

Sir George Grey does not appear (so far as I am aware) to have taken any steps till the month of January 1851,—when, being pressed by all parties to bring matters to a settlement, the Company having refused to pay any more money, and Scott no doubt becoming importunate, an arrangement was come to between Mr. Fox, (still acting as the Company's agent,) and Sir George Grey, the particulars of which are detailed in Sir George Grey's letter to Earl Grey of the 3rd January, 1852. After recapitulating the leading facts, and enumerating the sums agreed to be paid by Mr. Fox to the different parties, Sir George Grey proceeds,—“The Government were then required to make good an arrangement, which Mr. Fox, without being in any way authorised to do so, had concluded on their behalf. Under these circumstances when I found it was necessary, upon account of the pressing nature of Grace's Claim, to make some immediate arrangement respecting it, I only made a qualified arrangement, which is detailed in the accompanying enclosures, from which it will be seen, that it is to be arranged in England, what proportion of the amount is to be paid by the Local Government, and what proportion is to be paid by the New Zealand Company; and I thought this the more necessary, because the total sum which Mr. Fox had agreed to pay, so far exceeded the estimate of the Local Government, that it appeared quite unreasonable; and because it came out in the proceedings before the Supreme Court, that Grace was not in reality the person interested, as he had assigned all his interest in the land to Mr. Fox himself, in Trust after the account of a Mortgage, so that Mr. Fox himself was hardly a proper person to have concluded an arrangement in such a case, and it would appear wrong that the public should under such circumstances suffer loss.”

I have no reason to suppose that Mr. Fox had any personal interest in the matter.

The arrangement come to is in these Terms.

Jan., 1851.  
Agreement between Sir G. Grey and Mr. Fox.

“Memorandum.—It is agreed between the Provincial Government of New Munster and the New Zealand Company, that the sum of £3,543, being the amount conditionally agreed to be paid by Mr. Fox, as the principal agent of the Company, to Mr. D. Scott as the purchase money and arrears of rent of the Land granted to him under a certain deed of Grant dated the 19th day of July, 1845, and signed Robert Fitzroy, shall, in the event of the Law Officers of the Crown in England deciding that the Provincial Government is to bear these expenses, be considered and deemed to be a charge upon the Land Fund of the Province, bearing interest at the rate of 8 per cent per annum, the interest being payable, half yearly, out of the said Fund, and in the event of the Law Officers of the Crown deciding that the said expenses are to be borne by the New Zealand Company, that the said sum of £3,543 is to be deducted from the sum of £268,307 15s. payable to the New Zealand Company, under Clause 20 of the Act of Parliament 10 & 11 Vict., C 112.

“It is further agreed that, in case of the decision of the Law Officers in England, or other ultimate Tribunal should be favourable to the New Zealand Company, the right of the Company to indemnification for the sums already paid on account for the mesne profits, law expenses, rents, &c., shall not in anyway be prejudiced by the foregoing arrangement.”

“Dated &c., January, 1851.

“Signed and approved, WILLIAM FOX,  
“Principal Agent, New Zealand Company.”

The amount was probably increased by costs and interest.

In pursuance of this arrangement on the 17th February 1851, Sir George Grey issued Debentures, charged on the Landfund of the Province of New Munster for £3675 16s., bearing interest at 8 per cent.

Interest on the Debentures has been paid by the Colonial Government up to April 8th last, amounting to £1763 6s. 3d.

On the 13th December, 1851.—There was paid by the Colonial Government for the purchase of Young's Grant, in pursuance of the same arrangement, the sum of £400.

The Colony asks to be relieved and reimbursed in respect of these payments and liabilities; but is ready to submit the question to be decided by the Law Officers of the Crown. Agreeably to the spirit and intention of Sir George Grey's arrangement with Mr. Fox, I will state the grounds on which I conceive the Colony is entitled to such relief and reimbursement.

First I am not aware of any authority by which Sir George Grey could create a legal charge on the Land fund of the Province of New Munster, by way of payment to Scott.

At the time when these Debentures were issued there was not—(indeed at no time was there) any Land fund of the Province of New Munster, separate from the Land fund of the Colony.

The effect of the Debentures had they been in force, would have been to contravene the provisions of the New Zealand Settlements Act, 1851, The Canterbury Association Act 1850, The Royal Charter of Otago, The Imperial Act of 16 & 17 Vict., C. 112, and The Royal Instructions of 1846. I shall not stop to examine minutely the effect of those Acts and Instruments. It will I think be sufficiently obvious, that the power to create permanent debt on the Land fund would have been inconsistent with existing Laws, fixing specific burthens on it, and directing particular modes of appropriating it. I therefore venture to treat the Debentures issued by Sir George Grey as illusory securities, the sole value of which rests on the good faith of the Colony towards innocent parties, who received and hold them no doubt, in ignorance of their intrinsic worthlessness.

Upon the general objections to assigns it would be needless to enlarge.

Letter from the L. & E. C. to Mr. Merivale, P. P. 1852, p. 584.

In point of reason and principle, I can admit no ground for fixing a charge of this nature on the Land fund. With great respect for the opinion of the Land and Emigration Commissioners (who recommended the issue of Land Scrip by way of compensation), I dissent from that proposition. The Land fund is specially dedicated to objects of prospective improvement; and, if ever made to bear charges of a permanent kind, ought only to be liable for such as supply means of *permanent improvement*. To make good a supposed blunder of a former Government, in the issue of a Crown Grant