

rectifying that injustice care should be taken that no further false step was made either by securing an advantage over the Natives in the settlement or by acting in any manner which would be really, or even apparently, inconsistent with good faith. Notwithstanding, therefore, that the Natives were apparently satisfied at the time, it seems open to us to consider whether or not such settlement was a just or equitable one.

No doubt the Natives were made aware of the statement in Sir William Fox's report that the value of the portion of the reserve then within the Town of Stratford was estimated by the Chief Surveyor at £7,792, or over £11 per acre, while that of the substituted reserve, which had various disadvantages as compared with the other, was only £2 per acre. Possibly, too, they believe that they are legitimately entitled to the difference; in fact, it was suggested before us that the proper measure of the loss or damage was the difference between the £7,792 and the values of the substituted and compensatory reserves. But, although Sir William Fox made the statement alluded to, he could not have thought that the Natives were entitled to £5,000 or £6,000 beyond the two reserves or he would never have accepted the proposal as the basis of a fair settlement. There is no doubt in our minds that he thought that the substituted and compensatory reserves would, in value, be somewhere in the vicinity of balancing the original reserve, but since he declared the settlement as extremely favourable to the Government he must have anticipated some margin in the latter's favour.

It stands to reason that it would not be fair to take the full value of the land laid out as a town as a fair measure of the compensation to which the Natives were entitled. What it appears to us, in this case, they would have been entitled to was the fair market value of the land at the time they were deprived of it, assuming it to have been sold in one lot or in parcels, as might be most advantageous for the owners. The fact that it was taken without the Natives' assent should ensure a liberal estimate, nor should the prospective value arising from its suitability or probability of being some part of a future town-site be lost sight of.

Sir William Fox had no tangible figures on which he could estimate the value of the original reserve, and any estimate he made could only be speculative at the best. We have actual figures to go upon, and if we are using them rightly they seem to us to give a fair basis for judging of the respective values. The actual amount realized for the sale of the land in the reserve, according to the Commissioner of Crown Lands, was £5,205 14s. 7d., or an average, for 625 acres, of nearly £8 7s. per acre. To attain this certain portions had to be sacrificed for roads and reserves. Then there has to be taken into account the cost and expenses of laying out the town and preparing it for sale, of which each part of the town should pay its fair share. This land, too, was sold after the whole town was marked out, when there would be no doubt of its value being increased. On the whole, we think that the balance, after deducting $33\frac{1}{3}$ per cent. off the amount actually realized, would be a fair value to have assessed the portion of the reserve, taken at a time and in the state it then was. On the other hand, it is clear the substituted reserve was not worth more than £2 per acre. Sir William Fox was very emphatic about this. He says, "the value of the entire substituted reserve, which is heavy bush land, removed from the main road of the country, was certainly not more than £2 per acre, or £1,400." We have allowed the 75 acres, which still forms part of the original reserve, to remain as it is. As that is closest to the town, it would probably affect the average value of the residue. So that in accepting Sir William Fox's figures there is no chance of our undervaluing it. With regard to the compensatory reserve, we have no guide of the value at that time, except the valuations of the unimproved value made since. Sometimes it has been valued more, acre per acre, than the substituted reserve, sometimes less. The latest Government value, of July, 1920, shows the compensatory reserve at about £24 16s. per acre, and the substituted one at about £27 12s. 6d. per acre (unimproved). We have adopted what we think a safe medium, and put the

Report, 20th
November,
1910.