

In short, then, it seems to us that the only strong points in the Natives' case consist of the following:—

- (1.) The entries in South Island Minute-book 1A above referred to.
- (2.) The fact that there are differences between the owners given on page 59 of the said minute-book for Waiau and those given on page 250 of Volume ii, Mackay's Compendium, as owners of Tautuku.
- (3.) The fact that so far as has been ascertained there is no document, record, plan, or statement on the files of the Lands Department or of the Native Department, or entry in the Native Land Court's minute-books, setting out that the 1,000 acres at Tautuku were in substitution for or in satisfaction of the award of 1,000 acres at Waiau River.

It seems to us that the entries in Minute-book 1A, concluding as they do with what purports to be an award of a Court clothed with a special jurisdiction to set aside reserves for Natives, must be regarded as evidence of the very strongest kind, notwithstanding that the award is incomplete, as no description of the land is given beyond "1000 a. at Waiau R." And, also, we think the other two points are worthy of very careful consideration.

On the other hand there is this fact, which seems to us of very great weight: The minute-book of the Court shows that the Waiau award was made on the 26th day of May, 1868. The last entry concerning that Court is made on the 28th May. On the very next day the Native Commissioner, Mr. Mackay, reporting to the Under-Secretary, Native Department (see McKay's Compendium, Volume ii, page 252), makes absolutely no reference to any order or award for Waiau, and states the Court "ordered in final extinguishment of all claims and engagements under Kemp's deed that land to the extent of 2,094 acres should be awarded to the Natives out of Crown lands within the Province of Otago, out of which 1,000 acres has been allotted in satisfaction of the claim of those Natives who signed the deed, and to the immediate descendants of those who were parties to the sale but never received any share of the land reserved for Native purposes within the boundaries of that purchase as stipulated by the deed."

Mr. Mackay's letters of the same day to the Superintendent of the Province of Otago and to the Commissioner of Crown Lands, Dunedin, show how this area of 2,094 acres was made up. It included 1,000 acres situated in the Tautuku district, at the mouth of the River Tautuku (being the 1,000 acres mentioned in the report to the Under-Secretary), but there is no mention of any reserve being made at Waiau. In his letter to the Superintendent Mr. Mackay says the orders for these lands were made on the 28th May, 1868, and it is impossible that he can have overlooked the award of Waiau on the 26th, which it is alleged he took an active part in arranging.

There is no entry in the South Island Minute-book 1A of any award of Tautuku, and yet not only in these letters of Mr. Mackay's, but at page 245, Volume ii, Mackay's Compendium, in a return of reserves in the Province of Otago made in pursuance of awards of the Native Land Court in May, 1868, in final extinguishment of all claims under the Ngaitahu deed of 1848, a certificate for 1,000 acres at Tautuku is mentioned and a description of the land given. On pages 250 and 257, same volume, the names of trustees and owners are given, and they are very nearly the same names as those set out on page 59 of South Island Minute-book 1A as being the persons entitled to "1000 a. at Waiau R."

It is to be noted that the Waiau list of names is divided into A and B in the same manner as the Tautuku list, though the Court minutes show no reason for this.

Again, on the 7th June, 1870, the Superintendent of the Province of Otago wrote to Major Heaphy, V.C., Commissioner of Native Affairs, complaining of the action of the Native Land Court in awarding the reserve at Tautuku. Chief Judge Fenton, of the Native Land Court, in a memorandum on the above says, "As far as I know the order in this case was well and effectually made,