

January 1849, Grace, one of the ejected Settlers, memorialises the Secretary of State, (Earl Grey) setting forth his grievances, estimating his losses, and appealing to the justice and humanity of the Home Government." *Ibid*, p. 569.

January 31, 1849, Sir George Grey transmits Grace's memorial to Earl Grey, with a letter pointing out, "that there can be little doubt that the New Zealand Company or the Government will be called on to pay compensation to the amount probably of £7000 or £8000. He adds, that the farther question will arise, from what source the amount to be paid is to be derived; as there is so strong a feeling upon the subject of the issue of the Grants complained of that he thinks it will be difficult to induce the Colonial Legislature to vote the necessary amount from the Revenue of the Colony." * Whilst as the Crown has, in the Province of New Munster, given the whole contract of the Land Revenue to the New Zealand Company, any compensation which it may be proposed to give to the claimants, could only be taken from the Land Fund with the New Zealand Company's consent. *Ibid*, p. 569.

August 14, 1849, Mr. Merivale transmits to the New Zealand Company Sir George Grey's Despatch and accompanying Documents, and informs them "that Lord Grey will call for a Report on the subject from the Land and Emigration Commissioners;" which he does accordingly. *Ibid*, p. 567.

August 20, 1849, the Land and Emigration Commissioners make their Report. They recapitulate the facts. They lay considerable stress on Governor Hobson's promise to the New Zealand Company in 1841; and on the supposed fact, that the Company had "taken all the steps in their power, by legal proceedings, to set aside the disputed Grants." *Ibid*, p. 583.

They recommend "that the validity of the Grants should be brought to Trial before the highest Tribunal; that the matter should be referred to the Law Officers of the Crown. If the opinion of the Law Officers should be in favour of Appeal, and if the result should be to set aside the Grants, the question of compensation to Scott and the others would be easily decided; and the source from which such compensation should come, evident. But, if the Law Officers should dissuade further legal proceedings, or, if such proceedings should affirm the validity of the Grants, the question from what source the compensation for the present occupants of the land is to be drawn, is open to great difficulty. Governor Grey states, that so strong a feeling exists in the Colony on the subject of these Grants, that it will be found difficult to induce the local Legislature to vote the necessary amount for the purpose from the Colonial Revenue. The burthen of paying the compensation will probably therefore fall on the Government, or the New Zealand Company. As far as the Company is concerned, we do not see that there is any ground on which they could be required to pay more than the trifling compensation which would have been due from them, under the arrangement guaranteed ‡ by Governor Hobson. It appears to us that as the local Ordinance gave to the Governor ample power to deal with any claims to land within the town of Wellington, and as the Company had obtained from the Governor a formal and public assurance that such claims should be extinguished in their favour on their compensating the claimants, they were justified in assuming that their settlers were secured in their property. The Grants to Mr. Scott and others were not issued in the interest of the Company or with their consent, but to their manifest disadvantage; and, as soon as intelligence of them was received in the country, a protest was addressed by the Company to the Secretary of State. They appear also to have already taken all the steps in their power, by legal proceedings, to set aside these Grants. We conceive that under these circumstances, the Company might fairly deny their liability to any claim upon them for compensation. It only remains to consider in what way the Government should provide for this charge. The disposal of land in the Southern Province having been ceded to the New Zealand Company, the Government could not, without the consent of the Company, derive the compensation from the Land Fund in that Province; and as Governor Grey does not advert to the Land Fund in the Northern Province, we presume that there are not the means at present of meeting this charge from that source. At the same time, it appears to us that the Land Fund ought, if possible, to bear all the charges of this nature which are connected exclusively with the disposal of land. And we would accordingly suggest that, if any compensation be eventually awarded to the Settlers in question, it should be paid in † Land Scrip, available at the Government sales in the Colony."

This opinion is subsequently altered.—See their letter of the 14th Nov. 1849.

28th September, 1849.—The Secretary of the Company acknowledges the receipt of the Report the Land and Emigration Commissioners. "They (the Company) earnestly hope that Lord Grey will think it right, in compliance with the recommendations of the Commissioners, to lay the case before the Law Officers of the Crown, and, if so advised by them, institute proceedings, with a view to causing the whole of the Grants to be set aside." *Ibid*, p. 436.

11th October, 1849.—Lord Grey directs a Case to be prepared accordingly. *Ibid*, p. 589.

14th November, 1849.—The Land and Emigration Commissioners submit to Mr. Ellard for Lord Grey's consideration, the draft case prepared by them. They point out that "their former opinion, as to the nonliability of the Company to make compensation, was grounded on a misapprehension of the case;" their argument, "that the New Zealand Company could not be called on for compensation, having proceeded on the assumption that Governor Hobson's arrangement of 1841 had continued in force;" but the result of an examination of correspondence between the Company and the Colonial Office appears to render less conclusive the argument, as to the quarter from which compensation should proceed. They consider Governor Hobson's arrangement of 1841 as having been superseded by Lord Stanley's arrangement of 1843. They propose to take the opinion of the Law Officers "not only on the question whether the judgment" of the Supreme Court can be properly affected against; but *Ibid*, s. p.

* He should also have observed, that as the New Zealand Company, October 1847, fixed on the entire Land Fund of the Colony, a charge of £268,000, after surveys and emigration, there was no power to charge the Land Fund of any part of the Colony with the proposed compensation.

† This I think questionable.

‡ But Land Scrip is in fact an anticipation of Revenue, which could not, I presume, be effected without Parliamentary sanction.