



NEW ZEALAND
GOVERNMENT GAZETTE.

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WEDNESDAY, JULY 29, 1857.

[No. 20.]

PROCLAMATION.

By His Excellency Colonel THOMAS GORE BROWNE, Companion of the Most Honourable Order of the Bath, Governor of the Colony of New Zealand, &c., &c.

WHEREAS by an Act of the General Assembly of New Zealand, intituled "The Waste Lands Act, 1856," it is enacted that no Land acquired from the aboriginal inhabitants after the passing thereof shall be open for sale or disposal until the Governor shall have notified, by Proclamation in the "New Zealand Government Gazette," that the native title has been extinguished over such land.

Now, therefore, I, the Governor, do hereby proclaim and notify that the native title has been extinguished over the Block of Land the boundaries whereof are mentioned or described in the Schedule hereunto annexed.

Given under my hand and issued under the Public Seal of the Colony of New Zealand, at Government House, at Auckland, this twenty-ninth day of

July, in the year of our Lord One thousand eight hundred and fifty-seven.

THOMAS GORE BROWNE,
Governor.

By his Excellency's command,
E. W. STAFFORD.

GOD SAVE THE QUEEN!

SCHEDULE.

*Boundaries of the Karoromanu Block
(Waikato District.)*

PROVINCE OF AUCKLAND.

Estimated to contain 2,088 Acres.

"The boundary of the land commences at Ngapuketuru, thence along the sea coast until it reaches the mouth of the Matuatua Stream, thence along the Matuatua Stream until it reaches the Paripari, thence on northward to te Taka, to Waipuna, to Karoromanui and to Pakongaio, turning thence to Ngapuketuru, and striking the old boundary."

One piece of land at the mouth of the Matuatua, the plan whereof is attached to the Deed of Cession, is reserved for the Natives.

Colonial Secretary's Office,
July 28th, 1857.

THE following correspondence, relative to a dissolution of the Auckland Provincial Council, is published for general information.
E. W. STAFFORD,

Superintendent's Office,
Auckland, June 22nd, 1857.

SIR,—I have the honour to request that His Excellency the Governor may be advised to dissolve the Auckland Provincial Council.

The circumstances which, in my opinion, have rendered a dissolution necessary, are the following:—

In the late session of the Council, the return of a member for the District of the Suburbs of Auckland having been disputed, the sitting member resigned, and a Writ for a new election was thereupon issued by me. During the currency of that Writ, a minority of the Provincial Council adopted a resolution, declaring the Petitioner duly elected, and he, thereupon, was introduced to the Council: within a few days the member returned upon the Writ, presented himself, and took his seat, when there appeared to be twenty-five members in the Council. During the efforts made by the majority to rescind the resolution before mentioned, the difficulty caused by the presence of the extraordinary Member presented itself, and the members were locked up on division, upon the first occasion for 24 hours, and upon the second for 30 hours. I then prorogued the Council:—copy of the Proclamation, and of the Message with which it was transmitted, are enclosed.

The hope which I expressed in the Message that upon mature reflection a better understanding amongst the Members of the Council might be arrived at, has not been realized. Indeed, it has lately been intimated to me by the recognised leader of the opposition, that the present Council is incapable of any action whatever.

I refrained from preferring the request for a Dissolution, which I now make, at an earlier period, for the reason that the time for making up the Electoral Roll for the year was approaching, and I was desirous that the new Roll should be published before the Elections took place.

I beg leave to suggest that the new Elections should take place at the earliest convenient period after the Electoral Roll for the current year has been completed, and that, in fixing the time for the return of the Writs, a sufficient interval should be allowed between the Election of the Superintendent and that of the Provincial Council, to enable the Electors of the several Divisions to be informed of the result of the Superintendency Election.

I have the honor to be,
Sir,
Your obedient Servant,
J. WILLIAMSON,
Superintendent,

To the Honorable
The Colonial Secretary,
&c. &c.,

[ENCLOSURE I.]

Superintendent's Office,
Auckland, February 20th, 1857.

MESSAGE No. 51.

The Superintendent learns with deep regret that, at a moment when questions of high import to the public interests demand the immediate consideration of the Representatives of the Province, the action of the Provincial Council is arrested upon a point of order, and that there is no immediate probability that the Council will be permitted to relieve itself from its present embarrassment.

Under these circumstances the Superintendent proposes to assume the responsibility of carrying on the business of the Province, and of actively prosecuting the several public works, pending the passing of the Appropriation Act for the year, in order that the present favourable season may not be lost, and that the distress which would inevitably be produced by throwing a large number of workmen out of employment may be averted.

In the hope that upon mature reflection a better understanding amongst the members of the Council may be speedily arrived at, the Superintendent has resolved to prorogue the Provincial Council, and has accordingly issued the Proclamation which is transmitted herewith.

J. WILLIAMSON,
Superintendent.

[ENCLOSURE II.]

PROCLAMATION.

By JOHN WILLIAMSON, Esquire, Superintendent of the Province of Auckland, in the Colony of New Zealand.

WHEREAS by an Act of the Imperial Parliament of the United Kingdom of Great Britain and Ireland, passed in the session thereof holden in the fifteenth and sixteenth years of the Reign of Her present Majesty Queen Victoria, intituled "An Act to grant a Representative Constitution to the Colony of New Zealand," it was amongst other things enacted that for each of the Provinces established in the said Colony by the said Act there should be a Superintendent and a Provincial Council, to be elected and constituted under and subject to the provisions in that behalf therein contained, and that it should be lawful for the Superintendent of any of the said Provinces to prorogue the Provincial Council thereof, from time to time, whenever he should deem it expedient so to do.

Now therefore I, the Superintendent of the Province of Auckland, (one of the Provinces aforesaid,) do proclaim and declare that I do hereby, in pursuance of the power vested in me in that behalf by the said Act, prorogue the Provincial Council of the said Province of Auckland, and that the said Provincial Council is prorogued accordingly.

Given under my hand, and issued under the public seal of the said Province, at Auckland, in the Province aforesaid, this twentieth day of February, in the year of our Lord One thousand eight hundred and fifty-seven.

J. WILLIAMSON,
Superintendent.

Colonial Secretary's Office,

~~Auckland, June 25th, 1857.~~

SIR,—I have to acknowledge the receipt of your Honor's letter, No. 85, dated the 22nd instant, in which you request, for the reasons therein stated, that His Excellency the Governor may be advised to dissolve the Auckland Provincial Council.

In reply I have to inform your Honor, that His Excellency, with the advice of the Executive Council, has been pleased to determine to dissolve the Auckland Provincial Council at the earliest possible period which will admit of the recent claimants, whose names may be placed on the Electoral Roll now in course of formation, taking part in the elections consequent upon that dissolution.

I have the honor
to be, Sir,

Your very obedient servant,
E. W. STAFFORD.

His Honor
the Superintendent,
Auckland.

~~Auckland, 13th July, 1857.~~

SIR,—The undersigned have the honor to inform you that you will presently receive a petition to His Excellency the Governor, (published in a local journal of the 17th instant) signed by Members of the Provincial Council and Justices of the Peace, and praying that no Provincial dissolution may take place until the Electoral Roll shall have been purified by the General Assembly.

The undersigned would therefore respectfully suggest the expediency of at least delaying the announced dissolution until sufficient time shall have been allowed for receiving the signatures of Justices resident in the Out Districts.

We have, &c.,
(Signed) HUGH CARLETON,
THOS. HENDERSON.

Colonial Secretary's Office,
Auckland, July 16th, 1857.

GENTLEMEN,—I am directed by the Colonial Secretary, to inform you in reply to your letter of the 13th instant, that the Government is not at present aware of any circumstances which would justify the delay of the dissolution of the Auckland Provincial Council beyond the time indicated in the letter of the Colonial Secretary to his Honor the Superintendent, dated the 25th ultimo, and pub-

lished in the "Provincial Government Gazette" of the same date.

If, however, the Petition to which you refer be received by the Governor in time, it shall receive that attention which the importance of the subject demands.

I have, &c.,
(Signed) W. GISBORNE,
Under Secretary.

Messrs. H. Carleton,
and T. Henderson, M.G.A.

~~Auckland, July 16th, 1857.~~

To the Honorable Colonial Secretary.

SIR,—Being aware that the subject of the dissolution of the Auckland Provincial Council is under consideration. I herewith enclose for your information a copy of letter of this date I have forwarded to His Honor the Superintendent of Auckland.

I have the honour to be,
Your obedient servant,
WILLIAM C. DALDY.

[COPY.]

Auckland, July 16th, 1857.
To His Honor the Superintendent.

SIR,—I herewith resign my seat in the Auckland Provincial Council.

I have the honour to be,
Your obedient servant,
WILLIAM C. DALDY.

Colonial Secretary's Office,

~~Auckland, July 16th, 1857.~~

SIR,—I am directed by the Colonial Secretary to acknowledge the receipt of your letter of the 16th instant, transmitting the copy of a letter which you have sent to His Honor the Superintendent resigning your seat in the Auckland Provincial Council.

I have &c.,
(Signed) W. GISBORNE,
Under Secretary.

W. C. Daldy, Esq.,
M.G.A. Auckland.

Auckland, 16th July, 1857.

SIR,—Believing that an immediate dissolution of the Provincial Council thereby causing a general election, would be regarded by a great majority of the public during the present corrupt state of the Electoral Roll, as a public calamity, seriously affecting the welfare of this Province—as it has been intimated by His Honor the Superintendent that the stoppage of legislation upon which he bases his request for a dissolution is owing to the appearance of a twenty-fifth member in the Council,—and as I am desirous of contributing to the removal of any circumstances which would necessitate a dissolution,—I have the honour to state for your information that I have this day placed in the hands of the Superintendent the resigna-

tion of my seat in the Provincial Council for the District of the Suburbs of Auckland.

I have the honour to be,

Sir,

Your most obedient servant,
DAVID GRAHAM.

The Honbl.
the Colonial Secretary.

Colonial Secretary's Office,
Auckland, 18th July, 1857.

SIR,—I am directed by the Colonial Secretary to acknowledge the receipt of your letter of the 16th instant, informing him that you had transmitted to His Honor the Superintendent the resignation of your seat in the Auckland Provincial Council.

I have, &c.,

(Signed) W. GISBORNE,
Under Secretary.

David Graham, Esq.,
&c., &c., &c.

Auckland, 17th July, 1857.

SIR,—We have the honor to acknowledge receipt of your letter of yesterday's date, in reply to our request that the dissolution should be postponed until sufficient time should have been allowed for the receipt of signatures of Justices and Members of Council residing at a distance from Auckland, to a petition of which you have been made aware.

You inform us that you are "not aware of any circumstances which would justify the delay of a dissolution of the Auckland Provincial Council beyond the time indicated in the letter of the Colonial Secretary to His Honor the Superintendent, dated the 25th ultimo"; but that "if the Petition be received by the Government in time, it shall receive that attention which the importance of the subject demands."

In order to ensure the receipt of the petition in time, and in order that the substance of the petition should be brought officially under your notice, we immediately forward the petition, with such signatures only attached as have been readily obtainable in the town of Auckland.

We have, &c.,
HUGH CARLETON, M.P.C.
THOS. HENDERSON.

The Honorable
the Colonial Secretary.

(ENCLOSURE.)

TO HIS EXCELLENCY COLONEL THOMAS GORE BROWNE, GOVERNOR OF THE COLONY OF NEW ZEALAND.

The humble petition of the undersigned members of the Provincial Council and Justices of the Peace

Humbly sheweth,

That the names of a large number of persons not qualified to vote have been placed on the Electoral Roll for the Province of Auckland.

That owing to a difficulty, the Court appointed to revise the Roll have not removed these names.

That with the present Roll and under the present regulations there could be no certainty that any person returned had been elected by the suffrages of the real constituency.

That there can be little hope of doing away with the excessive party feeling and political turmoil with which this province has been so long afflicted, until a provincial legislature shall have been elected, indisputably by the suffrages of the real constituency.

That there is every likelihood that parties will unite in giving independent support to any Superintendent so elected.

That under the present regulations it is impossible to form a Roll containing only the names of persons legally qualified to exercise the franchise.

That your Petitioners are informed that your Responsible Ministry intend to introduce a Bill amending the Electoral Regulations and Roll, at the next Session of the Assembly.

That to give practical effect to such a Bill, in regard to the Province of Auckland, a Provincial Dissolution would be required, after the Bill shall become law.

That upon the foregoing assumption, an immediate dissolution would cause two appeals to the country in a short space of time.

That the undersigned members of the Council are disposed to give every reasonable facility in their power towards carrying on the Provincial Government meanwhile.

That your Petitioners would respectfully represent to your Excellency, that when on a former occasion, a Superintendent of this Province requested a dissolution, a dissolution was not granted by the Governor until the Provincial Council had made it also their own request.

That your Petitioners are aware of your Excellency's expressed intention to dissolve at an earlier period; but would respectfully represent to your Excellency that the circumstances under which such intention was announced are changed, a new and unexpected contingency having arisen. For it was then supposed that the Electoral Roll for the present year would be cleared by the Bench of Magistrates; but it now appears that such clearance cannot take place until the approaching meeting of the Assembly.

That your Petitioners are strongly impressed with the idea that it is in your Excellency's power to restore to the Province of Auckland that harmonious action of which it has been so long deprived, by not carrying your expressed intention of dissolving into immediate effect, but by postponing the dissolution until the fore-mentioned Bill shall have been considered by the Assembly.

Your Petitioners therefore pray that your Excellency will dissolve the Provincial Legislature so soon as the Electoral Roll and Regulations shall have been amended, and not till then.

And your Petitioners shall ever pray.

T. H. BARTLEY,
JOSEPH MAY,
THOS. HENDERSON,
J. A. GILFILLAN.

ROBERT GRAHAM,
WALTER BRODIE,
WILLIAM C. DALDY,
WM. INNES TAYLOR,
WILLIAM HAY,
DAVID GRAHAM,
ALLAN K. TAYLOR,
HUGH CARLETON,
WM. S. GRAHAME, J.P.,
WM. BARTLEY,
W. R. LOGAN, Justice of
Peace for the Province
of Auckland.

Colonial Secretary's Office,
Auckland, July 18th, 1857.

Gentlemen,—I am directed by the Colonial Secretary to acknowledge the receipt of your letter of the 17th instant, and to inform you that the Petition therein transmitted, praying the Governor to postpone the dissolution of the Auckland Provincial Council, has been duly laid before His Excellency the Governor, and will receive attentive consideration.

I have, &c.,

(Signed) W. GISBORNE,
Messrs. H. Carleton Under Secretary,
and T. Henderson M.G.A.

Superintendent's Office,
Auckland, 17th July, 1857.

SIR,—Adverting to your letter, No. 326, of date June 25th, ultimo, in which you intimate that his Excellency, with the advice of the Executive Council, has been pleased to determine to dissolve the Auckland Provincial Council at the earliest possible period which will admit of the recent claimants whose names may be placed on the Electoral Roll now in course of formation taking part in the elections consequent upon that dissolution, I have now the honour to inform you that two resignations of seats in the Provincial Council were addressed to me, and received at this office yesterday.

In accordance with the provision of clause 12 of the New Zealand Constitution Act, it is imperative upon me forthwith to issue writs for the election of new members to serve in the places so vacated.

On reference to my letter of yesterday's date, it will be seen that the Electoral Roll for this Province will be completed and published within fourteen days from this time. I am unwilling, by the issue of new writs, to cause expenses to be incurred for elections which, in view of a speedy dissolution of the Provincial Council, may be regarded as unnecessary, and I have, therefore, to request that you will be good enough to inform me, with the least possible delay, at what period his Excellency will be pleased to dissolve the Provincial Council.

I have the honor to be,

Sir,

your most obedient servant,

J. WILLIAMSON,
Superintendent.

The Honorable
The Colonial Secretary.

Colonial Secretary's Office,
Auckland, July 18th, 1857.

SIR,—I have the honor to acknowledge the receipt of your letter of yesterday's date, No. 104, informing me that two resignations of seats in the Provincial Council were received by you on the 16th instant,—suggesting that in view of a speedy dissolution of the Auckland Provincial Council (the new Electoral Roll being almost on the point of completion) it would be inexpedient that you should proceed to the issue of Writs for the election of new members to serve in the places so vacated—and requesting to be informed, with the least possible delay, at what period His Excellency will be pleased to dissolve the Provincial Council.

In replying to your Honor's question it appears necessary that I should refer to the terms of your letter of the 22nd ultimo, in which you requested the dissolution of the Provincial Council, wherein you state "The circumstances which in my opinion have rendered a dissolution necessary are the following:—In the late Session of the Council the return of a member for the District of the Suburbs of Auckland having been disputed, the sitting member resigned, and a Writ for a new Election was thereupon issued by me. During the currency of that Writ a minority of the Provincial Council adopted a resolution declaring the Petitioner duly elected, and he, thereupon was introduced to the Council. Within a few days the member, returned upon the Writ, presented himself and took his seat, when there appeared to be twenty-five members in the Council. During the efforts made by the majority to rescind the resolution before mentioned, the difficulty caused by the presence of the extraordinary member presented itself, and the members were locked up on division, upon the first occasion for 24 hours, and upon the second for 30 hours. I then prorogued the Council."

Further on in the same letter you state—"The hope which I expressed in the message that upon mature reflection a better understanding amongst the members of the Council might be arrived at, has not been realised. Indeed, it has lately been intimated to me by the recognised leader of the opposition, that the present Council is incapable of any action whatever."

From the above paragraphs it would appear therefore that you grounded your request for a dissolution upon the existence of a technical difficulty, from which the Council seemed unable to extricate itself, arising out of the conflicting claims of two persons to one seat.

It is a matter of notoriety that the contending claimants of the seat for the Suburbs of Auckland were Mr. David Graham and Mr. Dalry, and although your Honor in your communication now under reply does not inform me of the names of the persons whose resignations have been forwarded to you, I assume, from letters which the two gentlemen above named have separately addressed to me com-

communicating the fact of their resignations, that the resignations just received by you are those of these gentlemen.

Whilst, therefore, it appears that the sole ground assigned by your Honor for a Dissolution of the Provincial Council was the existence of the technical difficulty above referred to, it further appears that both claimants of the contested seat have now surrendered their rights to it and that the difficulty is at an end.

As the decision of the Governor in Council to accede to your request for a dissolution was based on no other ground than that which was assigned by yourself, and has been taken away by the resignations you have received, it is impossible now to act upon that decision. Should your Honor, however, desire that the question of a dissolution of the Provincial Council be again submitted to his Excellency in Council, your wish shall be complied with. At the same time, I think it proper to observe that only very cogent reasons would be deemed to justify the Government in putting any Province, at so short an interval, to the expense and other serious inconveniences of a general election.

As regards the form of the Writ, which under present circumstances it has become your duty to issue, I would suggest that any recital which the Writ may contain should be couched in general terms, or that a form similar to that now in use by the General Government, copy of which is enclosed, should be employed by your Honor on this occasion.

I have the honour to be,

Sir,

Your Honor's most obedient servant,

E. W. SIMMONS.

His Honor the Superintendent,
Auckland.

COPY OF WRIT.

Governor and Commander-in-Chief in and over the Islands of New Zealand, &c., &c.

To Esquire,
Returning Officer for the

GREETING:

WHEREAS it is necessary that an election of Member of the Provincial Council of the Province of shall take place. Now therefore, I, the said Governor, pursuant to the authority enabling me in that behalf, do hereby require and command you to cause to be elected by the Voters duly qualified for that purpose, freely and indifferently and in manner and form by law prescribed legally qualified person to serve as Member of the said Provincial Council for the

And I do hereby further require and command that you cause the Election of the said Member to be made on such day as to yourself shall seem most convenient for that purpose, but so as nevertheless this Writ may be returnable

within days from the date of the issue hereof.

Issued this day of in the year of our Lord one thousand eight hundred and fifty-

In witness whereof I have caused the Public Seal of the Islands of New Zealand to be hereunto annexed.

Governor.

Superintendent's Office,
Auckland, July 1st, 1857.

SIR,—I have the honor to acknowledge the receipt of your letter, of date July 18th inst., in which, in reply to my request that you would inform me at what period His Excellency will be pleased to dissolve the Provincial Council, you state that the ground upon which the decision of the Governor in Council to accede to my request for a dissolution was based, having been taken away by the resignation of their seats in the Council by Mr. David Graham and Mr. Daldy, it is impossible now to act upon that decision. You add, that should I desire that the question of a dissolution of the Provincial Council be again submitted to His Excellency in Council, my wish shall be complied with; and you suggest that any recital which the writ which it has now become my duty to issue may contain, should be couched in general terms, or that a form similar to that now in use by the General Government should be employed by me on this occasion.

It has now become necessary that I should set out, for your information, in greater detail, the circumstances under which Mr. David Graham obtained a seat in the Auckland Provincial Council, and the occurrences which, consequent upon that event, necessitated the prorogation of the Council.

On the 30th January ult., the Provincial Council, on motion by Mr. Joseph May, adopted the following resolution:—

“That as the petitioner, David Graham, has been placed in a majority by the Report of the Select Committee appointed to report upon the disputed election for the Suburbs, the petitioner ought, therefore, to be the sitting Member; and that this Council do hereby determine that David Graham is a Member of this Council, elected for the Suburbs of Auckland.”

This resolution was carried by the casting vote of the Speaker.

On the 3rd February following, the Message No. 41, with its enclosures (copy annexed marked A), was transmitted to the Council; and with reference to this Message, I beg leave to direct your attention to an extract from the Votes and Proceedings of the Provincial Council (marked B), forwarded herewith.

On the 4th February a writ was returned to this office bearing the following indorsement:—

“I do hereby declare that the undermentioned gentleman has been duly elected to serve

as a Member of the Provincial Council, for the Province of Auckland, for the within-named District.

“WILLIAM CRUSH DALDY, Esq.

“THOMAS BECKHAM,

“Principal Returning Officer.”

This return has not been amended. On the 6th February Captain Daldy, introduced by Mr. R. Graham and by Mr. T. Henderson, took his seat in the Council. I am bound to recognise the validity of the writ issued by myself, and to regard Captain Daldy as being duly elected to the vacant seat. But the Provincial Council has given that seat to Mr. Graham, and the Speaker of the Council has ruled that he could not put any resolution which would have the effect of rescinding that resolution.

Mr. David Graham and Mr. Daldy have separately, by writing under their hands (copy of each, marked C, annexed), resigned their respective seats.

If I issue a writ for the election of a member to serve in the Council in room of Mr. Daldy, I virtually abrogate a resolution of the Council, declared to be judicial and irreversible; and I thus bring myself into direct collision with that body. If I issue a writ for the election of a member to serve in the Council in room of Mr. Graham, I ignore the validity of a writ issued by myself. If I adopt the suggestion you have been so good as to make, and attempt to evade the difficulty by issuing a writ for the election of one member instead of the two who have resigned, and by using a form of writ, different from that now in use, containing a vague recital,—I feel assured that the right of any member elected upon such writ to sit in the Council might be successfully assailed, and that it would be competent for a member of the Council, by re-opening the question during the session, again at any moment to arrest the action of the Council.

In this view I am sustained by the opinion of the members of my Executive Council, by whom the resolutions (copy annexed, marked D) have been unanimously adopted.

Under these circumstances, I feel bound strictly to pursue the course which the New Zealand Constitution Act prescribes, and to issue writs for the election of members in the room of those whose resignations have been made. I am advised to use the form of writ which has been heretofore invariably employed in such cases, and which was drawn up by the gentleman who, formerly Law Officer of this Province, is now Her Majesty's Attorney-General for New Zealand.

The refusal of His Excellency's Government to accede to a request preferred by me on a former occasion, caused the loss to me of the support, as members of my Executive of two members of the Provincial Council. I have this day received a letter (copy of which, marked E, is annexed) from Messrs. Buckland, Brennan, and Merriman, members of the Provincial Council, intimating that, in the event of a dissolution being now refused, they will also resign their seats in my Executive Council. I have

the honour to forward herewith copy of a letter (marked F) addressed in January last to Mr. T. Henderson, offering for his acceptance a seat in the Executive Council, together with copy of his reply thereto.

The Provincial Government Act requires that at least one-half of the members of the Executive Council shall be members also of the Provincial Council. I should not be able to select from amongst the members of the Provincial Council, as at present constituted, gentlemen in whom I could confide; who, being competent, would be willing to undertake the conduct of the public business. The difficulties which I should experience in carrying on the Government will be thus sufficiently evident.

It will be remembered that my own election as Superintendent took place at a period subsequent to the election of the present Provincial Council, and that I was chosen to carry out a policy which differed essentially from the policy of my predecessor and of his majority in that Provincial Council.

In consequence of the proceedings in the Council during the late session, I have been compelled to take upon myself the responsibility of carrying on the public works and of defraying the cost of the Provincial establishments for the current year without an Appropriation Act. I desire, therefore, to afford the electors of this Province, from whom I derive my authority, an opportunity of expressing their opinion as to the mode in which that authority has been exercised, and generally upon the conduct of the Provincial Council; and I venture to assure His Excellency's Government, that the great majority of the people of Auckland, by whom the “expenses and inconveniences” of a general election must be borne, concur with me in desiring a speedy dissolution of the Council.

Having thus shown that the difficulty caused by the presence of an extraordinary member in the Provincial Council, though apparently removed by the resignations of Messrs. Graham and Daldy, has not in fact been so removed; having shown that there is no reasonable certainty that, with the Council as at present constituted, the business of the Government can be carried on, or that the Council would be permitted to proceed to the consideration of measures urgently required for the public welfare, I beg leave to express my desire that “the question of a dissolution may be again submitted to the Governor in Council,” and that, for the sake of the order and good government of this Province, His Excellency may be advised at once to dissolve the Auckland Provincial Council.

I have the honor to be,

Sir,

your most obedient servant,

J. WILLIAMSON,

Superintendent.

The Honorable the
Colonial Secretary.

A.

[ENCLOSURES.]

Message No. 41.

The Superintendent submits for consideration

by the Provincial Council copy of a letter addressed to him by the Provincial Law Officer.

With reference to the subject therein mentioned, the Superintendent informs the Provincial Council that, on the 20th January ultimo, a letter (copy of which, marked *b.*, is annexed) was received from Daniel Pollen, Esq., one of the representatives for the Suburbs of Auckland, intimating that he had resigned his seat in the Provincial Council for that district. Whereupon, in accordance with the provisions of clause 12 of the Constitution Act, the Superintendent forthwith issued a writ for the election of a new member to serve in the place so vacated.

Finding, however, that a question has arisen respecting the vacant seat, the Superintendent refers that question to the Provincial Council for its determination.

J. WILLIAMSON,
Superintendent.

Superintendent's Office,
Auckland, 3rd February 1857.

b. Auckland, 2nd February, 1857.

SIR,—I have the honor to bring under your notice the fact that the Provincial Council have, by a vote passed on Friday last, determined that Mr. David Graham is a member of the Council elected for the Suburbs of Auckland. As I am of opinion that Mr. Graham has not any right to sit and vote in the Provincial Council, I beg to suggest to you the propriety of again bringing the question before the Council by a Message, referring the question of the vacancy caused by the resignation of Dr. Pollen, for determination under the 11th clause of the Constitution Act.

I have, &c.,

FREDK. W. MERRIMAN,
Provincial Law Officer.

His Honor the Superintendent.

b. Auckland, Jan. 20th, 1857.

SIR,—I have the honor to intimate that I this day resign my seat in the Provincial Council for the District of the Suburbs of Auckland.

I have, &c.,

His Honor DANIEL POLLEN,
the Superintendent.

B.

On the motion of Mr. Merriman the enclosure to Message No. 41 was read by the Clerk.

The Council proceeded to consider his Honor's Message No. 41.

Mr. Merriman moved the following resolution—That the Council having proceeded to consider the Superintendent's Message No. 41, respecting a vacancy which lately occurred in the Provincial Council by the resignation of Daniel Pollen the Representative returned for the Suburbs of Auckland on the 3rd December last, and the issue of a new writ in consequence of such resignation, hereby determines that such resignation was in accordance with the provisions of the Constitution Act, and that thereupon a seat in the Provincial Council became vacant, and that a new writ for the election of a member for

the Suburbs was legally issued, and that the resolution passed by the Council on Friday last that Mr. D. Graham is a member of the Council for the Suburbs of Auckland, is hereby repealed.

The Speaker, on a point of order raised by Mr. Carleton, ruled that the resolution could not be put without notice previously given.

Mr. Merriman moved that standing order No. 31 be suspended for the purpose of moving the resolution without notice.

Question put, that standing order No. 31 be suspended.

Discussion ensued.

Motion for the suspension of standing order No. 31 carried.

Mr. Merriman, as a preliminary step towards moving the resolution which he had been prohibited from moving prior to the suspension of standing order No. 31, now moved that the resolution adopted by the Council at the last meeting determining that David Graham is a member of this Council, be read by the Clerk.

The Speaker ruled that he could not put any resolution which would have the effect of rescinding the resolution referred to by Mr. Merriman.

Mr. Merriman, appealing to the Speaker, wished to be informed whether the reading of the resolution would have the effect of rescinding it.

The Speaker stated that he had not understood Mr. Merriman's motion to be confined to the mere reading of the resolution, and expressed his willingness to put the resolution in that form.

Mr. Merriman respectfully declined the proposition, as the Speaker had already decided on the question which that resolution was intended to bring before the Council.

Mr. Merriman moved, and Mr. Buckland seconded, the following resolution, which the Speaker declined to put,—That the Council having proceeded to consider the Superintendent's Message No. 41, respecting a vacancy which lately occurred in the Provincial Council by the resignation of Daniel Pollen, the representative returned for the Suburbs of Auckland on the 3rd December last, and the issue of a new writ in consequence of such resignation, hereby determines that such resignation was in accordance with the provisions of the Constitution Act.

C.

Auckland, July 16th, 1857.

To His Honor the Superintendent.

SIR,—I herewith resign my seat in the Auckland Provincial Council.

I have, &c.,

WILLIAM C. DALDY.

C.

Auckland, July 16th, 1857.

SIR,—I have the honor to inform you that I this day resign my seat in the Provincial

Council for the District of the Suburbs of Auckland.

I have &c.,
His Honor DAVID GRAHAM,
the Superintendent
of the Province of Auckland.

D.

EXTRACT FROM THE MINUTES OF THE
PROCEEDINGS OF THE PROVINCIAL
EXECUTIVE COUNCIL.

MONDAY, 20TH JULY, 1857.

~~Present: the Superintendent.~~

William Buckland, Esq., Daniel Pollen, Esq.,
Joseph Brennan, Esq., F. W. Merriman, Esq.,

Superintendent brought under consideration of the Council a letter from the Honbl. the Colonial Secretary, of date 18th July instant, in reply to the request for a dissolution of the Auckland Provincial Council. Letter read.

Council passed the following resolutions unanimously:—

“That upon reviewing the circumstances which induced the Superintendent to prorogue the Provincial Council on the 20th day of February last, this Council is of opinion that it would be useless to expect that they would act with harmony in the event of a new session being summoned.

“That from the numerous difficulties with which the question of the vacancy in the Representation of the Suburbs is involved, and the very strong party feeling evinced upon the subject, this Council is of opinion that the slightest opposition to the wishes of either party would give rise to fresh difficulties, and that every impediment would be thrown in the way of useful legislation.

“That two persons, each claiming a seat in the Provincial Council, having addressed the Superintendent, each resigning a seat in that body; one elected under a Writ issued by the Superintendent, and the other declared by the Provincial Council to be a member; this Council cannot advise the Superintendent to ignore his own writ, nor can they advise him to treat as a nullity the unrescinded resolution of the Provincial Council.

“That this Council is of opinion that the calling together the present Provincial Council by the Superintendent, would only lead to a repetition of the proceedings which threw such discredit upon the Council in their last session, and that the doing so would induce so many members to resign as to cause nearly as much “expense and inconvenience” as a general election.

This Council advises the Superintendent to press the Governor to dissolve the Provincial Council.

True Extract.

C. H. J. HILL,

Clerk Provincial Executive Council.

July 20, 1857.

E.

Auckland, 20th July, 1857.

SIR,—We the undersigned members of your Executive Council beg to inform you that, in the event of His Excellency the Governor refusing to dissolve the present Provincial Council, we shall reluctantly be compelled to tender to

you the resignations of our seats in the Executive Council. We shall be induced to take this step from a belief that no policy which your Honor may wish us to enunciate could be satisfactorily carried out by the present Provincial Council, however acceptable to the people of the Province that policy might be.

We have, &c.,

W. BUCKLAND,
JOSEPH BRENNAN,
FRED. W. MERRIMAN.

His Honor the Superintendent,
Auckland.

F.

Superintendent's Office,
Auckland, January 23, 1857.

SIR,—I do myself the honor to offer for your acceptance a seat in the Executive Council of this Province. It is considered desirable that a Member representing the City should have a voice in the Executive; and the opinion of the gentlemen at present composing it coincides with my own, that the aid of your advice and experience will be valuable in conducting the public business of the Province.

I have, &c.,

J. WILLIAMSON,
Superintendent.

Thos. Henderson, Esq.,
M.P.C.

Auckland, January 27, 1857.

SIR,—I have the honor to acknowledge the receipt of your letter of 23rd instant, wherein you do me the honor of offering for my acceptance a seat in the Executive Council of this Province.

After mature consideration I have to express my regret that I cannot avail myself of the offer in consequence of not having the necessary time at my disposal, and thereby being unable to fill the office either with advantage to the Province or credit to myself.

I have, &c.,

THOS. HENDERSON.

His Honor
the Superintendent.

Colonial Secretary's Office,
Auckland, July 24th, 1857.

SIR,—

In reply to your letter of the 21st instant, I have the honour to inform you that, in compliance with your request, the question of a dissolution of the Auckland Provincial Council has again been submitted to the Governor in Council, and that His Excellency, with the advice of the Executive Council, declines, under the present circumstances, to dissolve the Provincial Council.

The grounds upon which your Honor requests a dissolution are, first, the circumstances connected with the resignations of Mr. Daldy and Mr. Graham, and, secondly, difficulties which you anticipate will arise if a dissolution be not at once granted.

In reference to the former of these grounds, I have to express the opinion of the Government that, under the provisions of the Constitution Act, the duty of the Superintendent in the present case is unmistakable, and that no doubt, or difficulty, can arise if a single writ be issued for the election of one member

for the seat lately in dispute between Mr. Daldy and Mr. Graham, while the issue of two writs on the occasion of the resignation of these gentlemen would be a clear infraction of the Constitution Act.

Moreover, were it possible to raise a question as to the number of vacancies, the 11th section of that Act expressly provides that any such question shall be heard and determined by the Provincial Council, to which body it would accordingly be your Honor's duty to refer the matter.

With respect to the latter grounds assigned by your Honor in favour of a dissolution, the Government cannot assume that any representative body, convened with the legal complement of members, would be guilty of so grave a dereliction of duty as to refuse to proceed to the consideration of measures urgently required for the public welfare. The proved existence of insuperable difficulties to the action of a Provincial Legislature may at any time render its dissolution a matter of necessity, but the mere anticipation of obstructions cannot be recognised as a sufficient reason for the interposition of the General Government.

While therefore a state of things may arise which may call for the active interference of the General Government, it must leave the responsibility of bringing about such a position with the two branches of the Provincial Legislature.

I have the honour to be,
Sir,

Your Honor's most obedient servant,
E. W. STAFFORD.

His Honor

the Superintendent,

Auckland.

Superintendent's Office, Auckland,
July 25th, 1857.

SIR.—I have the honour to acknowledge the receipt of your letter of yesterday's date, in which you convey to me the determination, under the present circumstances, of his Excellency the Governor, with the advice of the Executive Council, not to dissolve the Provincial Council.

When, on the 22nd of June ult., I had the honour to address to you a request that his Excellency might be advised to dissolve the Auckland Provincial Council, the ground upon which that request was based was considered by the Government to be valid and sufficient. His Excellency was nevertheless not advised at once to accede to that request. The delay in doing so has added to, and, as I think, made more complicate the difficulty in which the Provincial Council is placed.

I receive with great respect the opinion of his Excellency's Government which you have been so good as to communicate to me as to my duty in the present case. It is, as my reference to my late communication you will perceive, completely at variance with the opinion of my immediate advisers and with my own. I believe that my duty, as an administrative officer, on this occasion, is prescribed by the 9th and 10th clauses of the Constitution Act, in words which cannot be mistaken. I have therefore

caused writs to be issued for the election of new members to serve in the places of Messrs. Graham and Daldy, each of whom has separately, by writing under his hand addressed to me, resigned his seat in the Auckland Provincial Council.

I have also by Proclamation, copy of which is enclosed, summoned the Provincial Council to meet on the 17th of August, prox., when the question of the vacancies may be heard and determined by the tribunal provided for that purpose by the Constitution Act, namely the Council itself.

I have placed before his Excellency's Government evidence, derived from the records of the proceedings of the Provincial Council during its late session, that there was no reasonable ground for hope that the Council would be permitted to proceed with the business of the Province. I have placed before his Excellency's Government evidence that I should be unable, in consequence of the violent proceedings of the Opposition in the Council, to obtain the assistance, as members of my Executive, of members of the Provincial Council in whom I could repose confidence, who, being competent, would, under existing circumstances, be willing to undertake the conduct of the Government business in the Council. This evidence, the written testimony of the members of my Executive Council, as well my own assurances on the subject, his Excellency, it would appear, has been advised to disregard.

It remains for me under these circumstances to await the meeting of the Provincial Council. There are many questions of the last importance to this Province which require immediate consideration, and it will be my duty, in the interest of the public, to co-operate with the Council in endeavouring, if practicable, to restore its capacity for action, the suspension of which has already wrought such grievous injury to the Province.

I have the honor to be,
Sir,

Your most obedient servant,

J. WILLIAMSON,
Superintendent.

The Honorable the
Colonial Secretary.

Colonial Secretary's Office,
Auckland, July 28th, 1857.

SIR,—

I have to acknowledge the receipt of your Honor's letter, No. 106, of the 25th instant, in which you inform me that you have issued writs for the election of two members of the Auckland Provincial Council—there being but a single vacant seat in that body.

I have the honour to be,
Sir,

Your Honor's most obedient servant,

E. W. STAFFORD.

His Honor

the Superintendent,
Auckland.