

of time, but it was through no fault of his own, as he had paramount duties to attend to connected with the war which was going on at the end of 1869, and also in connection with the murder of Mr. Todd. The Legislature sat in the month of June, 1870, and Mr. McLean could not find time to go up to the district until the month of November. When he did go up he exerted himself to the very utmost. He has stated to me himself that he would not undergo the same amount of labour again which he had to undergo in the settlement of this matter. I communicated the steps he had taken to the Provincial Secretary, who never hinted that the colony would have to repay the value of the blocks of land Mr. McLean had given away. I looked upon Mr. McLean in the light of an agent for the Provincial Government, to whom they had given *carte blanche* to make the best and most reasonable terms for them that he could. I never heard of this claim until Dr. Featherston came back. Mr. Fitzherbert coincided in the opinion of his predecessor as to the validity of the provincial claim, but he has shown prudence and statesmanship in the course he has pursued in regard to it. In his first address to the Provincial Council he said, with respect to it, "I candidly inform you that for the present I wait upon circumstances." He did not let the claim interfere with his co-operation with the General Government in the conclusion of the settlement of the land question, but now that peaceful settlement has been secured, and every Native difficulty apparently removed, he asks for compensation to the province.

52. When the *Gazette* notice of the Native title having been extinguished was issued, were you aware that Mr. Fox considered it unwise that it should be issued?—I was aware that Mr. Fox objected to immediate occupation being taken of the land, but I certainly was not aware that he had the slightest objection to the issue of this notice. If I had thought so I would never have issued the notice. Immediate occupation was never contemplated. I am quite certain that I acted under the impression that the issue of that notice was in accordance with Mr. Fox's views. I consulted the Attorney-General on the subject, and it was with his concurrence in its terms that the notice was issued. It was tacitly understood between the General Government and the Provincial Government that no possession should be taken of the land until the surveys of the reserves had been completed. The surveyors were to report direct to, and act under directions of, the General Government, who could only assure peaceful possession if these reserves were allowed to be marked on the ground. The marking out of the reserves was to be made the test of peaceful possession.

53. Do you say that there was an understanding between yourselves and the Provincial Government, at the time this notice was issued, that no proceedings with reference to the selling or disposal of the land should take place until after the reserves had been laid out on the ground?—That was quite understood, and that understanding was acted on by the Provincial Government. The *Gazette* notice itself, notifying the extinguishment of the Native title, was drawn so as to make the title of the Crown (or province in such cases) conditional on the marking out of the reserves.

54. Was it during the process of laying out these reserves that the disputes and interruptions by the Natives took place?—Yes, I believe so.

55. Did the interruption to the surveys which caused the ultimate action of Mr. McLean, occur during the process of laying out the reserves which had been made by the Native Land Court?—That is my impression. It was in giving effect to the decision of the Court with regard to the laying out of these surveys, that the whole question was raised. That at least is my impression. In dealing with Native lands it is quite impossible to apply the ordinary maxims of law. It is well known that in matters of this kind you must often compromise if you wish to secure peaceful possession.

56. Did any Native disputes occur in the course of laying out Dr. Featherston's reserves?—Of that I am not quite satisfied. My idea is that these surveys of reserves were stopped wherever they were found.

57. Am I then to understand the case to be this: that it was understood between the two Governments that the province was not to claim possession under the notice of extinction of title, until the reserves had been completed, and that neither the Provincial Government nor the Colonial Government were, till that was done, to proceed to any possessory act under that notice?—Yes. The possessory title was in suspension until the reserves were marked out.

Mr. HALCOMBE re-examined:

58. *Mr. Speaker.*] You have heard Mr. Gisborne's evidence as to the understanding existing between the two Governments, that the *Gazette* notice was not to give any possessory right till the reserves were surveyed. With such an understanding in existence, can you still contend that any claim could arise on the part of the province prior to the completion of these surveys, and to final possession being then given to the province?—That this understanding was existing is proved by the fact that the Provincial Government abstained from any possessory act: but considering the position, which is apparently allowed, that the whole of the surveys were placed under the control of the General Government for the purpose of marking out these reserves, I contend that there is nothing to show that the Provincial Government either accepted or allowed that so large a loss of land would be incurred in making these surveys as was caused by Mr. McLean's large concessions.