

to the *west of the River Waiau*, in Foveaux Strait. Natives living at Riverton and to the westward are very desirous to secure a block of land in the last-named locality, and I beg to strongly recommend that their wishes be given effect to." (G.—1, 1888, pp. 13, 14.)

Here, then, is the same gentleman who acted as Commissioner in the Court of 1868 considering applications by Natives for land in the locality of the alleged award at Waiau, and he never makes any reference to any Native reserve having been granted there. Surely if there was such a reserve there he could not have avoided some reference to it.

It appears that the Natives have lived at Tautuku, and from 1887 onwards the Native Land Court has on the applications of Natives made orders dealing with interests there, but nothing was done by the Natives on the land or in the Courts with respect to Waiau for nearly forty years after the sitting at Dunedin in 1868—that is, not until after the plans had been marked "Native Reserve" as mentioned previously—with the exception of a few stray visits at long intervals to obtain totara-bark and eels from the river.

It seems to us, in view of the statements on record by Chief Judge Fenton, Mr. Commissioner Mackay, and Mr. H. K. Taiaroa, together with the other matters referred to above, that the most probable explanation is that, with the consent of the Natives and the Court, the original award of 1,000 acres at Waiau was, on the 28th May, 1868, cancelled in favour of an award for a similar area at Tautuku, and that the list of owners was amended at the same time as regards some of the names.

It is unfortunate that this matter was not brought under the late Judge Mackay's notice, as he would no doubt have been able to thoroughly explain the position; but as it is we feel that, though it is not beyond question, the answers to the inquiries numbered 1 to 4 in the Commission should be answered as follows:—

- (1) and (2). The award made at Dunedin by Judge Fenton on the 26th day of May, 1868, as recorded on page 59 of the South Island Minute-book 1A, has been satisfied by the substitution of an award for land at Tautuku. A note at the bottom of page 245, Volume ii, of Mackay's Compendium, says, "The land is situated in the Tautuku district: Bounded towards the north, 9000 links or thereabouts, by Crown land; towards the east by a road reserve along the banks of the Tautuku River; towards the south by the sea; and towards the west partly by the sea and partly by Crown land, so as to include 1,000 acres."

We would note, however, that in letter dated 16th May, 1911, from the Chief Surveyor, Dunedin, to the Registrar of the Native Land Court, Wellington, enclosing a lithograph plan of Tautuku, it is stated the land was subdivided into sections in 1896, and that the block, exclusive of reserves made by the Surveyor, contains 1,021 acres 1 rood 27 poles, not including roads already surveyed. This letter and plan are attached to the Native Land Court file for Tautuku, Otago 31.

- (3.) The award or authority for the grant of the block of land known as the Tautuku Native Reserve appears to us to be an order of the Native Land Court at Dunedin on the 28th day of May, 1868, under the jurisdiction conferred by an order of reference made under the 83rd section of the Native Land Act, 1865, as validated by the Ngaitahu Reference Validation Act, 1868. We have been unable to find any note of such order in the minute-books of the Native Land Court, but have inferred the existence of such an order from the frequent references to a reserve at Tautuku contained in the reports of the Commissioners referred to herein. Full details of this order are given in the return on page 245, Volume ii, Mackay's Compendium, and the note at the bottom thereof.