians and as permitted by the Commissioner and the Resource Management Act. This option would not allow for any freeholding, and would likewise not extinguish the lease over land designated as reserves. But it would allow for protection of values, recreation access and land use diversification. The cost would be

administrative and any compensation owed to the lessee. Ideally, that compensation would be determined by a court such as the Land Valuation Tribunal.

#### *Buy some and amend*

The government could buy the lessee's interest in land deemed to be of conservation, recreation or heritage value, and thus regain 'full Crown ownership' of land going into the conservation estate. As a condition of the government purchasing the lessee's use rights, the government could amend and relax the

Land Act's pastoral requirement, allowing for diversification but no subdivision. This would not allow a freehold option, but would convey many of the property rights associated with freehold, and many of the rights in the non-pastoral bundle desired by lessees.

These are just a few options, briefly presented. Each would have proponents and opponents, and costs and benefits. It is not an exhaustive list, but merely suggests that there are alternatives.

Redistribution and exchange of

property rights can be tools for several ends related to land tenure and the multiple-use paradigm: clarity of tenure; neat separation of resource uses; diversification of land use; and clear conservation mandate on conservation land. This article asked how the process is going in New Zealand, in light of an abstract view of property. The results of land tenure review are clear. Redistribution of property rights is certainly changing land uses. Who profits from the changing land use is a different question entirely.

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