

of damage would be the actual value of the land at the time it was bought, less any valuable consideration that may have been obtained by the Natives, whether in payment of the consideration or attempted performance of the conditions attached to the contract.

In order to arrive at this it will be necessary to adopt some basis of calculation. The land originally bought by Kemp's deed was estimated at something over twenty millions. From this has to be excluded Banks Peninsula (about a quarter of a million acres) which was bought under separate deeds; next the Arahura or West Coast Block, estimated to contain about five million acres. In addition there will be the area of the reserves given back to the Natives, as well as a proportion of the land given for landless Natives. There is also the absolutely valueless lands, such as snowy mountain-tops, the waste beds of rivers, and precipitous cliffs. If we deduct for this class of land and the reserves already granted, say, two and a quarter million acres, as well as the additional acres over the twenty millions, we arrive at a saleable balance of twelve and a half million acres, upon which the value has to be calculated.

It is, of course, impossible to fix that value by comparison with present-day values, yet it is extremely difficult to gauge it without being biased by the knowledge of the prodigious strides the Dominion has made since the year 1848. What was once practically wilderness has, by the enterprise, industry, and perseverance of the early settlers and those who followed them, been given an immense value. It is necessary, therefore, to arrive at some standard of value in 1848. Assuming that the Government was buying for itself and not for the Company, certain rules were laid down for the guidance of Government officers in a despatch of the 14th August, 1839, from the Home Office: "It will be your duty to obtain, by fair and equal contracts with the Natives, the cession to the Crown of such waste land as may be progressively required for the occupation of settlers resorting to New Zealand. All such contracts should be made by yourself through the intervention of an officer expressly appointed to watch over the interests of the aborigines as their protector. . . . I thus assume that the price to be paid to the Natives by the local Government will bear an exceedingly small proportion to the price for which the same lands will be resold by the Government to the settlers, nor is there any real injustice in this inequality. To the Natives or their chiefs much of the land in the country is of no actual use, and in their hands it possesses scarcely any exchangeable value. Much of it must long remain useless, even in the hands of the British Government also, but its value in exchange will be first created, and then progressively increased by the introduction of capital and of settlers from this country. In the benefits from that increase the Natives themselves will gradually participate. All dealings with the Natives for their lands must be conducted on the same principles of sincerity, justice, and good faith as must govern your transactions with them for the recognition of Her Majesty's sovereignty in the Islands. Nor is this all; they must not be permitted to enter into any contracts in which they might be ignorant and unintentional authors of injuries to themselves. You will not, for example, purchase from them any territory the retention of which by them would be essential or highly conducive to their own comfort, safety, or subsistence. The acquisition of land by the Crown for the future settlement of British subjects must be confined to such districts as the Natives can alienate without distress or serious inconvenience to themselves. To secure the observance of this rule will be one of the first duties of their official protector."

Earl Grey, in a letter of the 13th April, 1848, echoes similar sentiments: "Nor would there have been any injustice in taking advantage of the exclusive right of purchase vested in the Crown to obtain land on such terms from the Natives. The object of the Crown in acquiring the land being to turn it to the best account for the whole community, the price to be paid for it to the Natives would properly have been measured not by the value the lands they sold were capable of acquiring in the hands of civilized men, but by the amount of benefit they had themselves previously derived from that which they surrendered. It is hardly necessary to observe that, so estimated, the value of unoccupied lands would have been next to nothing."