The Court gave its opinion that "mahinga kai" does not include *weka* preserves or any hunting rights, but local and fixed works or operations. Under the reservation clause of the contract, we are prepared to make orders for the prices of land and easements which have been agreed to by the Crown.

As to the clause promising that the Government would cause to be marked out other land for the sellers, the Court feels altogether bound by the evidence of the Crown witnesses. Whatever may be the demands of the Natives under this head, we think that in interpreting the contract we are bound under the terms of it by the Crown witnesses, and the discretion rests purely in the Crown, and accordingly we entirely follow them. At the same time we ought to express our opinion that the concessions of land proposed to be made according to the testimony, go as far as a just and liberal view of the clause would require. We take the quantity to be provided including what has already been set apart at 14 acres per head, and are prepared to make orders accordingly.

The Natives must sign a deed of release of their claims under the clauses and no person refusing to sign the general release to be entitled to any interest in the above orders.

On a subsequent day, I intimated that on reconsideration I did not think it necessary that a release should be signed of claims under the deed, as the orders of the Court are evidence of the satisfaction of their rights, *i.e.* under both the clause of reservation, and the further reserve clause containing the promise of the Governor, though I will leave the order standing as it is, but it need not be acted on.

THURSDAY, 7TH MAY.

Mr. Williams read Order in Order of Reference.

Ordered that the Order be settled in chambers.

Mr. Williams applied to the Court for an expression of opinion as to who should pay the costs of survey under Order of Reference.

141. *By the Court.*] I think these expenses should be paid by the Crown under the latter clause certainly; for the Crown undertook in the Ngaitahu deed to mark these reserves off, and it is now merely doing what it has covenanted to do. As to the first clause, the Crown has consulted its own convenience by consolidating the kaingas and residences; and I think that they should bear the cost of the surveys.

EXTRACTS of MINUTES of a COURT held at Dunedin on the 15th May, 1868.

Present: F. D. FENTON, Esq., Chief Judge; and HENARE PUKUATUA, Assessor.

WALTER BALDOCK DURANT MANTELL, sworn.

142. I was Commissioner of Crown Lands once here, previously Commissioner for Extinguishing Native Title. I came here to the southern district of the Province of New Munster in 1848. I was sent by the Government under instructions to complete an incomplete transaction of Mr. Kemp (the Ngaitahu deed). Those were my original instructions. I have seen this deed. This was given to me by the Government as the instrument by which Kemp's purchase was effected. When I came the money had not all been paid. I was brought into contact with these signers, and with others of greater importance who had not signed. It was always recognized by the Natives. The remaining instalments have all been paid.

143. In either of your capacities did you set apart land under that deed?—As Commissioner for Extinguishing Native Claims I set out several reserves; I set reserves at Purakaunui under my instructions. I set them out in December 1848. I recognize my handwriting on the map dated December, 9th, 1848. It is the map handed by me to the Natives signed by me "for the people belonging to Ngaitahu tribe." The people for whom it was intended are written in my census (Names read). I found a certain number of Natives resident at Purakaunui, and then fixed the reserve at the smallest number I could induce the Natives to accept. There were forty-five Natives, men, women, and children, just 6 acres a head. I came on to Otakou. I do not consider this a liberal allowance. I thought it ought to be at least 10 acres, not to exceed 10 acres if I could help it. I know this country. I recognize the land on this tracing; I think the land is absolutely worthless. The piece in the middle was excepted, I have no doubt to reduce the amount. As Crown Commissioner I subsequently made this piece a reserve. I hope my evidence has not lead the Court to believe that I was dealing liberally. If I had followed my theoretical rule, the quantity would have been 450 acres. In other districts I allowed more than my theoretical rule.

144. *By the Court.*] The map was attached to the deed when I got it. Lieutenant Bull's seal and signature were there then. He was lieutenant in the "Fly," in which I was taken to Akaroa. When I paid the instalments, I got as many additional signatures as I could to the receipts. These receipts I handed to the Government; one is on the deed [Read in Maori and English], dated February 27th, 1849, "Mantell, Commissioner for Extinguishing Native Title."

145. Under which clause was this reserve made?—I should like to refer to my instructions, which will explain better than I can. [Instructions read. 1. 2nd August, 1848, signed "J. D. Ormond, for Private Sec." 2. 4th October, 1848, signed "Eyre, Lieut.-Governor."] This reserve would comprise more than the actual amount of their cultivations at the time at this place—I am speaking of land under crop, principally potatoes. The land under crop would be one-third, probably nearly one-sixth, of the land under cultivation.

146. There were other places cultivated or deserted besides Purakaunui. I scarcely know how to answer these questions. What I did was to get the Natives to agree to as small amount as I could. The reserve at Purakaunui was sufficient for their immediate wants, I left their future wants to be provided for. I was not then able to make an estimate, and I took McCleverty's opinion. He said 10