

1856.

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## HOUSE OF REPRESENTATIVES.

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### DECISION OF MR. JUSTICE STEPHEN

IN THE MATTER OF THE CLAIM OF MR. GEORGE DUPPA TO A GRANT OF LAND AT THE WAIRAU IN THE PROVINCE OF NELSON.

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*Laid on the table of the House June 27th, 1856, and ordered to be Printed.*

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This claim was referred to me for my opinion by the direction of his Excellency Sir George Grey, communicated through the Commissioner of Crown Lands, in accordance with the provisions of the New Zealand Company's Land Claimants' Ordinance, Sess. 11, No. 15.

There was a case stated, and there were transmitted to me the several letters and documents referred to in the appendix subjoined, from which I was to collect more full information; and I was requested to advise—*first*, whether the award of the arbitrators, which, by the terms of the reference, might be made a rule of the Supreme Court, forms a contract legally binding on the Crown; and *secondly*, whether, if not legally binding on the Crown, the award ought nevertheless to be carried out on equitable considerations.

Besides the letters so transmitted, there was a letter forwarded to me, through the Civil Secretary, from Mr. D. Wakefield, then Attorney-General of the Southern District of New Zealand, dated 16th March, 1853; and since then, I have taken the examination of Mr. Fox, the New Zealand Company's Agent, at the time of the transactions in question. This was taken on 20th December, 1854, soon after Mr. Fox's return to New Zealand, for which it appeared desirable to wait, as he could throw more light on the subject than was furnished to me by the case; but more especially, as I could then ascertain whether the award was obtained through fraud or mistake.

Mr. Duppa's claim is founded on an award, dated 22nd May, 1850, and made by three gentlemen, to whom it was referred by the principal agent of the Company and by Mr. Duppa, under an agreement by which the agent, on behalf of the Company, and Mr. Duppa bound themselves to abide by such award.

The arbitrators awarded that Mr. Duppa was entitled to receive from the Company, for the balance, and in full liquidation of all his claims upon the said Company, Land Scrip to the amount of £2000, to be selected in land at 5s. per acre, which they awarded should be selected in blocks in the Wairau District.

Mr. Duppa's claim had been submitted, in 1844, to Colonel Wakefield, the first agent of the New Zealand Company, and he had awarded to Mr. Duppa certain Suburban Land at the Waimea.

There were certain objections to this first award by a large body of the Nelson settlers, in the form of a protest, dated September, 1844, made to the Directors of the Company; and it is apparently in consequence of those objections that this claim has not been allowed.

The objections seem to amount to this:—that by the Company's terms of sale to the Nelson settlers, there was a fixed price for the sale of lands, the proceeds of which were to be applied in