

and should in my judgment be supported.” Mr. Commissioner Mackay also has a memorandum on this supporting the Chief Judge. Yet we do not find any minute on such an award in the Court minute-book. Therefore it is clear from this that the minutes in South Island Minute-book 1A do not show the whole of the proceedings of Chief Judge Fenton’s Court in 1868, and from the omission of all mention of a reserve at Waiau in the report and letters of Mr. Mackay it is possible some agreement was arrived at whereby Tautuku was substituted.

Again in 1870 Major Heaphy, V.C., Commissioner of Native Reserves, reported at considerable length on the Native reserves in the Provinces of Otago and Southland, giving very full details of the Tautuku Reserve, but making no mention of any reserve at Waiau River.

Again in 1876 Chief Judge Fenton, reporting on a petition of Ngaitahu and speaking of the proceedings before the Native Land Court in 1868, said that “There was nothing left undetermined by the Court except some portions of Topi’s territory in the extreme south, those Natives declining to remain any longer on account of the mutton-bird season.”

Mr. H. K. Taiaroa, M.H.R., made a statement in writing in reply to Chief Judge Fenton’s report. This statement is dated 26th October, 1876, and contains the following: “After that the Court sat in Otago to investigate the title to the lands which were reserved formerly. The Maoris asked for no extra land in fulfilment of Kemp’s deed, but the Court and the Commissioners said this: ‘Will not you the Maoris of Otago and Murihiku desire some other land in fulfilment of the words of the Government?’ The Maoris did not regard with favour that word of Mr. Alexander Mackay’s. Then they and some chiefs went into a room and there talked, and the land agreed upon was Tautuku, in the Province of Otago, the area being 1,000 acres.” (I.—8, 1888, p. 45.)

Giving evidence before the Joint Committee on the Middle Island Native Claims Mr. H. K. Taiaroa again states 1,000 acres were awarded (p. 97). Now, Hori Kerei Taiaroa was the most prominent of the Otago chiefs, and his name is the first mentioned in the list of owners of Tautuku and the first in the list of names on page 59 of South Island Minute-book 1A. He took a leading part in 1868, and it cannot be doubted that he knew what the real position of these matters was. Yet he not only never mentions a reserve at Waiau, but he specifically states that “the land agreed upon was Tautuku, the area being 1,000 acres.”

A report by Mr. Commissioner Mackay dated 5th May, 1887, on the Middle Island Native land question, presented to both Houses of the General Assembly, sets out on page 8 that in 1868 the Native Land Court ordered that additional lands be set apart in extinguishment of all claims or demands under Kemp’s deed, and that reserves were made in Otago for occupation purposes amounting to 2,100 acres. (G.—1, 1888, p. 8.)

On page 28 of parliamentary paper I.—8, 1888, is a return of reserves with a total area of 2,100 acres 3 roods 24 perches. There is no mention of a reserve at Waiau, but there is the following entry as to Tautuku:—

| District. | Date of Certificate. | Name of Award. | Area. | | | Nature of Trust, Limitations, &c. | Trustees. |
|--------------|----------------------|----------------|-------|----|----|---|--|
| | | | A. | R. | P. | | |
| Murihiku . . | 28th May, 1868 | Tautuku | 1,000 | 0 | 0 | The estate to be absolutely inalienable | Hori Kerei Taiaroa and nine others for residents in the Province of Otago, and Teone Topi Patuki and nine others for residents in the Province of Southland. |

In the same report of 5th May, 1887, above referred to, Mr. Mackay recommends that a large area be set aside for Natives, and states that the locality where “the land best suited for Native purposes could probably be obtained in the country on the seaboard between the Catlin’s district and the Mataura and