

1874.

## NEW ZEALAND.

REPORT ON THE CLAIM OF THE PROVINCE OF WELLINGTON  
IN RESPECT OF THE MANAWATU RESERVES.

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THE specific duty imposed upon me by Parliament, was to decide whether any compensation was due to the Province of Wellington by the Colony, in respect of the Native Reserves made by Mr. McLean in the Manawatu Block.

Upon careful consideration of the demands of the province for such compensation, of the documents connected with the history of the case, and of the evidence given before me, I came to the conclusion that the Provincial Authorities had failed to make out their claim. But the same reasons which led me to this conclusion, also led me to think the province was equitably entitled to relief in respect of certain cash payments made out of its treasury in connection with the purchase of the block, which should be defrayed in the first instance by the colony, and then charged against the province in the same way as the cost of purchases from the Natives was till last year chargeable by law.

I was about to make a formal award to this effect, when a question arose in my mind as to whether the words in the Act by which I had been appointed would authorize this being done. I requested the consent of the Government to my obtaining the opinion of the Attorney-General on the point; and I submitted the following memorandum, to which the Attorney-General gave the annexed reply:—

For the Attorney-General:—

Being now prepared to make my award on the claim of the Province of Wellington referred to me by the Assembly, a point arises out of the wording of “The Rangitikei-Manawatu Crown Grants Act, 1873,” as to which I am desirous of having the Attorney-General’s advice.

Section 5 of that Act says, that I am “appointed to be Arbitrator, to consider and decide what compensation, if any, shall be paid to the Province of Wellington on account of lands taken and awarded to the Natives, under promises or arrangements made by the Hon. D. McLean.”

The Attorney-General is requested to favour me with his opinion—

1. Whether the words of the section in question restrict the Arbitrator to the sole question whether the province is or is not entitled to compensation on account of Mr. McLean’s reserves:

2. Or whether the Arbitrator is at liberty under the Act to make a general determination, which should include such a question as that of interest paid on the loan raised for the purchase-money of the block, if he thinks there are equitable grounds for any relief to the province in that respect.

*Opinion.*—I am of opinion that no other question is submitted to the Arbitrator’s decision than that of compensation on account of the reserves taken, and that the Arbitrator is not at liberty to go into or decide upon any other matter or question.

J. PRENDERGAST, 5th February, 1874.

I am therefore precluded by this technical difficulty from making the award I intended; but as the making of an award to the effect merely that the province was not entitled to com-

pensation would, in my judgment, not do fair justice to the case, I have thought it my duty to refrain from making any award at all, and to confine myself to reporting my opinion to Parliament.

The foundation for the claim to compensation really lay in this: that the provincial authorities deemed the whole Manawatu Block had, under the judgment of the Native Land Court on the 25th September, 1869, and subject only to the Native lands excepted by that Court, become "provincial estate" immediately upon the publication in the *Government Gazette* of the notification dated 16th October, 1869, that the Native title over the block had been extinguished. But when, in the course of the inquiry before me, it turned out that there had been an understanding between the two Governments that the province was not to claim possession under this notification until the lands excepted by the Court had been laid out upon the ground, and that neither Government was, till that was done, to proceed to any possessory act under the notification; and when it further clearly appeared that the disturbances with the Natives, which ultimately were quieted by Mr. McLean's mission, had arisen in the laying out of the excepted lands; I at once stopped the case, and declared that it seemed to me the foundation to any claim to "compensation" was cut away.

Before taking evidence in the case, however, I had perceived that the papers laid before Parliament in 1872 gave no connected or even intelligible account of the events which led to Mr. McLean's interposition; and I had made it my care to examine all the correspondence which could throw light on these events. From a vast mass of papers I have extracted whatever seemed in any way important to a fair view of the whole case; and I now append a *précis* which, read with the evidence taken before me, will, I think, enable Parliament to see the chain of circumstances which necessitated Mr. McLean's mission, and to judge of the correctness or otherwise of the general conclusions to which I have myself arrived.

It will be observed that there is a conflict between the statements of the two Governments on several important points. It could hardly have been expected to be otherwise when so many complications had taken place, extending over so long a time. The story, however, may really be summed up in a few sentences. The Native Land Court having given a judgment which affirmed the validity of the purchase, but directed certain excepted lands to be laid out upon the ground, the Government were induced, against their better judgment, to publish a notice that the title was extinguished, without waiting for these lands to be surveyed. This notice was, however, in reality, to go for nothing; no possession was to be claimed till the survey should be made. The survey was, from the first, under the control of Mr. Buller, Resident Magistrate and Deputy Land Purchase Commissioner, and the provincial survey staff was under his orders. The survey was no sooner begun than it was stopped by the Natives. Mr. Buller issued summonses against three of the Natives, and acting in his judicial capacity, arrested the most turbulent of them—an ex-constable, called Miritana. This strong step had only a momentary effect; disturbances were again renewed, and wherever the surveyors attempted to lay out the reserves they were turned off, their trig. stations destroyed, and the survey pegs torn up. The General Government then suspended the general survey. At an early stage of the disturbances they had decided that Mr. McLean should go to the district; and the Provincial Government, not being able to obtain possession of an acre, constantly pressed the Government to hasten his visit. There was never any discussion between the two Governments as to which was to be liable for the results of his mission. No conditions whatever were made as to the extent of any concessions to be made to the Natives by Mr. McLean. Neither the General Government, however, nor Mr. Halcombe (who represented the Provincial Government in the communications that took place) had any doubt that concessions of some sort would be made. When the news came of Mr. McLean's reserves, the Provincial Government became alarmed at their extent. But neither they nor the Provincial Council made any remonstrance against the reserves, nor was any claim in respect of them ever advanced by the province till Dr. Featherston came out from England.

It is abundantly clear that if the extent of the reserves had not exceeded 3,000 or 4,000 acres, nothing would have been said about them. But, in my opinion, the difference between that amount and the amount actually granted affords no ground for claiming "compensation" as against the colony. It is idle to represent the interests of the two Governments as other than absolutely identical; it is certain that they agreed to act in concert; and no argument tending to fix on either Government separately a special responsibility for Mr. McLean's interposition, or a special liability for its results, can, I think, have any force.

It is impossible for me to agree in the remonstrances of some members of the General Government, amongst themselves, against that Government "mixing itself up in the Manawatu

difficulty." The General Government could not possibly escape being mixed up in it. It would have been no use, if the obstruction to the survey had ended in actual conflict and loss of life, for the General Government to say that it was all the fault of the province. Ministers, in fact, took the only step that could have been taken consistently with common sense, when they determined to try for an amicable settlement with the Natives. On the other hand, I find it equally impossible to concur in the arguments by which it is sought to throw the whole liability for Mr. McLean's action on the colony. In Mr. Halcombe's letter of 15th May, 1871, the Provincial Government express their belief that "forcible measures were necessary to enable the province to obtain possession of its property," and that "Mr. McLean, as Defence Minister responsible for the peace of the colony, and as Native Minister responsible for the relations between the two races, was *ex officio* the proper person on whom to place the responsibility of a resort to force." But nothing is clearer than that a resort to force was not in the mind of either Government at the time (1869-70); that, on the contrary, the Deputy-Superintendent and Mr. Fox had agreed there was to be nothing of the sort; and that the Provincial Government themselves believed that any resort to force would bring on a conflict. Moreover, it was always expected that Mr. McLean would make some concessions to the Natives; and the Provincial Secretary was under the impression that, to a reasonable extent, his action would have been indorsed by the province. This impression was originally contained in the draft of the same letter (of 15th May), though it was struck out before the letter was sent in. Why it was struck out it is difficult to see. It was a very important fact in the case; and it certainly should have been communicated to Mr. Fitzherbert, when upon assuming office he called for a statement of what had been done.

But is it fair that under such circumstances the province should be left in the position of having paid a large sum in cash for interest on loan and other expenses connected with the acquisition of the land, before any possession of it was obtained? Suppose that (as Mr. Fox said) quiet possession had not been got for twenty years—suppose it had never been got—can any one say it would be right that the Provincial Treasury should go on paying for nothing? The control of all operations connected with the purchase of Native lands for the Crown always did, and obviously always must, rest with the General Government. It makes not the slightest difference that the Land Purchase Commissioner of the General Government employed to make the Manawatu purchase, was also Superintendent of Wellington. It is not my province to express any opinion upon the exceptional manner in which the money for the original payments to the Natives was allowed to be raised, or the equally exceptional proceedings which ended in the judgment of the Native Land Court in 1869; but when once it clearly appeared that quiet possession of the block was impossible without the special intervention of the Native Minister, it seems to me that the proper course would have been to reconsider the whole matter, and to place the province in the same position, pecuniarily, as it would have been if the General Government had conducted all the proceedings throughout. That some idea of this kind had been in the mind of the General Government, is clear from the concession contained in Mr. Gisborne's letter to Mr. Fitzherbert of 4th April, 1872, where he proposes "to eliminate from the accounts of moneys then charged against the province, all cash expenses incurred by the Government since the date (16th October, 1869) of the notice of the extinction of Native title in the block, in the settlement of disputes arising out of that purchase; and to charge these expenses to the loans for the purchase of lands in the North Island under the Public Works and Immigration Act, the interest and sinking fund of the cost to be chargeable, as in the case of other land purchases in the Province of Wellington, to that province." What I fail to see is the principle on which this should only be done as from the date of the notice. It appears to me that what was right to be done in respect of what happened after that date, was equally right to be done in respect of what happened before. If the argument, that the notice of the extinction of Native title constituted the territory as "provincial estate," falls to the ground by the admission that no possession was to be claimed under it till the Native reserves were laid out, it is clear that the responsibility of laying out the reserves lay with the General Government and not with the province; and exactly the same reasons which existed for relieving the province from any part of the cash payments before possession was given must, in my opinion, exist for relieving it from the whole. And if that admission cuts the ground away from the claim to "compensation" for the land taken by Mr. McLean for his reserves, it also shows that the province ought to have been, and therefore ought now to be, relieved from providing, in the first instance, the cost of acquiring a clear title, and settling the Native disputes.

Of course I do not mean that this cost should be carried to final charge as an expenditure by the colony. On the contrary, I see no ground for not making it in the usual way a charge against the province. It should be defrayed out of loan, and the province should pay interest and sinking fund as proposed by Mr. Gisborne. The only fair way, I think, of dealing with such a case is the one laid down in section 38 of the Public Works and Immigration Act, 1870, which enacted that a separate account should be kept by the Colonial Treasurer, against each province of the North Island, of all moneys expended in the purchase of Native lands within the province, and that each province should be charged with the cost incurred in the purchase of such lands (with interest) so long as the province should in respect of such lands continue to be indebted to the colony for the advance. I find that the amount of "cash eliminated from the account," as that account stood at the time of Mr. Gisborne's letter, was this:—For survey expenses, £389 10s. 5d.; for advances to Dr. Featherston, £2,662 8s. 2d.; total, £3,051 18s. 7d. Since that time, however, the first sum has been increased by further disbursements to £1,281 9s. 9d., and this sum, together with a sum of £1,200 advanced to Alexander McDonald on mortgage for five years, was charged in 1873 to the Immigration and Public Works Loan. The second item, on the other hand, has been diminished to £1,962 8s. 2d.; and this item has not yet been transferred to the loan, because the Treasury was led to believe the amount would probably be repaid, as to the extent of £700 it appears to have been. But no interest has yet been charged to the province in respect of the sum transferred to the loan, nor indeed has any account under section 38 been made up with any province in respect of moneys expended for purchase of native lands. So that as regards the Province of Wellington the account is, in fact, open. I think it should be closed. Only, instead of stopping at the date proposed by Mr. Gisborne, the account should go back to the beginning, and be brought down to the time of getting possession for the province by the making of Mr. McLean's reserves.

It only remains for me to say what sums paid by the province should, in my opinion, be repaid to the Provincial Treasury and charged upon the loan. In the first place, I take the interest on the loan which was raised to pay the Natives under the Wellington Loan Act, 1866; secondly, the cost of raising that loan; thirdly, any supplementary purchase-money paid to the Natives after the loan was paid away; fourthly, the salaries and allowances of the Land Purchase Commissioners; and lastly, the expenses of the judgments in the Native Land Court, including counsel's fees in defending the title of the Crown. I am not able to see, in any one of these items, any distinction in principle which should separate it from the items paid by the General Government after the 15th October, 1869. They were all payments for like purposes, and all were of necessity preliminary to giving the province quiet possession.

Had I been able to make a definite Award for the repayment to the province of these sums under the term "compensation," or had the General Government been willing that I should go into the question of an equitable adjustment as between the two Governments, I should of course have taken an accurate account of the moneys coming under the heads I have mentioned. As it is, I have only been able to estimate them from information supplied by the Provincial Government. According to this information, the amount would probably be as follows:—

Interest paid by Provincial Treasury	..	..	..	£	10,565
Cost of raising Loan of 1866	..	..	..		889
Supplementary Purchase-money	..	..	..		345
Land Purchase Commissioners	..	..	..		2,500
Costs in Native Land Court	..	..	..		966
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					£15,265

But of course, if Parliament should be pleased to concur in the views expressed in this Report, an accurate account would now have to be taken, and the final sum be added to the amount already in suspense under Mr. Gisborne's elimination.

House of Representatives, 16th July, 1874.

F. D. BELL,  
Speaker.

## MANAWATU CASE.

PRECIS of the PAPERS relating to the MANAWATU PURCHASE, from the time of the delivery of judgment by the Native Land Court.

THE judgment of the Court was delivered on the 25th September, 1869, affirming the validity of the purchase made from the Natives; and the Court issued an interlocutory order in the following terms for certain lands, amounting to 6,200 acres, to be granted to some of the Natives:—

It is ordered that a certificate of land shall be issued for the following blocks of land, viz.,—	
To the Ngatikauwhata people, mentioned in list A annexed hereto	4,500 acres.
To the Ngatikahoro and Ngatiparewhahawha, mentioned in list C annexed hereto	1,000 „
To Te Kooro Te One and others, mentioned in list B annexed hereto	500 „
To Wiriharai Te Angiangi	200 „
Total	6,200 acres.

as marked in the survey plan before the Court, all of which blocks shall be inalienable by sale for the period of 21 years from the date of this order: *provided that within six months a map of the whole block, on which the position of these blocks shall be accurately represented from actual survey made on the land, shall be delivered to the Chief Judge of the Native Land Court*: and provided also that if it shall be proved to the satisfaction of the Chief Judge of the Native Land Court that the survey has been prevented by force, then, in that case, the Court, by virtue of the discretion which is given by “The Native Lands Act, 1865,” will dispense with the survey, but on no other account will the survey be dispensed with.

Immediately afterwards, on the 27th September, the Superintendent of Wellington wrote to the General Government, requesting that the Native title might be declared extinguished. Mr. Gisborne referred this request to the Attorney-General, with instructions to advise the Government whether the Crown could properly notify the extinguishment of the title. The Attorney-General advised, that “before the usual notice of extinguishment of Native title was published, the boundaries of the land awarded to those of the claimants who (being non-sellers) had been found by the Court to be entitled, should be ascertained with sufficient accuracy to enable those lands to be defined; because the land over which the Native title was extinguished could not be defined until the parts excepted were defined.”

On the 7th October, Mr. Fox minuted that the Superintendent must satisfy the Government that the boundaries of the land excepted for the persons entitled under the award of the Court, had been laid down, and were agreed to by the parties concerned; but that, on this being done, there was no reason for further delay in notifying the extinguishment of the title. A letter to this effect was thereupon addressed to the Superintendent.

The Superintendent then informed the Government (9th October) that he had furnished the Attorney-General with a tracing of the boundary of the lands awarded by the Native Land Court. Mr. Gisborne thereupon asked the Attorney-General whether the extinguishment of the Native title might now be declared, and a consultation (not recorded in writing) took place between the Government and that officer on the subject. On the 16th the extinguishment of title was notified in the following terms:—

Colonial Secretary's Office, Wellington, 16th October, 1869.

It is hereby notified that the Native title has been extinguished over the block of land whereof the boundaries are described in the schedule hereto, subject to the exceptions therein specified.

W. GISBORNE, Colonial Secretary.

The schedule described, as being excluded from the block, “the lands comprised within the following boundaries, as shown in the plan filed in the Native Land Court, and referred to in the order of the Court of 25th September,” relating to the reserves for non-sellers: and then proceeded to give the boundaries of each reserve.

Surveyors were then sent to the ground to lay out the reserves. The Government almost immediately received warning that the survey would be interrupted. On the 18th November, a number of Natives wrote: “We have sent back Stewart, the surveyor. We are not clear about the judgment of the Court, or about the notice that the Native title has been extinguished.” Simultaneously with this Native letter, a letter came from Mr. Travers, as solicitor for the Native dissentients, informing the Government that they would take all lawful proceedings which

they might be advised to take, for the purpose of resisting the adjudication of 25th September. Other letters from Natives, to the same effect, were also received by the Government; and on the 15th November, Mr. Knocks (an officer of the Resident Magistrate's Court) wrote that there were reports of "the intention of some of the Ngatiraukawa, who were dissatisfied with the judgment of the Court, to obstruct the survey, and that they had threatened to break the surveyor's chains and instruments;" but that it was not considered by the leading chiefs to be a "determined opposition." Mr. Fox directed a careful letter to be written to the Natives, reasoning with them, pointing out that the Native Land Court had been for nearly fifty days occupied in hearing the claims of the dissentients, and declaring that the Government would maintain the final judgment which the Court had delivered. The surveyor left the Oroua, where the survey had been begun, and went to another of the reserves.

The view taken by the Superintendent of the state of affairs was indicated in his speech on opening the Session of the Provincial Council, on the 22nd November. "I regret," said Dr. Featherston, "to inform you that the same parties by whose unprincipled opposition the settlement of this question has been so long delayed and the peace of the province so repeatedly jeopardized, are still persisting in their attempts to excite the Natives to prevent the survey of the land. A special messenger arrived a few hours ago with a letter from Mr. Stewart, stating that on arriving in the Oroua he had been told by the Natives not to proceed with the survey. Until these parties find themselves liable to the pains and penalties of the Disturbed Districts Act, as I trust they shortly will, it is hopeless to expect them to cease from their vile intrigues. But until I receive advices from Mr. Buller, I am not inclined to attach much importance to Mr. Stewart's information."

The expected advices did not, apparently, reach Dr. Featherston before he sailed for England. A telegram of the 27th November, from Mr. Buller, reported the state of affairs as follows:—"Mr. Fox has just started for Ranana; the "Sturt" will take him as far as Raorikia, and thence by canoe to Ranana, where he will arrive to-morrow. I was sorry I could not accompany him; but it is of more importance that I should be at Rangitikei. I am going out there again immediately with Ratana. Stewart [the surveyor] ought not to have left Oroua: it amounted to an admission that he was afraid. He should have held his ground and sent for assistance before commencing work. Carkeek [another surveyor] wanted to remain: he says that Peeti and Kerei were drunk the whole of the time. Topa was not opposed to the survey, but was anxious for Stewart to commence on the Rangitikei side, in order to give time for a reply to the Ngatikauwata petition asking for a fresh trial. Topa's wife was very clamorous to have her reserve marked off at once: Hoeta supported her. But I think we do well to commence on the Ngatiapa reserves, and work steadily on. The opposition was of the most good-humoured kind. Miritana, the ex-constable, was the most troublesome, and we threatened, if he did not desist, to bind him hand and foot. I intend to remain in the district till all the surveys are completed, if necessary. I have taken the precaution to get written instructions from the Premier; and this duty will therefore take precedence of everything else. Mr. Fox has given me a letter to the Oroua people, telling them distinctly that no fresh trial will be allowed by the Government."

Immediately afterwards, further indications of intended resistance appeared. Mr. Knocks reported on the 29th November, that though the Natives continued quietly disposed, they seemed rather disturbed concerning the late opposition shown by part of the Ngatiraukawa and Rangitane Tribes to the survey of the block; that the reason for opposing the survey was, that Tapa Te Whata and Peeti Te Aweawe were dissatisfied with the number of acres awarded, and with the reserves for them and their people; and that Parakaia Te Pouepa supported the opposition, because he had not received the back rent for the Himatangi" [part of the block].

The Government referred the matter to the Attorney-General, who again examined the grounds on which the claims were made by the dissentients, and clearly pointed out that the question of the reserves was not yet settled. He reviewed Parakaia's position under an award in his favour by the Court, and while showing that he was not entitled to back rents, said it was a question whether it would not be politic now to give him the land that had been awarded to him, notwithstanding his refusal to accept it. "I believe," he added (Dec. 7, 1869), "that other reserves are to be made as soon as the land is surveyed; possibly, if this were understood, the Natives might be satisfied. The lands that have been excepted out of the proclamation of extinguishment of Native title, are not properly called reserves; they are a proportionate part of the land, representing the shares belonging to non-sellers. Reserves for the benefit of the Natives have yet to be made; they cannot be made before survey."

In the meantime the opposition to the survey had been brought to a head. The events are best described in the following minute by Mr. Fox, on the 8th December:—

"The attempt to survey the 4,500-acre block awarded by the Court at Oroua having been opposed, the surveyors left it and went to survey Pakapakatea for Hunia Te Hakeke, one of the reserves made by the Land Purchase Commissioner. Hunia demanded 10,000 acres, having previously agreed to 1,000. The surveyors thereupon went to survey Kahau (500 acres) for the Ngatiapa Tribe, another of the reserves made by the Commissioner. The survey was proceeding, when Miritana and other Natives destroyed the trig. station. Miritana was arrested, and two other Natives voluntarily answered to a summons. He was convicted in a penalty of £25 on the 8th December, before Mr. Buller (Resident Magistrate) and two Justices, and in default committed for three months without hard labour. The other two

“ Natives were let off on payment of a shilling each, and the promise not to offend again. The survey of Kahau was then completed without opposition. Mr. Buller has been instructed by telegram to feel his way to a compromise, by offering Miritana a remission of the penalty, if the tribe promise not to offer any further resistance.”

On issuing the summons to the Natives, Mr. Buller had telegraphed that they had not appeared, and that warrants for their apprehension had been issued. “ Mr. Fox and I,” he added, “ proceed to Rangitikei to-morrow to see the warrants executed. I am persuaded that a little firmness will put an end to the opposition.”

This was, however, a mistaken opinion: new disturbances broke out again almost immediately. Mr. Fox had directed that “ for the present no further attempt be made to forward the general survey;” and on the 6th January, 1870, Mr. Buller, who had the general control of affairs in the district, and under whose orders the Provincial Government surveyors were acting, determined that it was useless to proceed with the trig. survey, and that they should only go on laying out those reserves which were likely to be unopposed. The provincial authorities inquiring into this, Mr. Buller replied, —“ The survey was not stopped by my advice, but under instructions from the Hon. the Premier, which it was my duty to carry out. Mr. Fox’s orders were, to proceed cautiously, and to stop the survey and report the moment any fresh opposition was offered. This was done. As soon as Mr. Fox came in from Rangitikei I obtained his approval to a certain course, namely, to proceed with Hunia’s block and the other reserves on the Rangitikei River, all of which can be tied to the trig. survey on the opposite side [of the river], so as to ensure accuracy. I instructed Mr. Mitchell accordingly. His party will commence on Hunia’s reserve at once, while Stewart will continue the survey of Awahou reserve. I think no greater mistake could be made than to remove the surveyors from the block. A report has come in that all opposition is to be withdrawn; I only hope it is true.” Again, on the 10th January, Mr. Buller telegraphed, —“ Noa Te Rauhihi reports positively that all opposition to the survey is withdrawn. I infer from this that the reply from the King” [who thus seems to have been appealed to by the Natives for orders] “ is in our favour. Any isolated attempts at obstruction ought now to be put down with a firm hand.” Mr. Buller directed the surveyors that “ if any determined opposition were offered, or such resistance as might lead to actual collision, they were to suspend operations.”

The Government had not long to wait. In the same early days of January, the Natives destroyed the major trig. station at Mount Stewart. Nor were there wanting other signs that mischief was brewing. On the 10th January, Mr. Ormond received information at Napier which induced him to advise that the question of the survey should not be pushed; and that if it were deferred for a time, Mr. McLean might effect a settlement with the dissentients. The Government adopted his suggestion, decided on postponing the question till Mr. McLean came, and wrote to Mr. McLean strongly urging him to come soon and try to settle the difficulty.

Towards the end of January the opposition seemed to have lulled, and the survey was going on without further molestation. On the 1st February, Mr. Buller again told the Government that “ all opposition on the part of the Natives was for the present at an end.” But he added that it “ would take very little to renew it in certain quarters;” and that he was “ strongly of opinion that no further attempt should be made to survey the Oroua award till all the other reserves were finished,” for “ any apparent anxiety to hurry it would tend to provoke the hostility which was now latent, and might place us just where we were two months ago.” There had been some apparent difference of opinion as to who was to be responsible for the survey; and Mr. Fox minuted, on the 3rd February, that “ either Mr. Buller must be allowed to have the control, or the General Government must withdraw altogether from interfering in the matter. Divided responsibility can only end, as it always does, in conflict and confusion. Of course I mean so far as the survey of the Native reserves and trigonometrical [work are concerned]. When these are done, the Provincial Government will be able to do the rest without difficulty.” The Provincial Government thereupon said they were “ equally desirous that Mr. Buller should exercise a general control over the survey operations;” and that “ the men engaged on the survey had strict instructions to obey any orders received from Mr. Buller;” working details being still left to the professional head of the department, who was a provincial officer.

Things apparently went on quietly during February and March; but on the 1st of April, the surveyors having again shifted their camp to a place near Te Reureu Pa, and commenced the survey there by driving in two pegs, these pegs were immediately pulled up by Hapa and Akewa, who ordered the surveyors off the ground. On the 4th April, a meeting took place between the officer who was interpreter to the Bench at Marton, and about forty natives. Eruini Te Tau, on their behalf, gave their reasons for obstructing the survey; and announced that “ he had brought his dray down to cart over the surveyors’ things and tents to the other side of the river,” and that they must not return till there had been another sitting of the Court. The interpreter replied, that the case “ was finally settled; that there would not be another hearing; that the land was no longer theirs, and now belonged to the Government; that the Native title had been extinguished, as published in the Native *Gazette*; and that if they removed the tents, it would be at their peril, and he would take the names of any who dared attempt it.” Noa Te Rauhihi advised the Natives to be very careful of what they did, and strongly recommended them not to stop the survey. Eruini then said that “ he would come again every morning with his dray to remove the camp, and if the surveyors would not leave he would go home; he

“ would not turn them off, but if any more pegs were put down he would pull them up again ;  
 “ he would let the survey proceed if the Government gave him a certain reserve ; and finally,  
 “ he would have some more talk with his people before consenting to let the survey go on.”

But although there had not been actual disturbance during February and March, the Government had had ample warning of the dissatisfaction among the Natives being still of a dangerous kind. On the 9th of March, Mr. Buller addressed the following telegram to the Attorney-General :—“ The judgment of the Native Land Court, making awards to three hapus, amounting in all to 6,200 acres, was subject to the following condition : ‘ Provided that  
 “ ‘ within six months a map of the whole block, on which the position of these blocks shall be  
 “ ‘ accurately represented from actual survey made on the ground, shall be delivered to the Chief  
 “ ‘ Judge : and provided also that if it shall be proved to the satisfaction of the Chief Judge that  
 “ ‘ the survey has been prevented by force, then, in that case, the Court (by virtue of the discre-  
 “ ‘ tion given by ‘ The Native Lands Act, 1865,’) will dispense with the survey, but on no  
 “ ‘ other account will the survey be dispensed with.’ Owing to the violent opposition of the  
 “ Natives, the survey has been delayed, and there is now no possibility of getting the awards  
 “ defined on the ground within the time prescribed. The six months allowed by the Court  
 “ expire on the 25th instant. Only two of the awards have been actually surveyed. If the  
 “ judgment of the Court is allowed to lapse for want of survey (as in the Himatangi case), the  
 “ Government may have further trouble. The Natives will doubtless be advised that they are  
 “ entitled to a fresh hearing, and will agitate for it. Mr. Fox told me to consult you as to the  
 “ best course. As it is most desirable in every way to prevent any further complication, would  
 “ you recommend me to proceed to Auckland, accompanied by one of the surveyors, and give  
 “ evidence before the Chief Judge, in order that the interlocutory order may be made final, or  
 “ the time extended ? Judge Maning suggested this course to me, and I discussed it with Mr.  
 “ Fox when last here. The province will of course bear the necessary expenses. If you advise  
 “ my going, I shall telegraph to Mr. Gisborne for approval.”

In a few days Mr. Buller telegraphed as follows to the Under Secretary (17th March) :—  
 “ The judgment of the Native Land Court was in the nature of an interlocutory order. Certain  
 “ awards were made on condition of surveys being completed and plans produced within six  
 “ months from the date thereof ; the proviso being, that if the survey be prevented by force, and  
 “ satisfactory proof thereof given to the Chief Judge, the survey may be dispensed with. The  
 “ six months allowed by the Court expire on the 25th instant. The survey is unfinished. If  
 “ the judgment of the Court be allowed to lapse, the Natives will no doubt be advised to agitate  
 “ for a hearing, and further complications may arise. This must be avoided. Mr. Fox  
 “ instructed me to consult the Attorney-General as to what could be done. The Attorney-  
 “ General advises me to proceed to Auckland, and ‘ prove that every reasonable effort has been  
 “ made.’ The ‘ John Penn’ is expected in [at Wanganui] to-day, and will leave to-morrow.  
 “ I have made the necessary arrangements for performance of my duties by Justices, if Hon. Mr.  
 “ Gisborne approves of my going. Ascertain and reply.”

Upon this, Mr. Gisborne minuted, that “ if the Provincial Government think it necessary,  
 “ Mr. Buller can have leave for the purpose indicated.” The provincial authorities being referred  
 to, replied that “ Mr. Buller having been acting as Assistant Land Purchase Commis-  
 “ sioner, and having full cognizance of the difficulties which have been interposed by the Natives  
 “ to the completion of the surveys, the Provincial Government is decidedly of opinion that Mr.  
 “ Buller’s presence at the Native Land Court at Auckland is necessary.” So the authority to go  
 to Auckland was telegraphed to him ; and on the 22nd March the Chief Judge made an order  
 extending the time for the survey to be completed.

It does not appear that any step was taken to afford the dissentient Natives an opportunity  
 of accompanying Mr. Buller to Auckland. Nor does it even appear that the Government, under the  
 circumstances represented by Mr. Buller, thought it necessary to wait, as they had decided in  
 January to do, till Mr. McLean should come. The survey still went on. But at some time early  
 in April (date not given), Mr. Buller again telegraphed his opinion to the Government in the  
 following terms :—“ Survey proceeds without interruption. Downes [the surveyor who had been  
 “ warned off by Eruini] will telegraph for me on the first show of opposition, but I do not antici-  
 “ pate any. I telegraphed my views regarding further survey at Himatangi, and you were pleased  
 “ to express approval. I received yesterday the following telegram from the Chief Surveyor :  
 “ ‘ It is of the greatest importance to the survey that the trig. stations on Himatangi, which  
 “ ‘ the Natives have destroyed, should be permitted to be erected. The verification base  
 “ ‘ line is upon the block, and the major series of triangles is incomplete. In the event of  
 “ ‘ performing trigonometrical operations over the block at some future period, the operations  
 “ ‘ then could never be reconciled with present operations. Would you endeavour to induce  
 “ ‘ Parakaia and Kooro to permit the trig. survey to proceed, even though nothing more is  
 “ ‘ undertaken for the present on Himatangi Block.’ I replied that I could do nothing till  
 “ I had consulted you [Mr. Fox, who was then at Dunedin]. *For my own part, I have*  
 “ *always doubted the policy of including the Himatangi in the proclamation of extinguishment*  
 “ *of Native title, although I am aware that Dr. Featherston urged it. It is true that Parakaia*  
 “ *failed to take up his award of half the block, intending, if Judge Fenton should give a more*  
 “ *favourable judgment, to bring forward his case again, in the hope of receiving the whole.*  
 “ Consequently there was no abstract injustice in making him abide the issue of the last



“ judgment, under which he could have claimed nothing. Nevertheless, the action of the Government had the semblance of what was arbitrary. It appeared to Parakaia like taking an unfair advantage of him. *He had a right to claim a fresh reference and a fresh adjudication*, for he was not a party to the other suit. Practically, it is only a question of some 5,000 acres of indifferent land, *and I think it would have been a more dignified course to let Parakaia retain what a previous Court had (in error, as it now turns out) awarded him.* This, I believe, is the general feeling of the Natives. *They regard our taking of Parakaia's piece, under the circumstances, as a 'muru,' or confiscation. On broad grounds of policy and fairness, I would say, give it back to him;* not admitting his right, but as an act of grace. But I should hardly like to see this done in Dr. Featherston's absence, for I know he is averse to giving Parakaia a single acre. On the other hand, while the question is in abeyance, I am unwilling to let the trig. survey proceed on Himatangi. It is, no doubt, important to keep the triangulation right, but far more so to keep right with the body of the Natives in the district. Negotiations with Parakaia in the present attitude of the question would only place me in a false position, without much chance of my succeeding. I must solicit further instructions. If I remember aright, the Attorney-General agreed in my view as to Himatangi.” [The italics are mine.]

The Attorney-General had some time before, as I have said above, indicated his opinion about Parakaia. He had suggested, that although the judgment by which Parakaia had been awarded part of Himatangi had failed to become effective by reason of his neglect, which neglect the Court had afterwards considered as rendering the judgment unavailing,—and although the reasons given by the Court would exclude him from all share, not only at Himatangi, but in the whole block,—it was a question whether it would not be politic to give him the land that had been awarded to him, notwithstanding his refusal to accept it.

I cannot find that, notwithstanding so serious a representation by Mr. Buller, any orders were given to stop the survey finally. At any rate it went on; but it was not long before fresh violence occurred. Early in May, a trig. station situated on the right bank of the Oroua Stream was destroyed. The circumstances were reported by the district surveyor on the 10th May, but the particular Natives engaged in them were not known; and two white men, squatters on the block, refused to give any information about the offenders. A few days afterwards, another violent act occurred. On the 17th May, Mr. Buller telegraphed to the Colonial Secretary, that Mr. Downes the surveyor, and Mr. Ward, had gone to Te Reureu that morning: “ On arrival, they found that Hopa had pulled up seven pegs along two miles of line; he then pulled up in their presence three more pegs, and afterwards went on and destroyed the pegs for about two miles and a half more. Ngawaka sanctioned this. Ngawaka asked Downes to remove his camp. Downes said, ‘ No.’ The tents were then taken down and removed across the Rangitikei by Ngawaka's order, and under his personal supervision. There was evidently a combination of action extending beyond this *hapu.*” Mr. Buller adds: “ The Natives concerned in this outrage were declared by the Native Land Court to have no title or interest in the block; and the promise of a reserve made to them by Mr. Fox was conditional on their good behaviour. Ngawaka is brother to Noa Rauhihi, the Assessor. There is less excuse for him, as he actually signed the deed of cession.”

The next day (18th May) the Government received a letter from Parakaia, addressed to Mr. McLean, acknowledging that the survey pegs had been pulled up by his orders. “ This is a word,” he said; “ give heed to it. Not one little bit of the Himatangi claim will be given up to the Government. But perhaps you had better go into the matter again. I and all the people wish you to go into the question respecting this land, and then an amicable settlement will be arrived at. Let us do it together. I have said to you at Wellington that if you and I do it, it will be settled properly.” On the same day, Te Whiti and Ngawaka wrote to the Government that the survey pegs were all pulled up, and Ngawaka said, “ I told Mr. Fox, when we had our argument at Te Huru, not to let the chain be taken across to the south side of the Rangitikei. I will not allow the chain to be laid down.”

Upon this letter Mr. Fox minuted that Ngawaka was one of those whose title was expressly negated by the decision of Judges Fenton and Maning; that besides this, he had sold what he pretended to have, to Dr. Featherston, and had signed the deed of cession; and that he had been in open rebellion during the Waikato war. Mr. Fox then directed the papers to be referred “ to accompany my memorandum for Ministers of this day's date [31st May] on ‘ the Manawatu surveys.’ ”

This memorandum I have not seen, and indeed I should not, being a Cabinet paper, insert it here if I had. I gather, however, from the papers suddenly coming to an end at this point, that it was then that the Government finally decided to postpone the whole question, and put a stop to the survey, until Mr. McLean should go to the district.

A considerable time elapsed, however, before Mr. McLean could get there. In the meantime the province was feeling the loss of the land revenue which had been expected from opening the block for sale. The papers laid before Parliament in 1872, under the title of “ Claims of the Province of Wellington against the Colony, ‘ Manawatu Purchase,’ ” commence with the representation made by the Deputy-Superintendent to the Government for Treasury assistance, some months after the events I have described. Mr. Waring Taylor wrote on the 26th September, 1870, describing the financial straits to which the Province was reduced by “ the

“ failure of its land revenue, caused by the continued interruptions by the Natives to the survey and occupation of the block.” On the 19th October, Mr. Gisborne replied as follows :—

The proposal in your letter is, that, on account of the delay in the peaceable possession by the province of the Manawatu Block, the General Government should advance a sum of £20,000 to enable the Provincial Government to liquidate its outstanding liabilities, such advance to be repaid out of the first proceeds of land sales within that block, after the deduction of any charges to which such sales may be legally liable. The Government have anxiously and carefully considered this application and the circumstances out of which it has arisen, but they are unable to authorize such an advance. \* \* \* They consider they would not be justified in advancing money for such a purpose on the security of the proceeds of a block of land, the possession of parts of which is at present disputed by Native claimants. The adoption of such a course, involving as it would do not only pecuniary liability but grave political considerations, could alone be properly sanctioned by the Legislature.

And then the letter went on to say what advances would be made, and under what conditions.

On the 26th October, the Deputy-Superintendent, while proposing modifications in the conditions imposed by the General Government, noticed the objection Mr. Gisborne had taken to making such advances without the previous sanction of the Legislature. “To point out,” he said, “the objections to that sanction having been sought at an earlier period, would be to raise the question of responsibility for the non-settlement of the Manawatu land dispute, and would neither tend to a furtherance of that settlement nor promote an agreement upon the present application. The Provincial Government are anxious to throw no impediment in the way of an early adjustment of that dispute, and have already given ample proof of such desire by the manner in which, at a ruinous cost to the province, they have, in deference to the wishes of Ministers, desisted from pushing on the surveys in those portions of the block where interruptions from the Natives have occurred.” The two Governments having agreed on the modifications asked for, that part of the correspondence was closed on the 19th November (1870) by the acceptance of the terms on which the advance was to be made: this was immediately prior to the Session of the Provincial Council, which was then under summons to meet.

In the meanwhile, Mr. McLean had gone to Manawatu, and met the Natives. There does not appear to be a connected record in writing of his proceedings, and indeed none such could be expected; but on the 24th November news came that the difficulty was at an end, and that the arrangements made with the Natives were on the point of completion. The Provincial Government were anxious for authentic information, in order to lay before the Provincial Council; and they directed their Chief Surveyor to communicate with Mr. McLean, and execute any survey work he required. The following telegram from Mr. McLean was received and immediately published :—

Marton, 24th November, 4.19 p.m.

You will be glad to hear that the main difficulties of the Manawatu question have been removed. The Ngatikauwhata non-sellers and their agent, Mr. A. McDonald, signed a deed yesterday relinquishing all further claim and opposition, on having certain land adjoining award of the Court made over to them. The extent given in this particular instance has been 1,500 acres. Other reserves of considerable extent have been made in different parts of the block: no settlement could be effected without doing so. To-day I intend to complete arrangements with the rest of the non-sellers, and settle other details. Afterwards I have to meet the Ngatipikiao, who reside on the inland part of the block, opposite Mr. Fox's. The question has been a most difficult one, but I have endeavoured to make the best arrangements I could to secure the future peaceable occupation of the district by both races.

DONALD McLEAN.

The newspaper which contained this telegram gave the following additional information :—

We have received the following further particulars from the Government. Meetings held at Manawatu, Parewanui, Te Awahuri, Oroua, and Rangitikei were very satisfactory. After these meetings were over the non-sellers came to terms, ceded all their rights, and withdrew all opposition, in consideration of certain new reserves being made for them.

Mr. McLean, in arranging with the Natives, gave them distinctly to understand that he did not intend to open up the question of the purchase by Dr. Featherston, or the decision of the Native Land Court. Those matters must be considered as concluded, and all that he desired was to effect a settlement of boundaries and extension of reserves as would remove all future difficulties to the peaceable occupation of the country by European settlers.

The arrangements with the non-sellers of the three admitted *hapus* having been completed, it is expected that the whole question, without reference to Parakaia's claim at Himatangi, will be settled for an extent of land not larger than was claimed by one section of the non-sellers. When it is considered that the Natives are making considerable advances in cultivation, the question of an additional few thousand acres to settle them down to industrial pursuits should not be objected to, as it is in every way calculated to promote the peaceable settlement of the district.

On the 25th November, the following telegram was sent to Mr. Fox by the Provincial Secretary :—

I am very glad to hear of Mr. McLean's success. For my own part, I shall look upon the dispute as cheaply settled at the cost of 3,000 or 4,000 acres of land, if the settlement means a hearty co-operation with us in the colonization of the block, and repression of all opposition on the part of Maoris who would oppose survey for the purpose of being bought off. Concession is apt to increase the number of such obstructionists.

Simultaneously the following telegram was being sent by Mr. Fox to the Provincial Secretary :—

“ Mr. McLean has practically settled the matter. McDonald, as agent for the claimants, and all the principal ringleaders of his followers, have accepted 1,500 acres at Oroua and Rakehau, in addition to the quantity awarded by the Court, and have bound themselves to offer no opposition to the occupation of the block. The Kakariki and Reureu people have still to be settled with ; but they are chiefly sellers, and Dr. Featherston always intended to make reserves for them, though excluded by the Court. I do not think there will be any difficulty with them. There are also some additional reserves to be given to the sellers, Rangitane and Ngatiapa, but not considerable. The province will get more than nine-tenths of the whole block after deducting all that the sellers and non-sellers receive, either by award of Court, Dr. Featherston’s reserves, or Mr. McLean’s additions. I look upon it as a most favourable settlement for the province and the colony at large.”

But the Provincial authorities did not see it in the same light. The Provincial Secretary immediately telegraphed :—

“ 12 noon. Received your telegram. Extent of concessions is alarming until we know the character of the country given up. Chief Surveyor believes that the alteration of the northern boundary a few miles to the southward gives the great bulk of the land ceded. Is this the case? And does the settlement include the Himatangi dispute? I wish to have more particulars before communicating your telegram to the Council, which sits to-day at 3 p.m.”

To which Mr. Fox replied :—“ I do not understand what you mean by ‘ the extent of concessions being alarming.’ The province will get ten-elevenths of the district after all reserves by the Court, Dr. Featherston, and Mr. McLean. I consider the settlement as a most favourable one, and if the Provincial Government is not satisfied it does not deserve to have an acre. The northern boundary is not altered.”

And three days afterwards, on the 28th November, the following further communication was received from Mr. Fox :—

“ The long vexed dispute about the Manawatu may be now considered finally settled. Mr. McLean, after a fortnight’s hard work, finished a series of meetings on Saturday, at which he succeeded in satisfying them as well as their agent, Mr. McDonald, at a very small sacrifice of reserves ; and they have pledged themselves, in writing, to give no further trouble, and to assist in the colonization of the country. The whole block is estimated at 220,000 acres, of which 20,000 have been returned to the Natives, including the awards of the Court, and the reserves made by Dr. Featherston. Thus the province gets ten-elevenths of the district. This event is not only of vital consequence to Wellington, but to the whole colony, as it obviates all risk of future disturbances, and will entirely detach the Cook Strait Natives from the King party. Mr. McLean is entitled to the greatest credit for the tact, judgment, and firmness exercised by him.”

In the meantime, the Provincial Council had met. On the 28th November, the following telegram from Mr. Fox was read, and entered in the Journals :—

“ The Manawatu affair was finally settled on Saturday at a great meeting at the Reureu, a previous one having been held at Kakariki the day before. The whole block is estimated at 220,000 acres. There are about 600 resident Natives. Including what the Court awarded, the Featherston reserves, and what Mr. McLean has given them, they will receive about 20,000 acres, leaving to the Province the balance, or 200,000. There were only three possible courses : 1st, to fight for it, which neither the Government nor the Assembly would do ; 2nd, to render settlement possible, by satisfying the Natives, as Mr. McLean has done ; or, 3rd, to let it stand over for years. The course pursued has been by far the best and cheapest of the three, and will not only advance the prosperity of this coast a hundredfold, but tell on the Native question all over the island. The grumbling Hauhaus on this coast have no longer any motive to support the King, and will soon forget his very existence. Mr. McLean did his work with great tact and judgment, and deserves great credit. For several days it appeared utterly hopeless, and he quite despaired of a satisfactory solution. His perseverance and firmness were the cause of his success. Had he failed, the Province would not have got the district on any terms for the next twenty years.”

Beyond ordering this telegram to be entered on the Journals, the Council took no step in reference to Mr. McLean’s action. The Superintendent was expected to arrive soon from England ; and after passing an Appropriation Bill, the Council separated on the 1st February, 1871, and did not sit again till it was formally reassembled on the 2nd March.

In the meanwhile, steps were being taken to carry Mr. McLean’s arrangements into effect : but the result was quite unexpected, ending as it did in large additional reserves being granted to the Natives by Mr. Kemp, the officer of his department whom Mr. McLean, being unable to remain longer in the district himself, had charged with the completion of his work. On the 2nd December, Mr. McLean, being then at Wanganui, had given clear instructions to Mr. Kemp as to the reserves he had made. Certain “ large cultivations ” were directed to be “ secured to the Natives in the places they had occupied along the banks of the river,” but they were to be told that “ while the Government would make sufficient provision for their actual wants, they were not to expect any lands, not being cultivated, extending back from the first range of hills.”

Mr. McLean recorded that the principle on which he had acted had been “to avoid any re-opening of the past affecting either purchase, title, or decisions of the Native Land Court, and to confine himself to such arrangements as would lead to the peaceable occupation of the district by giving additional reserves to the Natives where he had found it absolutely necessary to do so.” Finally, Mr. Kemp was instructed, if any difference arose, to adjust it.

I do not find a clear record of what Mr. Kemp did; but at any rate he took upon himself largely to add to the extent of the reserves made by Mr. McLean, for, on examining the total quantity of the reserves as they were actually laid off, it turned out that they were as follow:—

Made by the award of the Native Land Court	..	..	6,226 acres.
By Dr. Featherston	..	..	3,361 „
By the Native Minister and Mr. Kemp	..	..	14,379 „

Making altogether .. .. . 23,966 acres,  
or about 4,000 acres more than had been estimated when the Council was in session.

In December, 1870, Dr. Featherston returned from England, and resumed the Superintendency. He seems at once to have signified his dissent from Mr. McLean's proceedings; and on the 26th January, 1871, he addressed a letter to the Government, to which Mr. Gisborne replied on the 10th February. As this letter contained the first intimation of any protest by the Provincial authorities against Mr. McLean's action, as well as the first notice of the claim made by the province against the colony for his reserves, it will be better to give the correspondence at full length:—

His Honor I. E. FEATHERSTON to the Hon. W. GISBORNE.

SIR—

Superintendent's Office, 26th January, 1871.

I beg to bring under the consideration of Ministers the following facts connected with the Rangitikei-Manawatu purchase:—

On 16th December, 1866, a sum of £25,000 was paid over by this Province to the Ngatiapa and Ngatiraukawa Tribes, as the purchase money of a block of land lying between the Rangitikei and Manawatu Rivers, and estimated to contain 240,000 acres. The deed of cession had, at that time, been executed by considerably over 1,000 Natives having or claiming an interest in the land.

Owing, however, to the opposition of a small number of Ngatiraukawa claimants who had refused to sign the deed, the Government were unable to extinguish the Native title, and for a period of more than a year the province was kept out of possession of its purchase, while every effort was being made by the provincial agents to effect a settlement with the dissentients.

The principal obstacle to any final adjustment of the matter arose from the fact of some 800 Ngatiraukawa, whom the Commissioner refused to recognize as owners, asserting claims to various parts of the ceded block.

At length the Government decided to refer the whole question to the Native Land Court; and after a forty days' investigation at Otaki (before three Judges of the Court), in the beginning of 1868, the validity of the purchase was affirmed, and an award of 5,000 acres made to Parakaia and his section of unsatisfied claimants. Thereupon the other claims then before the Court were withdrawn by the Agent for the Natives, and every effort on the part of the Government to get them reinstated at a subsequent sitting of the Court at Rangitikei proved abortive.

The question was then hung up till July, 1869, when, at the request of the Native Agent, the whole case was reheard before other Judges of the Court, specially nominated by the Natives concerned. This investigation took place at Wellington, and extended over a period of nearly five weeks.

The judgment of the Court was a complete vindication of the purchase; the great bulk of the Ngatiraukawa claimants were declared to have no interest whatsoever in the block, and specific awards (amounting in all to 6,200 acres) were made to the claimants (sixty in number) who had been admitted as part owners.

A few days after the publication of this judgment in the *Gazette*, the Native title was declared to be extinguished over the whole of the block, save the portions awarded by the Land Court, and from that time it became a part of the territorial estate of the province. The accumulated back rents (amounting to nearly £3,000) were then handed over to the Natives; and a staff of provincial surveyors proceeded at once to the block to lay off reserves and to commence a trigonometrical survey.

A small party of dissatisfied Natives interfered to obstruct the survey, and under the direction of the Hon. the Premier (who happened fortunately to be in the district at the time) the ringleader, Miritana, was arrested and dealt with summarily for “a breach of Trigonometrical Stations Act” of the General Assembly. This vigorous action had the effect of putting a stop to all opposition, and for a time the survey of the block was pushed forward without any hindrance. As a recognition of this, Miritana received a free pardon, when only half his sentence of imprisonment had expired.

A few weeks after Miritana's liberation, a further obstruction was offered to the survey by another party of Natives (whose claims had been ignored by the Court), and in another part of the block.

The Natives were threatened with punishment, but no steps were taken to bring the offenders to justice, and the survey was accordingly suspended. For a period of many months the whole work was at a standstill, and the province was precluded from turning to profitable account a single acre of the land purchased nearly four years before, and for which it had paid so liberal a price. At length—more than a year after the adjudication by the Land Court—the Hon. Mr. McLean visited the district, and, without the knowledge or consent of the Provincial Government, made large gifts of land to the Natives—both sellers and non-sellers—believing, as he states, that this was necessary in order to preserve the peace of the country. The return of reserves made by Mr. McLean (over and above the awards of the Court and the reserves made by the Commissioner) shows an area of 10,300 acres—it is probably as much more—and Mr. Carkeek has since reported that additional reserves have been made by Mr. Kemp amounting to 4,000 acres. Some of the land thus given away consists of sand-hill and swamp,

but by far the greater portion of it is of first-class quality, and would, it may be safely presumed, realize more than the upset Government price.

Independently of this, Mr. McLean has granted to the Natives a block of land, comprising run-holder's improvement (*i.e.* Rakehou, 500 acres), on which the Provincial Government had relied for the recovery of £800 back rents paid over to the Natives.

I do not consider that it was necessary to make any further concessions to the Natives; nor do I believe that the peace of the district would have been endangered had the Government continued the vigorous action approved of and so successfully commenced by the Hon. the Premier.

Under all the circumstances, I feel bound, on behalf of the province, to claim payment from the General Government, at the rate of £1 per acre (being the lowest upset price), for the whole of the land given or promised to be given by the Hon. Mr. McLean, in the carrying out of a General Government policy.

I further claim that the whole of the expenses connected with this reopening of the question, and of the surveys of the additional blocks given away by the Hon. Mr. McLean and Mr. Kemp, be defrayed by the General Government.

I have, &c.,

I. E. FEATHERSTON,

Superintendent.

The Hon. W. Gisborne.

The Hon. W. GISBORNE to His Honor I. E. FEATHERSTON.

SIR,—

Colonial Secretary's Office, Wellington, 10th February, 1871.

I have to acknowledge the receipt of your Honor's letter of the 26th ultimo, in which you request that the additional reserves (about 15,000 acres), which the Native Minister found it necessary to make for the Natives in the settlement of the disputed Rangitikei-Manawatu land purchase, may be paid for out of colonial funds at the rate of £1 per acre.

The Government have carefully considered the representations made in your letter, but they do not feel themselves justified in agreeing to propose to the Assembly the admission of this claim.

The purchase from the Natives of the land in question has been specially intrusted by the Legislature to the General Government, and as you, who have acted for many years as Commissioner under the Government for the negotiation of that purchase, are well aware, exceptional difficulties of no ordinary magnitude embarrassed that negotiation. It should, however, be distinctly borne in mind that, while the responsibility of the purchase rested with the General Government, they acted in the matter in the interests of the Province of Wellington, which would deal with the lands purchased, and be exclusively entitled to the proceeds thereof. The only interest which the General Government, as representing the colony, have in the purchase, is, that the province should at the earliest possible period have quiet possession of the block, with a view to its sale and settlement. The Government believed in October, 1869, that your able and unwearied efforts in the completion of the purchase had been successful, and that the repeated decision of the Native Land Court would, so soon as the reserves specified by the Court should be marked out, remove every obstacle to the peaceable occupation of the land; and accordingly they issued a notice in the *Gazette* of the 16th of October, 1869, that the Native title to the block had been extinguished, subject to certain specified awards made by the Court in favour of the dissentient Natives. Unfortunately, this did not turn out to be the case. Certain of the Natives, acting on the instigation of European advisers, resisted not only the execution of the surveys of the blocks awarded to them by the Court, but also the trigonometrical and detailed surveys of the rest of the blocks. After repeated stoppages, the conviction of McDonald and Miritana, referred to by you, appeared to have resulted in their acquiescence, the surveys proceeded far towards their completion, and there seemed to be a fair prospect of their being completed without further obstruction. Unfortunately, in this stage the Natives were advised by Mr. Travers, the solicitor who had conducted their case in the Land Court, that they would be justified in turning off the surveyors, because they had not been fairly treated in the Land Court; and further suggestions of an inflammatory character were made to them by him, through their Agent, Mr. McDonald (as will be seen in the enclosed copy of Mr. Buller's letter of September 16th, 1870). The result was the renewed and much more determined obstruction of the surveys, and the expressed resolution of all the dissentient Natives, particularly Miritana, to resist the occupation of the district by the Government as long as one of them should live. It became clear that the spirit of resistance evoked by this last interference of Messrs. McDonald and Travers was much more determined than that which previously existed, and such as bid fair, even if the surveys should be completed, effectually to prevent the peaceable settlement of the district.

Three courses were open to the Government: 1st, To suppress the resistance by force. This would probably have resulted in a serious disturbance, involving not only the disputed district but the adjacent settled district of Rangitikei. And even if such a result were escaped, it was certain that so long as such resistance continued, the peaceable occupation of the district by settlers would be impossible, and that the settlement of the other block on the Manawatu River would be greatly retarded, if not absolutely stopped.

2nd. To suspend the surveys, prohibit the occupation of the district by Europeans, and let time bring a cure. This clearly would have been a most losing game, leaving the Natives in possession of the whole district, and abandoning for years all hopes of its colonization.

3rdly. To effect some such compromise as has since been arrived at. The last was clearly the only course which could be wisely adopted.

Under these circumstances, the Native Minister, at the request of the provincial authorities, personally undertook the negotiation of the question, and, after great trouble, succeeded in settling it, and removing all dissension. I have his authority for saying that if he had on that occasion failed, the result, in all human probability, would have been the indefinite postponement of quiet possession of the lands in dispute—a postponement disastrous to the interests of the Province of Wellington. Accordingly, the Native Minister, acting in good faith in the interests of the province, availed himself

of an opportunity which might not recur, and satisfactorily concluded the dispute, and in doing so he felt it necessary to make the additional reserves to which you refer, and much of which, as you admit, is land of a worthless character.

I venture to think that you have not sufficiently estimated the advantageous position in which, on a review of the whole question, the Province of Wellington is placed by the final solution of the long-pending difficulties attending this matter. The entire block purchased by you contains, by estimate of Mr. Stewart, the Sub-Provincial Surveyor, 240,000 acres. After deducting the awards made by the Court, the reserves for friendly Natives made by yourself, and those added by the Hon. Mr. McLean—say, 25,000 acres at the outside—the province receives 215,000 out of 240,000, or about nine-tenths of the whole. As not three years ago the dissentient Ngatiraukawa claimed it all, subject only to some small deductions in behalf of the Ngatiapa, and afterwards offered, as a compromise, to take 80,000 or 90,000 acres, the result of the long-pending litigation and final adjustment cannot be regarded as disadvantageous to the province, or as leaving the Government, and yourself its Commissioner, in other than a triumphant position in the matter; while the acquisition of the district with the friendly concurrence of the Natives, instead of at best their sulky acquiescence, is an advantage not to be lightly disregarded, and which is cheaply purchased at the price of from 10,000 to 15,000 acres of land, not all of the best quality.

Negotiations for the purchase by the Crown of Native lands, conducted as they are with persons of an uncivilized race, and attended by other exceptional difficulties, cannot be regulated by rigid rules of procedure, and if the purchases are to be made satisfactorily, or, in other words, if peaceable possession is to be secured, considerable latitude must necessarily be allowed in the conduct of those negotiations; and the Government cannot admit, so long as the purchased land is for the special benefit of a province, that occasional additional expenses in supplementing a purchase, and securing, so to speak, the goodwill of the land, should be defrayed at the cost of the colony, and not of the province interested.

If, as I understand is the case, a reserve has been made by the Native Minister for the satisfaction of Native claims to land not in the block in question, but in the Seventy-Mile Bush Block, the purchase of which is under negotiation, the question connected therewith can be specially dealt with under the Fourth Part of "The Public Works and Immigration Act, 1870," relating to acquisition by the Crown of lands in the North Island.

His Honor the Superintendent, Wellington.

I have, &c.,  
W. GISBORNE.

In addition to the representation Dr. Featherston was formally making to the General Government, he addressed this telegram to Mr. McLean, who was in Auckland at the time:—

(Telegram.)

Wellington, 9th February, 1871.

I FIND that you have given away to sellers, non-sellers, and parties excluded by the Native Land Court, some 12,000 acres of the Manawatu. Kemp, by whose authority nobody knows, has since given away another 4,000 acres. Part of the land thus given away is swamp, sandy, and not of much value, but by far the greatest portion is the choicest and most valuable land in the whole block. I deny the right of the Government thus to deal with the provincial estate. I have claimed, on behalf of the province, payment for the whole of this land at the upset price of £1 per acre, and that the expense of the survey of these 16,000 acres, and of yours and Kemp's mission, should not be charged provincially. The Cabinet, consisting of Fox, Gisborne, and Sewell, yesterday refused to admit this claim, or any claim whatever. I do not know whether they have consulted you and Bell, but it is a matter of deep regret to me that I shall be obliged, under these circumstances, to record my protest, as Superintendent, against the Manawatu arrangement.

The Hon. D. McLean, Auckland.

I. E. FEATHERSTON,  
Superintendent.

Whereupon Mr. McLean replied as follows:—

(Telegram.)

Auckland, 15th February, 1871.

To effect any arrangement of the Manawatu question which would lead to the peaceable occupation of this district by Europeans, it was absolutely necessary that additional reserves should be made for the Natives. With the exception of 1,800 acres adjoining the award of the Native Land Court at Oroua, the greater portion of the reserve made by me is composed of sand-hills, swamp, and broken bush. I have written to Mr. Kemp for an explanation of his reasons for increasing the extent of land which was deemed sufficient for the tribes living opposite to Mr. Fox's, and I hope soon to get his report. His absence at the Bay of Islands occasions some delay. I had no conception when I undertook the duty that the question was surrounded by so many difficulties—not the least among them being an attempt on the part of a considerable section of the sellers to repudiate the sale altogether. The non-sellers whose claims were reconsidered by the Court, computed the area to which they were entitled at 19,000 acres, besides which they sought compensation for losses and for expenditure of time in vindicating their titles. These claims were all reduced to the lowest extent which the Natives would accept. Under these and many other adverse circumstances, and taking into consideration how troublesome and expensive the delay in settling these disputes had been to the interests of Wellington, I did my utmost on behalf of the province and colony to bring about as reasonable an adjustment of these interminable questions as could possibly be effected, consistently with a peaceable occupation of the district by European settlers. The question might have been left in abeyance, but then it would have proved a source of lingering irritation and annoyance, which at any moment might eventuate in a rupture with the Natives. I feel certain that were you on the spot, and cognizant of the increasing obstacles in the way of a settlement, you would support the only adjustment by which the evil consequences mentioned above could have been averted. I therefore feel surprised and disappointed that you propose to protest against the action taken in the matter, as interfering with the provincial estates, especially as the Government did not move till subjected to considerable pressure from the

people of the province. It was quite obvious that the provincial interest in the Manawatu-Rangitikei Block was valueless until the Native difficulty was removed. Previous expenses connected with this duty were defrayed by the province, and I do not now see the justice of charging differently the surveys and subsequent expenditure connected with the settlement of the question.

His Honor Dr. Featherston, Wellington.

DONALD McLEAN.

About a fortnight after this, on the 2nd March, Dr. Featherston reassembled the Provincial Council, and in his opening speech expressed his own strong opinion on the question. "You are aware," his Honor said, "that when effect was attempted to be given to the judgments of the Native Land Court, by carrying out the survey of the block, these surveys were interrupted by certain Natives, instigated by Europeans, and acting under their advice in defiance of the law. The Provincial Government, during my absence, desiring above all things that the peace of the district should be preserved, requested the General Government to use its efforts to prevent the further obstruction of the surveys, and remove all possible doubts as to quiet possession of the land. \* \* \* I am bound to say that I differ with both the General and Provincial Governments as to the necessity of any interference in the matter, for I am satisfied that if the General Government had fairly persevered in the course of action adopted, in the first obstruction of the surveyors, against Miritana and McDonald, no disturbance would have resulted, and peaceable possession would have been secured over the whole block, without the necessity of any further concessions to the Natives. \* \* \* I felt it my duty immediately on my return to bring the claims of the province formally before the General Government, in the shape of a demand for the payment of £1 per acre for the entire area of the reserves made by the Native Minister and Mr. Kemp. I made this claim on the ground, that from the date of the notice in the *Gazette* that the Native title was extinguished over the whole block, save the portions awarded by the Native Land Court, the block became a part of the territorial estate of the province; and that the General Government had no right in any way to a single acre of it. \* \* \* You will learn that the Government declines to admit the claims I have advanced. Still, I feel assured that the Government does not intend that the claims of the settlers arising out of its own action shall be altogether ignored, or that no allowance whatever shall be made to the province for the loss of so large an area of saleable land out of a block the Native title to which was so long ago formally declared to be extinguished, and to the proceeds whereof the exclusive right of the province is of course admitted. It is a case for equitable adjustment between the province and the colony, especially when it is considered that, the action of the General Government being taken in the interest of the maintenance of peace, the price paid to the disaffected Natives must be deemed a liability of the colony, rather than of the province."

The Provincial Council took no action whatever in the matter during that Session, nor was the Address in reply passed (after successive adjournments of debate) till the 17th March. The Address made no reference to the Manawatu case at all; and the Council adjourned to the 3rd May.

Immediately after this, Dr. Featherston being appointed Agent-General, Mr. Fitzherbert became Superintendent. On the 13th May, the Provincial Council being about to sit, Mr. Fitzherbert addressed a letter to Mr. Halcombe, who was now Provincial Treasurer, directing him to furnish a written statement setting forth the various steps taken by him (Mr. Halcombe) and his late colleagues with reference to the interference of the General Government in the Manawatu, and particularly in elucidation of the point how far they had authorized the General Government to settle the dispute by granting away provincial lands."

The following was Mr. Halcombe's reply:—

MR. A. F. HALCOMBE to the SUPERINTENDENT, Wellington.

SIR,—

Provincial Treasury, Wellington, 15th May, 1871.

In reply to your letter of the 13th instant, requesting me to state the various steps taken by the Provincial Government during the absence of Dr. Featherston, "in reference to the interference of the General Government in the Manawatu, particularly in elucidation of the point how far they authorized the General Government to settle the dispute by granting away provincial lands," I have the honor to inform you that the mode of settlement of the Manawatu difficulty adopted by the Hon. Mr. McLean was never contemplated by the Provincial Government, and that therefore they cannot be held to have authorized the action of Mr. McLean as far as the granting away the lands of the province is concerned.

I may also state that we object to the term "settlement of the dispute" when referring to the obstructions offered by the Natives to the surveyors on this block, and the removal of those obstructions. The interference of the General Government was asked, not to decide any dispute as to the ownership of the land in the Manawatu (as Mr. McLean's action would imply), but to place the Provincial Government in peaceable possession of the land formally declared, after reference to the highest tribunals, to be the property of the province. The Provincial Government always recognized that after the proclamation by His Excellency's Government of the extinguishment of the Native title, all interference with the survey parties could only be held as being entirely illegal, provocative of a breach of the peace, and punishable with fine or imprisonment.

This being the case, the Provincial Government, in the month of December, 1869, when opposition to the survey was renewed by the Natives (being aware of the serious consequences which would result to the colony from any open rupture, and aware of their inability as a Government to put down any determined opposition involving a resort to force), had repeated personal interviews with members of the General Government upon the subject, which resulted in the placing of the whole of their survey

staff under the general directions of Mr. Buller, who, in his turn, acted under instructions from the Hon. the Premier. A distinct promise was also made to the Provincial Government that Mr. McLean would, at the earliest possible period, use his personal influence to persuade the Natives to allow the surveys to proceed.

From that time the whole survey work of the block was left under the direction of Mr. Buller, who, acting, we presume, under the directions of the General Government, simply withdrew the survey parties from all those parts of the block where opposition had been offered, was threatened, or was by him supposed likely to arise; and to all the remonstrances of the provincial authorities against this inaction, the sole reply was that it would be unwise to provoke a breach of the peace, and that Mr. McLean would shortly visit the district.

As time passed on, the Natives, finding that they could obstruct the survey with impunity, opposed the progress of the work in every direction, in one instance destroyed the work which had occupied our party some months, and altogether caused a direct loss of several thousands of pounds to the province. The Provincial Government, finding that the General Government would take no action to punish the offenders until Mr. McLean should have visited the district, became more and more importunate that Mr. McLean's visit should be made.

At length Mr. McLean visited the district, in the month of November, 1870, at least ten months after the promise of his intervention had been given, but up to the date of his departure from Wellington, the Provincial Government were not consulted as to the measures to be taken by him, nor were they made aware of the intention to make large gifts of land, not only to those opposing the survey, but to others who had made no claim upon the province until after those gifts had been irrevocably made.

The late Provincial Government wish it to be distinctly understood, in reference to this matter, that they recognized that, in a question affecting the peaceable relations between the two races, the General Government had a right to control action, for the result of which the colony would become responsible in case of a rupture. They also felt that the case was one to be dealt with by a strong hand. As a Government they had no power to enforce their legal position, and therefore it was absolutely necessary to secure the aid of the Colonial Government. They believed that this was the view of the case taken up by the General Government, and they recognized that Mr. McLean, as Defence Minister responsible for the peace of the colony, and as Native Minister responsible for the relations between the two races, was *ex officio* the proper person on whom to place the responsibility of a resort to force, if—as the Provincial Government believed—forcible measures, as in the case of Miritana, were necessary to enable the province to obtain possession of its property. But no action taken by them can, in their opinion, be interpreted into the appointment of Mr. McLean as an arbitrator between themselves and the Manawatu Natives as to the claims of the latter upon a block of land, the ownership of which had been decided, after most careful investigation, by the highest tribunal to which the question of title could have been referred.

I have, &c.,

A. FOLLETT HALCOMBE,  
Provincial Treasurer.

His Honor the Superintendent, Wellington.

I have submitted this letter to the late Deputy Superintendent, and my late colleagues in the Provincial Executive, and it meets with their approval.

A. F. H.

On the 6th June, the Superintendent opened the Session of the Provincial Council, and briefly referred to the pending dispute between the two Governments. "I wish," he said, "that I could inform you that every difference had been adjusted with regard to the much-vexed Manawatu land purchase question. The late Superintendent claimed, on behalf of the province, the sum of £15,000 for 15,000 acres of provincial estate taken by the General Government and given to certain Natives as additional reserves. My opinion coincides with that of my predecessor as to the validity of the provincial claim. You will probably, however, concur with me in the opinion that the course which it will be best, in the general interest of the province, for the Provincial Government to pursue in regard to this claim, requires a very careful consideration. I candidly inform you that for the present I wait upon circumstances."

The Council appear to have been of the same opinion, for nothing was done that Session by them. In the meantime, the two Governments were working together for quietly laying off the reserves, which was not completed till next year (1872). I do not think it necessary to insert here any account of those proceedings, because they have no bearing on the claim of the province.

I believe the preceding account comprises all the essential particulars of the case.

F. D. BELL.



## STATEMENT

MADE BY THE SUPERINTENDENT OF WELLINGTON TO SIR FRANCIS DILLON BELL, TO WHOM HAS BEEN REFERRED THE CLAIM OF THE PROVINCE OF WELLINGTON IN RESPECT OF CERTAIN LANDS TAKEN IN THE RANGITIKEI-MANAWATU BLOCK.

THE total area of the Rangitikei-Manawatu Block, as originally purchased by Dr. Featherston, the General Government Commissioner for the Extinguishment of the Native Title, is computed by the Chief Surveyor at 220,000 acres. This area was diminished by 27,000 acres, in consequence of an alteration in the northern boundary of the block, thus reducing the area of the block to 193,000 acres.

Out of this block of 193,000 acres, Dr. Featherston awarded 3,361 acres as reserves for the Natives; and the Native Land Court awarded 6,226 acres as further Native reserves. After deducting these several reserves from the block of 193,000 acres, there remained, as provincial estate, 183,413 acres. Subsequently Mr. McLean supplemented the two awards above referred to, by a further award of reserves amounting to 13,875 acres.

The accompanying tracing exhibits the relative positions of those reserves, a distinct tint distinguishing the three classes of reserves.

The province advances a claim for a payment by the colony in respect of the said 13,875 acres so taken from its territorial estate.

It will not be contended that this was not provincial estate, not only because it was virtually recognized as such by the gazetting of the extinguishment of the Native title, but also because the special intervention of the Supreme Legislature has become necessary in order to enable Crown grants to be issued to the Natives for these additional reserves.

The block of 183,413 acres cost the province £43,155; therefore, the 13,875 acres taken out of it have actually cost the province £3,264, exclusive of the survey, the cost of which has been £1,040 12s. Altogether, therefore, the Province of Wellington is out of pocket by the taking of these 13,875 acres by the sum of £4,305 2s. which has been expended on them, and is exclusive of any consideration of the question of the loss of the land itself.

It may be here stated that the province has also expended £719 in surveying the reserves awarded severally by Dr. Featherston and the Native Land Court, for which it, however, prefers no claim.

The accompanying tracing exhibits a classification of the block of 193,000 acres in respect of prices actually obtained from the sales of land effected within the respective classified areas. From this it appears that had the 13,875 acres continued provincial estate, it would have, in all probability, realized as follows, namely:—

9,723 acres, @ 30s. per acre	..	..	..	£14,584 10 0
1,686 acres, @ 20s. per acre	..	..	..	1,686 0 0
2,466 acres, @ 8s. 3d. per acre	..	..	..	1,017 5 0
Making a total of	..	..	..	£17,287 15 0

If from this total there be deducted the sum of £4,305 2s. already referred to, the actual outlay incurred by the province—and therefore an amount about the propriety of refunding which it may be assumed there can be no doubt—there remains the sum of £12,982 13s. to represent the loss to the province of territorial revenue which would have been available for public works.

The question then presents itself, Is the province to suffer the loss of all or any portion of this sum of £12,982 13s.?

In order to arrive at an equitable consideration of this point, it is submitted, on behalf of the province, that the action of Mr. McLean was in the interest of the peace of the colony as well as for the advantage of a particular portion of it. For if it be contended that if these additional awards had not been made the province would not have obtained peaceable possession of the remainder of their estate, owing to the obstruction of the Native claimants, it must follow that, in proportion as weight is to be attached to this view, a weight must be attached to the view that the peace of the colony was proportionally preserved.

On behalf of the province, great weight is attached to the statements contained in the letter of Mr. A. F. Halcombe to the Superintendent of Wellington, dated 15th May, 1871, and to the postscript. (Copy attached.)

Against this will have to be weighed the statements rebutting this view.

The Superintendent takes the liberty of saying, that if the moiety of the sum of £12,982 13s. were paid to the province, and the £4,305 2s. actually expended on the 13,875 acres refunded, making a total of £10,796 8s. 6d., he believes that fair justice would be distributed between the colony and the province, on a question which has been already attended with much delay and vexation.

WILLIAM FITZHERBERT,  
Superintendent.

## EVIDENCE

TAKEN BEFORE THE ARBITRATOR.

Mr. WARING TAYLOR examined :

*Mr. Speaker.*] You were Deputy Superintendent when Mr. McLean made the arrangement with the Natives which is the subject of the present inquiry : will you be good enough to say what communications took place between the two Governments about Mr. McLean's mission?—I urged upon Mr. Fox, who was at this time Premier, to put the province in peaceful possession of the land. I stated to him that the province had no wish to precipitate the matter by taking forcible possession, even supposing we were in a position to take forcible possession. Mr. Fox told me that Mr. McLean would shortly be in Wellington, and he promised that he would visit Manawatu ; and he asked that the Provincial Government would wait until he came. The Government did wait very patiently, and that for a very long time. During the interval, on two other occasions, I had interviews with Mr. Fox, at each of which I urged him to get the Government to expedite matters as much as possible. No proposal was ever made to us to pacify the Natives by giving them valuable grants of land. If any proposal had been made that such grants were to be made at the expense of the Provincial Government, I would not have agreed to it. I think the mind of the Provincial Government is very fairly expressed by the Provincial Secretary's letter of 15th May, 1871.

2. What was the date of these negotiations between yourself and Mr. Fox?—Mr. McLean's visit took place ten months after the promise of that visit was made.

3. How long was your negotiation with Mr. Fox before that?—I am not good at recalling dates. I know that considerable delay took place in Mr. McLean's visit—some six, eight, or ten months ; but I could not exactly say how long after it was promised.

4. Perhaps you may be able to recall the date in this way. Dr. Featherston and I left for England in December, 1869 : Mr. McLean visited the Manawatu in November, 1870 : how long would it be after Dr. Featherston left that this negotiation took place?—It must have been shortly after I assumed the Deputy Superintendency. I recollect meeting Mr. Halcombe on the beach, towards the end of 1870, and he told me a letter sent by a particular steamer then going would probably catch Dr. Featherston at Melbourne. I wrote to Dr. Featherston, and amongst other matters I mentioned about these grants of land. That letter, however, did not arrive in time to catch Dr. Featherston at Melbourne.

5. Had you any personal communication with Mr. McLean upon the subject?—I remember meeting Mr. McLean once, and speaking on the subject. All I said was, that he should get the dispute settled for us.

6. Did you become aware, during the time he was in the district, that he was making the reserves complained of?—I did hear it from current rumour.

7. Did you make any representation to the General Government on the subject when you heard that?—No.

8. As Deputy Superintendent you became officially acquainted with the fact of these reserves being made, but you made no representation to the General Government on the subject?—I certainly was not officially informed of the fact.

9. Did you ever, in your negotiations with the General Government, suggest that any expense incurred in the settlement of the disputes was to be borne by the colony?—No. I cannot say that that question was ever mooted.

10. Supposing the General Government had paid a sum of money to the Natives instead of the reserves, do you consider that that money should have been provided out of the Provincial Treasury?—Certainly it ought not. We concluded that the General Government ought to put us in quiet possession of the block.

Mr. A. DE B. BRANDON examined :

11. *Mr. Speaker.*] You were a member of the Provincial Government : can you say what took place between the two Governments about the reserves?—I recollect on one occasion, after the interference with the surveys, having an interview with Mr. Fox. Mr. Taylor was also present. I urged upon him the duty of the General Government to put the Provincial Government in peaceful possession of the land. I urged him to send an armed force. He thought not, and argued that it would be better to bring about a peaceful settlement, as, if that were not done, the disputants would join the disaffected Natives, and the outside settlers would not be safe. I think I further urged him to get the Government to make it a proclaimed district.

12. Had you any personal communication with Mr. McLean?—No.

13. Did you understand that whatever was done by Mr. McLean was to be done at the expense of the colony?—Clearly so. I thought it was the duty of the Government to place us in peaceful possession.

14. *Hon. Mr. Fox.*] At the interview to which you have alluded, was that spoken of?—I certainly did urge that the Government should do so.

15. *Mr. Speaker.*] Did you intimate to the Government or Mr. Fox that you expected that possession should be given by the colony, and the expense of doing so be borne by the colony?

—I did not intimate that in so many words, but that was the gist of what I urged. I urged that it was the duty of the Government to put us in peaceful possession.

Mr. EDWARD PEARCE examined :

16. *Mr. Speaker.*] Can you give me any information as to what took place during the negotiations between the General and Provincial Governments?—I was not present at any one of those interviews. I merely heard what took place at second hand, so that my evidence can only go to the impression made on my mind at the time.

17. And what was that impression?—The impression made upon my mind at the time was similar to what has been spoken to by Mr. Brandon and Mr. Taylor; but I have no direct evidence to give on the point.

Mr. A. FOLLETT HALCOMBE examined :

18. *Mr. Speaker.*] You were the Provincial Secretary, were you not, when the negotiations took place between the General and Provincial Governments, with regard to Mr. McLean's mission?—Yes. I think it necessary to travel back to the time this negotiation was first entered into. It must be borne in mind that the surveys had been constantly interrupted for some months previously. Our whole survey staff, in that part of the country, had been placed under the control of the General Government, through Mr. Buller, who represented the General Government, and who acted without any reference whatever to the provincial authorities as to how the surveys should be carried out. It must also be remembered that some time previously, some survey pegs had been forcibly removed by Miritana, who was supposed to have been acting under directions of Mr. McDonald. Miritana and Mr. McDonald were both arrested and tried by the Court at Wanganui. The arrest of Miritana and Mr. McDonald was authorized, and the whole affair conducted, under directions of the Premier, Mr. Fox; and the Provincial Government had nothing to do with it. The arrest and punishment of these offenders seemed, for the time at least, to have the effect of allowing the surveys to go on quietly, until the occasion of the disturbance in the month (I think) of January, 1870. On the occasion of this last disturbance, the Provincial Government, as represented by myself and Mr. Taylor, placed ourselves in communication with the Premier, Mr. Fox, and urged that something should be done to overcome the Natives' opposition; and certainly, as far as my recollection goes, we expected and urged that a similar course should be adopted in this case to that which had been adopted in the case of Miritana. The Premier, after consulting with Mr. McLean, did not think it was wise to adopt forcible measures: at all events, we were asked to wait until Mr. McLean himself could see into the matter, and a promise was made that he should visit the district. Mr. McLean was at that time expected to arrive in Wellington soon, and we left the matter in that way. But month after month passed, and Mr. McLean did not come to Wellington. When he did at last arrive, it was within one month of the opening of the Assembly, and he was unable then to visit the Manawatu; nor did he visit it until the month of October or November of that year (1870). During the interval between our first application and the time Mr. McLean went up to the district, the opposition had grown to such an extent that there was no analogy between the position of matters when we first made our application, and their position when Mr. McLean visited the district. The adoption of forcible means, such as were taken in the case of Miritana, and which might have averted the opposition if they had been taken early in 1870, was hardly likely to do so in view of the more serious position into which it had grown in the meantime. During that interval, the members of the Government—specially Mr. Taylor and myself—were constantly applying to Mr. Fox, and Mr. McLean, while the latter was in Wellington; and we urged that Mr. McLean should not delay his promised visit to the district. We were in as complete an ignorance of the means Mr. McLean would adopt to settle the difficulty, as I believe Mr. McLean was himself: certainly I do not think any large gifts of land to the Natives were ever contemplated by any member of the Provincial Government. That Mr. McLean believed concessions might have to be made I believe, from the fact that on several occasions, when speaking privately to myself, he expressed his belief that the purchase made through Mr. Buller was not fully completed. In fact, I believe that he stated as his impression that Dr. Featherston, in making the purchase, had been misled. No one was more surprised than myself, when I heard by telegram from Mr. Fox of the reserves made by Mr. McLean.

19. You say that during the time that elapsed between the first representation made to the Government, and the visit made by Mr. McLean to the district, matters had grown more serious than they were when the interruption to the surveys first took place: had you, therefore, no reason to expect, yourself, that some concessions would have to be made before the province could be put in peaceable possession of the land?—I only say that I presumed Mr. McLean believed concessions would have to be made.

20. Am I to understand that your own opinion, at the end of 1870, was, that any forcible attempt made then to gain possession of the land would result in some conflict?—There could be no question about it. In talking the matter over with Mr. McLean, he stated distinctly that any such attempt would be injurious to the Government, and might have a very serious effect.

21. In your conversations with Mr. McLean, was anything said about claims arising as between the province and the colony out of this state of affairs?—That question was never mooted.

22. You have said that large gifts were never contemplated on the part of the province: if some inconsiderable reserves only had been made, would they have been open to the same objection?—I do not think the province would have raised any objection; but this, I wish it to be understood, is only my private opinion.

23. In your letter to the Colonial Secretary, of 15th May, 1871, you say, “No action taken by the Provincial Government can, in their opinion, be interpreted into the appointment of Mr. McLean as an arbitrator between themselves and the Manawatu Natives as to the claims of the latter upon a block of land, the ownership of which had been decided after most careful investigation by the highest tribunal to which the question of title could have been referred:” am I to infer from that letter that you understood Mr. McLean not to be acting at all on behalf of the province in the matter, but that his action was entirely on the part of the General Government, and was not binding on the province in any way?—Decidedly; I always understood that, though Mr. McLean was acting to a large extent on the part of the province, the whole matter was left in the hands of the General Government. The matter, as I understood it, was placed in the hands of the General Government as a question affecting the peace of the colony.

24. Am I right in inferring, from the general tenor of your letter of 15th May, 1871, that the real fault you found with the General Government was on account of the magnitude of the reserves?—The Provincial Government, as a Government, always insisted upon its right to the whole of the land. I believe, however, as I have stated before, that they would not have objected to some small concessions being made.

25. When did you first receive intimation of these reserves being made by Mr. McLean?—When the Council was sitting, and before Dr. Featherston’s return. A telegram from Mr. Fox, containing the information, was received by me and read in the Council.

26. Did the Provincial Government then remonstrate with the General Government as to the action Mr. McLean had taken?—No; not immediately. They did not offer any remonstrance; they thought it was of no use then. At that time Dr. Featherston was expected back daily, and they thought they would do better to let the matter stay until his return.

27. The first claim put forward on the part of the province against the General Government, appears to have been made in the letter from Dr. Featherston to Mr. Gisborne, on his return from England: is that so?—I think so. I do not remember any claim having been made before the one that was made when Dr. Featherston came out.

28. You have heard what Mr. Taylor said about the letter he wrote to Dr. Featherston on his arrival: did you write officially to Dr. Featherston yourself at that time?—No; but I wrote to him unofficially, I believe.

29. Had you never any consultation with Mr. McLean as to what he should do to get quiet possession of the block?—No; neither had we the slightest intimation about these reserves until they had been actually given.

30. *Mr. Gisborne.*] You have said that you did not contemplate that large gifts (I think that is your expression, “large gifts,”) would be granted, but that some small gifts were contemplated: is that right?—Just so. I had no doubt whatever but that when Mr. McLean was sent he would, in accordance with his previous actions, give away some land. So we naturally enough supposed that some would be given away on this occasion. That, however, is merely my own opinion.

31. But you acted then as Provincial Secretary and as the organ of the Provincial Government?—Yes.

32. And had the General Government not a right to assume that what you said expressed the opinions of the Provincial Government?—I suppose so.

33. And you thought it very probable, from his previous actions, that Mr. McLean would grant some small gift of money or land, in order that the Provincial Government of Wellington might be secured in peaceful possession?—Certainly I did.

34. *Mr. Speaker.*] I must again ask you as to your own impression of the character of Mr. McLean’s mission: you have told us that you contemplated he would be obliged to do something in order to get peaceful possession. If he did that “something,” did you think the Provincial Government would not afterwards hold themselves bound to carry out, to a reasonable extent, what he might do?—My own impression is, that to a reasonable extent Mr. McLean’s action would have been indorsed by the province.

35. Then so far as your recollection of the impressions you formed at that time guides you now, I am to understand that your objection really was to the degree and magnitude of the reserves made by Mr. McLean, rather than to the fact of reserves having been made?—Personally I say so; but as a member of the Provincial Government, I always reserved my right to question whether it should be borne as a provincial or a colonial charge.

36. How is this personal impression of yours at that time to be reconciled with the language of your letter of the 15th May, 1871, in which the action of Mr. McLean is so distinctly represented as being one by which the Provincial Government was not in any way to be bound?—I am only stating my private opinion. I am not aware of having in any case officially expressed that opinion to the General Government.

37. I want to know whether, when this letter was written and submitted to your colleagues in the Provincial Government, they were aware that this impression was upon your own mind at the time?—They were aware that that impression was on my mind at the time. I do not see how any one could help having that impression on his mind. The fact that Mr. McLean was

asked to go up and settle the matter was sufficient to convince any one that some land would be given away. Still, that point was never put, as to whether these concessions would be allowed, and if made, whether they would be made at the expense of the province or of the colony.

38. When your letter was first drafted, was that impression stated in the draft?—Yes; but that part was removed, because it did not express the opinion of the Provincial Government.

39. When Dr. Featherston returned, did you acquaint him with this impression that had existed on your mind?—I am not aware that I did. I do not believe that I conveyed that impression to either Dr. Featherston or any one else. It was only my impression that some concession would have to be made. That was my individual opinion on the matter. I would ask you to bear this fact in mind: We first asked the General Government to interfere in the month of January, 1870. When we first asked the Government, we had no idea of any concessions having to be made. Ten months afterwards the state of matters which existed in January had gone altogether past, and some kind of concession had become absolutely necessary. When we first asked the General Government, we did not consider that any concession was necessary; and, so far as our actions were concerned, we believed that our responsibility ceased from that time. The matter was thenceforward in the hands of the General Government; and it was the events which took place during those ten months, that produced the impression on my mind that concessions would have to be made.

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TUESDAY, 2ND SEPTEMBER, 1873.

HON. MR. FOX examined:

40. *Mr. Speaker.*] Will you be good enough to state your recollection of the circumstances attending your negotiations with the Provincial Government?—Mr. Halcombe, in the statement he made yesterday, began by going back: I shall adopt a contrary direction. I will begin by alluding to the interviews with the Provincial Government which took place in connection with these matters. I cannot precisely recollect how many were present at these interviews, and in that respect I am in pretty much the same position as my friend the Deputy Superintendent, he too being unable to recollect who were present at the interviews; neither can I remember particularly all the details of what passed at the interviews which took place between the Deputy Superintendent and myself: but still I recollect all the more salient points connected with the negotiations that took place about the Manawatu Block. For instance, I remember that on the last occasion on which Mr. Taylor was present, he urged in very strong terms the necessity for the General Government to interfere, and give the province possession of the block. I remember using the expression to him, "Do you want us to fight for it?" To that remark Mr. Taylor replied, "Of course not; I do not go the extreme length of Mr. Brandon; only we want Mr. McLean himself to go up and do it." I acquiesced in the propriety of Mr. McLean going up to Manawatu; and, so far as I was at liberty to do so, I agreed that he should go up when he could find time. I had no doubt at all but that Mr. McLean would do it. I think there was an expression used at the time, to the effect that the Provincial Government must have some patience, and not be in too great a hurry. I thought that there was an inclination on their part to support their surveyors in a way that was calculated to lead to fresh conflict. Now I can safely say that during the whole of these interviews which I had with all or any of the parties, there was nothing further from my mind than that the General Government should be held liable for the cost of putting the province in possession. Such an idea was never broached. Nor did I hear any one say anything to that effect until I heard it from Dr. Featherston, after his return from England. Some weeks elapsed between the time of the settlement having been made by Mr. McLean and the first time this question of compensation to the province was raised, and I heard nothing whatever about it in the interval. If my memory serves me right, when the transaction occurred, the Provincial Council was sitting; but I do not recollect anything having been said there. The claim, I think, was not suggested then, and it was not until Dr. Featherston arrived that I heard anything upon the subject. I have now told you all that took place, to the best of my recollection, between these gentlemen and myself. You have in Mr. Gisborne's letter of 10th February, 1871, the substance of my recollections on the point. That letter was written after a conference between Mr. Gisborne and myself. The letter was written principally by Mr. Gisborne, but I added one or two paragraphs which I thought necessary. I do not go beyond what appears in that letter. I will now recount one or two transactions which took place of earlier date, one of which was referred to by Mr. Halcombe. He infers liability, if I understand him right, on the part of the General Government, in reference to the non-possession by the Provincial Government, from the fact that the General Government made itself responsible by the action it took in the case of Miritana. The view he gave of that case was one which was currently entertained at the time, both by the newspapers and ordinary reports, in reference to the part I took in that transaction. It was reported that I myself initiated Miritana's arrest, and that Mr. Buller acted under my instructions. In that respect Mr. Halcombe shows that he is not aware of the real facts of the case; and when I explain them, he will see that the facts are exactly the other way. I had been up the Wanganui River, or on a visit to the Patea country, I am not sure which, and on returning to Wanganui I went to Mr. Buller's house late in the evening. He informed me of the warrant he had issued some days before against Miritana, and of the failure to execute it. He also informed me of his intention to go next day himself and enforce the warrant of commitment. He explained to me all the

circumstances of the case. I felt alarmed at the action he had taken, and suggested that he should stop further operations. He represented to me that to stop operations would have a most injurious effect, and would bring the Government into contempt in the estimation of the Natives. Under these circumstances, I told him I would decline to interfere to stop him on the part of the Government. He issued the warrant on his own authority, and upon information which had been laid by Mr. Jackson, the Provincial Surveyor.

41. Mr. Jackson was in the service of the Provincial Government?—Yes. In the course of further conversation with Mr. Buller, I declined to interfere so as to make the General Government in any way responsible. The next day I was going on to Rangitikei, and Mr. Buller was going there to execute the warrant, and drove out with me. I waited at a hotel, four miles off, while he proceeded to carry out his programme. I stopped at the hotel to hear the result. Mr. Buller arrested Miritana, and he came in immediately afterwards and told me what had been done. In point of fact, instead of the General Government being charged with responsibility in the matter, the facts of the case will show that it was exactly the other way. In the Cabinet we had had, previously, discussions in reference to the Manawatu dispute generally, and strong remonstrances were offered by more than one member against the General Government mixing itself up in the Manawatu difficulty. On more than one occasion afterwards, more especially when in Auckland, considerable discussion took place on the subject between myself, Mr. Vogel, and Mr. McLean, and that was the view they expressed. I am now going to advert to another point, which has a very considerable bearing upon the case. When the Land Court, sitting here, made its final award in favour of Dr. Featherston's purchase, Dr. Featherston came to me and said that I should now issue the Proclamation, handing over this district to the Provincial Government. I pointed out to him that the proper course for him to pursue was to have the reserves indicated by the Court laid off on the ground, before the Provincial Government attempted to take possession. Dr. Featherston disagreed with that view, and a warm discussion occurred. I handed the matter over to my colleagues, more especially to Mr. Gisborne. From that time I took no further action in the matter, although I hold myself officially and personally responsible with them for any action taken by my colleagues. Had Dr. Featherston, who was then acting as Superintendent of the Province, been guided by my advice, I think the matter would have been settled differently.

Mr. HALCOMBE made the following statement:—The surveys and reserves were placed in Mr. Buller's hands, and I believe the evidence will show that this was done with the consent of the General Government. As Provincial Secretary at this time, I knew that we had not the slightest control, nor did we exercise any control, over the actions of the surveyors. These actions were entirely controlled by Mr. Buller, in whose hands the whole staff had been placed. To such an extent did he exercise that control, and move them about from one place to another, that the surveyors themselves found fault, and threatened to leave the service. Mr. Buller acted as Commissioner entirely independently of provincial control. I believe the surveyors were placed under him by consent of the General Government.

Hon. Mr. Fox resumed:—In the Miritana affair, Mr. Buller acted upon information laid before him as a Magistrate. Dr. Featherston acted both as Superintendent of the Province and as Land Commissioner. The moment the Land Court adjourned, he got hold of Mr. Buller, and went up into the district to mark off the reserves. He said, "Here's your land, and here's our land," and the General Government had nothing whatever to say to that. In that way Mr. Buller came to find himself in charge of the provincial surveys, and not from any direct instructions received from the General Government, as far as I am aware.

42. *Mr. Speaker.*] The arrest of Miritana, then, was not an act done by order of either the General or Provincial Government, or apparently with the previous consent of either?—It was done by Mr. Buller as a Resident Magistrate, on the information of Mr. Jackson, unknown to either Government, as far as I know.

43. Was Mr. Buller in communication with Mr. McLean at this time?—No. Mr. McLean was greatly opposed to the arrest of Miritana when he heard of it. I never heard anything about the matter until the warrant had been issued and an attempt made to put it in force. As far as we knew the circumstances, Mr. Buller's action was that of a Magistrate acting upon information received.

44. Was McDonald arrested at the same time as Miritana?—No; he was not in the district at that time. The information against McDonald was authorized by the General Government. He was fined £30. He did not refuse, like Miritana, to obey the summons, and therefore no arrest was necessary.

45. Then neither you nor the other Ministers were concerned in the action taken against Miritana?—Certainly not, that I am aware of, before the issue of the warrant.

46. You say that in all the communications which took place between yourself and the Provincial Government, no reference was ever made to any claim for compensation about to be advanced against the General Government for Mr. McLean's reserves?—I am quite certain that no sort of condition was ever suggested. It was simply arranged that Mr. McLean should go, and he was left absolutely and entirely unfettered. Had it been otherwise, I am quite sure he would have had nothing at all to do with it.

47. Am I then to understand that you thought the Provincial Government was to abide by the result of his action in the matter?—Undoubtedly that is the case. I will even go a little further in the matter. I am not betraying any confidence, at the same time I wish to put it as

mildly as possible. The Provincial Government at this time were very hard-up. They were in perfect desperation to get the land; and certainly the impression left upon my mind, not to speak it disrespectfully, was that they would have gone down on their knees to get it.

48. Was it within your own contemplation that reserves of land or payments of money would probably be necessary in order to obtain peaceful possession of the land?—Yes; I always thought so. I will give you my reasons. One party of Natives living on land now known as Kemp's Reserves, when the awards were given to the other Natives by the Court and by Dr. Featherston, got nothing at all. I mentioned the circumstance to Dr. Featherston, and he was fully aware that some considerable amount would have to be given to them. I found, also, that other Natives on the friendly side had got nothing. Mr. McLean, upon his investigation, found it necessary to give one man named Hamuera 1,000 acres. I myself was aware of other cases in which I thought it very probable that land would have to be given. While Mr. McLean gave more to the friendly Natives than I was inclined to expect, he closed the transaction on the other side for very much less than I expected. My impression certainly was, that it would be absolutely necessary to give the Natives something to bring about a satisfactory arrangement, and have the matter settled.

49. If the course taken by Mr. McLean had been, instead of making reserves of land, to pay a considerable sum of money to get peaceful possession, would you have thought it necessary that this money should be found by the Provincial Treasury, or would you have considered the proper course to be to add such money payment to the original cost of the block, making the whole sum a provincial charge?—I do not think that that view occurred to me at the time, because I always had the idea that what was wanted was the extension of the reserves, and that money was not necessary.

50. Did you consider that any claim by the province should depend on the extent of the reserves which Mr. McLean might make to get peaceful possession of the block?—Yes. I think, if Mr. McLean's reserves had been unnecessarily large, the General Government would be responsible for that. On the other hand, if the amount were reasonable and fair, I understand the Provincial Government to be responsible for it. I always looked upon this transaction in a different light from a mere sale of land between parties dealing for property. The Provincial Government had a verdict for 240,000 acres, but they were unable to get possession unless the General Government interfered to give them possession. They might have remained without that possession for years. The General Government stepped in and made arrangements which put the Provincial Government in possession of the whole district, less about one-tenth. With that arrangement I think the Provincial Government ought to be extremely well satisfied. Had the General Government not adopted that course, the province could not have done anything whatever in the matter.

Hon. Mr. GISBORNE examined :

51. *Mr. Speaker.*] You were Colonial Secretary when these transactions occurred: will you state your recollection of the case?—I consider the Manawatu Block was in this position: After a number of years, the Native Land Court had at last awarded to the Crown a title to the lands, subject to certain reserves being made, which were not marked upon the ground. I think the Hon. Mr. Fox and myself were the only Ministers present when Dr. Featherston pressed upon us to issue the notice that the Native title had been extinguished. It became necessary to mark these reserves upon the ground before any land could be sold. It never entered into my imagination that if, in making these reserves, fresh negotiations had to be entered into, the expense or settlement of the question was to be borne by the General Government. In the settlement of the old land claims, notwithstanding the decision of the Land Courts, land had often to be taken from the claimants and the provinces and given to the Natives, and there was never any claim put forward by the provinces that the cost should be charged to the colony. An analogous case occurred in Auckland about twelve years ago. Certain lands were handed over to the Provincial Government, and they were afterwards sold, when the Natives opposed possession. Mr. Stafford's Government went into the whole question, and admitted the claim set up by the Natives, and the grantees were dispossessed of the property. Compensation was paid to them, but it was not paid out of the lands of the colony, but out of lands belonging to the Provincial Government, lands situated in the city or suburbs of Auckland having been devoted to the purpose. I certainly was under the impression that, according to precedent and equity, the settlement of land questions like these, in respect of which the proceeds of the sale of the lands went direct to the provinces, was to be done at the expense of the provinces concerned; and I never contemplated that the settlement of the Manawatu Reserves would be an expense to the colony, or that any claim would be made upon the colony in reference to the matter. If I had ever contemplated that for a moment, I should have declined to act in the matter, because we had no authority to incur such an expense; and I think that the feeling of the Colonial Legislature would have been directly opposed to it. Mr. McLean was looked upon as the best arbitrator in this matter, and the Provincial Government of Wellington strongly urged that he should go up and settle the thing, so that peaceable possession might be taken. I distinctly affirm that not the slightest hint was given that, if the settlement cost money or land, there would be any claim made upon the Colony. I such a hint had been made, I would have submitted the whole question to the Cabinet, and at the same time I would have given it as my own opinion that it was not advisable to entertain the proposal. Mr. McLean did delay going up to the district for a length

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.