



# AUCKLAND PROVINCIAL GOVERNMENT GAZETTE

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Registrar General's Office,  
Auckland, March 23rd, 1855.

**P**URSUANT to the provisions of an Act of the General Assembly of New Zealand, intituled "The Marriage Act, 1854," the following additional name of an Officiating Minister within the meaning of the said Act is published for general information:—

FREE CHURCH OF SCOTLAND.  
The Reverend Alexander Salmon.

I, JOHN B. BENNETT, Registrar-General for New Zealand, do hereby certify that the foregoing name of an Officiating Minister has been duly sent in to me, in addition to the names which appeared in the Lists respectively published in the New Zealand *Government Gazettes* of the 18th and 26th of January last, and the 15th of the present month of March.

Given under my hand this 23rd day of March, 1855.

JOHN B. BENNETT,  
Registrar-General.

TENDER ACCEPTED.

NOTICE.

Superintendent's Office,  
Auckland, March 29th, 1855

**T**HE undermentioned Tender for Boots for the Gaol has been accepted—

HENRY COURTNEY, West Queen-street.

36 pairs Strong Lace Boots, tipped and nailed, Colonial make, at 16s. per pair, by 15th of April.

WM. BROWN,  
Superintendent.

Superintendent's Office, Auckland,  
31st March, 1855.

**T**HE following papers relating to the disallowance of the late Election for the Auckland City Council are published for general information.

WILLIAM BROWN,  
Superintendent.

Police Office, City of Auckland,  
March 1, 1855.

Sir,—I have the honor to inform you that the election for members to serve in the Auckland City Council took place yesterday, at the Auckland City Council Chamber.

The original list of candidates consisted of fifteen names, three of whom, viz.—

Messrs. Low, Lowson, and Smith, were deemed by me ineligible to proceed to the poll in consequence of one of their seconds' name not appearing upon the Burgess Roll.

Twelve came to the Poll, and I enclose a list containing the names of the successful candidates, with the numbers as polled by them.

I also beg to enclose copies of four protests handed to me at and before the election, two of them having been read to me during the time of the election.

Requesting further instructions if necessary,

I have, &c.,  
(Signed) EDWD. MAYNE,  
Returning Officer.

To Daniel Pollen, Esq.,  
Chief Clerk, Superintendent's Office,  
Auckland,

Names of the successful candidates, with the number as polled by them:—

John Finlay .....	257
Walter Lee .....	237
Thomas Somerville ....	230
John Williamson .....	215
James George .....	212
John Kelly .....	205
Edward King .....	203
Thomas Murphy .....	201
G. Vaile .....	198

(Signed) EDWD. MAYNE,  
Returning Officer.

Auckland,  
26th February, 1855.

Sir,—I beg to call your attention to the fact that in the list of persons advertised by you (as Returning Officer for the City of Auckland) as duly qualified Burgesses of the City of Auckland to serve in the City Council thereof there are no less than five who have not been proposed and seconded according to the manner and in the form prescribed by the law, viz.

Mr. John Williamson,  
Edward King,  
Joseph Lowe,  
George Smith,  
Charles Lowson,

The whole of whom have been either proposed or seconded by persons not on the Electoral Roll as duly qualified burgesses for the City of Auckland, and I protest against them accordingly,

Yours,  
(Signed) JOHN MAKEPEACE.  
To Edwd. Mayne, Esq.,  
Returning Officer.

Auckland, 28th Feb., 1855.

Sir,—On looking over the City Council Act No. 1, we find that the Superintendent alone is authorised to appoint proper persons to act as Returning Officer for the City of Auckland. The Superintendent having resigned prior to your appointment to that office, it is of course void and illegal, and we

protest against your exercising it accordingly.

(Signed) Charles Lowson,  
James George,  
Joseph Lowe,  
John Makepeace.

To Edwd. Mayne, Esq.,  
Returning Officer.

Auckland, 28th Feb., 1855.

Sir—We the undersigned, duly qualified Burgesses of the City of Auckland, having examined the Laws entitled the City Council Act, Nos. 1 and 2, do hereby protest against the polling and election that have taken place this day for the following reasons, namely—

1st. Because several of the candidates have not been proposed and seconded in the manner and form prescribed by law.

2nd. Because you, Edward Mayne, Esq., have (notwithstanding that you have been illegally appointed) acted as Returning Officer for the City of Auckland.

For these several reasons we protest against the said polling and election, and any returns that you may make herein.

(Signed)  
James George,  
John Makepeace,  
Charles Lowson,  
James Bond,  
Donald Sutherland,  
Joseph Lowe,  
James Sims,  
Wm. Jas. Pilkington.

To Edwd. Mayne, Esq.

We the undersigned, being electors of and for the City of Auckland, do hereby protest against the polling and all the other proceedings for the election of Councillors for the said City, which have taken place, or which shall take place this day, for the reasons following, that is to say—

Because the names of two persons duly nominated as candidates at and for such election have been erased or struck out from or from amongst the list, and the names of persons proposed as candidates for the offices aforesaid respectively.

(Signed)  
Wm. Rattray,  
Wm. Gorrie,  
David Crosbie,  
Joseph Lowe,  
Charles Stutchbury.

Auckland, Feb. 28, 1855.

To His Honor the Superintendent of the Province of Auckland.

The Memorial of the undersigned

Humbly Sheweth,—

That your Memorialists nominated three persons to serve as members of the Auckland City Council, to wit, Charles Lowson, builder, Wyndham-street; Joseph Low, miller, Shortland-street; and George Smith, publican, Queen-street.

That your Memorialists believe the nomination to have been legal, and in due form.

That the names of your Memorialists were excluded from the *Provincial Government Gazette* in the Election Notice published by the Returning Officer; that they therefore protest AGAINST THE CITY COUNCIL election, and pray that it may be declared void and of none effect.

(Signed)

Andrew Hodge,  
Archibald M'Pherson.

Police Office, Auckland,  
March 7, 1855.

Sir,—In accordance with the 22nd clause of the Auckland City Council Act, the nine successful candidates so returned by me as elected for the Auckland City Council, were duly notified to that effect by me forthwith.

I have now the honor to state that I have received from each of the said candidates a notification of their acceptance of the said office.

I have, &c.,  
(Signed) ED. MAYNE,  
Returning Officer.

To Daniel Pollen, Esq.,  
Chief Clerk, Superintendent's Office,  
Auckland,

Superintendent's Office,  
Auckland, 21st March, 1855.

Sir,—With reference to your letter of the 1st instant, conveying the information that the election for members of the City Council had taken place on the previous day, I have the honor to request that you will explain generally the inconsistency between your announcement as published in the *Provincial Gazette* of the 26th ultimo, that Messrs. Lowe, Lowson, and Smith had been proposed according to law, and your subsequent statement that the same parties were deemed by you ineligible to proceed to poll.

You will observe that at present only one side of the question—that of the objectors—is before me; I have therefore to request that you will furnish me with the other side.

I have also to request that you will inform me whether any nomination papers other than those copied into the *Gazette*, were lodged either regularly or irregularly with you, and if so, that you will furnish me with the same, or with copies thereof.

I have, &c.,

WM. BROWN,  
Superintendent.

E. Mayne, Esq.,  
Commissioner of Police.

Police Office, Auckland,  
March 23rd, 1855.

Sir,—I have the honor to acknowledge the receipt of your letter dated the 21st March instant, and received by me yesterday, requesting me "to explain generally the inconsistency

between my announcement as published in the *Provincial Gazette* of the 26th ultimo, that Messrs. Lowe, Lowson, and Smith had been proposed according to law and my subsequent statement that the same parties were deemed by you ineligible to proceed to poll,"

In reply, I beg to enclose a statement as brief as the circumstances will admit, of the proceedings from beginning to end, had at the late election for City Councillors, by which I respectfully submit that I have acted as Returning Officer at that late election in the way most conducive to the interests I had then in charge.

I have, &c.,

(Signed) EDWARD MAYNE,  
Returning Officer.

To His Honor  
The Superintendent,  
Auckland.

Police Office, Auckland,  
23rd March, 1855.

On Tuesday, the 20th February ult., whilst in the police-office receiving the papers containing the names of the candidates and their proposers, for the then forthcoming City Election, Mr. Hughes, the Reporter for the *Southern Cross*, handed me a paper containing the names of Messrs. Lowe, Lowson, and Smith, as candidates, and proposed by himself Stephen Edward Hughes, Wakefield-street, settler, and William Ash Laxon, Shortland-street, Auckland, and which paper I received and filed.

On Wednesday, the 21st February, Mr. Hughes handed me a paper, containing the name of Mr. G. E. Vaile as a candidate, and proposed by Messrs. M'Pherson and Hodge, and at the same time, in a cursory manner, he handed me a fresh paper, with the names of Messrs. Lowe, Smith, and Lowson, the seconders of those candidates in those papers being Messrs. M'Pherson and Hodge, saying that those persons wished to be the seconders of the said parties.

I looked at the paper, and said that he had handed me in the same names the day before, seconded by himself and Mr. Laxon. I asked him the object of the change; he replied, "Oh, nothing, but that the parties he now handed in wished to be the proposers." I replied, that having received and filed one nomination, I did not see the meaning of taking the other without some reason being assigned. Mr. Hughes replied that they wished to be the seconders, but he supposed it would be all right. He then went away.

In due time I opened and examined the papers for the different candidates so handed in to me, and seeing that they were all apparently in form, (and never for a moment supposing that both the candidates and their proposers would not have paid all due attention to their necessary qualifications,) I prepared and forwarded them for publication in the *Southern Cross*, *New Zealander*, and *Provincial Government Gazette*.

On Tuesday, the 27th February, the day

previous to the Election, at about three o'clock, I received a letter or protest from Mr. Makepeace, a copy of which has been forwarded to the Superintendent's Office, stating that no less than five persons advertised by me as Returning Officer for the City of Auckland, to serve in the City Council thereof, were not proposed and seconded according to the manner, and in the form prescribed by the law, their names being Messrs. King, Williamson Lowe, Smith, and Lowson; and on referring to the Burgess Roll, I found that the name of Laxon, one of the seconders of Messrs. Lowe, Smith, and Lowson, did not appear upon said Burgess Roll. I perceived at once that the objection with regard to the said three parties was fatal, and not having had time between that and nine o'clock the following morning to consult with any person on the subject, I was obliged to act upon my own responsibility. I gave the case all the consideration I then could, and having weighed all the circumstances, I considered it the best arrangement to declare at the opening of the poll the receipt of Mr. Makepeace's protest, and the fatal irregularity in the papers of Messrs. Lowe, Smith, and Lowson, and their consequent ineligibility to be elected, and I declared them unable to come to the poll, and acted accordingly.

In conclusion I beg respectfully to submit that in no way could the election of the above named persons have been valid, nor could I with that knowledge have declared them duly elected, even should there have been majorities in their favor, as it was imperative on me so to do forthwith.

There might have been a difference in the case had there been a Superintendent then acting, who might possibly have been able to remedy the matter, but I beg to recal to your recollection that such was then not the case.

I feel conscientiously that I acted for the best, and that had I acted otherwise I would have involved myself in very deep responsibility, and been the cause of irremediable difficulty to the New Council, and all without in any way benefitting the cause of the three gentlemen now complaining.

I have, &c.,  
(Signed) EDWARD MAYNE,  
Returning Officer.

Superintendent's Office,  
Auckland, 26th March, 1855.

Sir,—I have the honor to enclose a copy of the Returning Officer's explanation, in reference to his refusal to allow Messrs. Low, Lowson, and Smith to proceed to poll at the late City Election, and beg to state that I shall be happy to receive from you any remarks which you may deem necessary from the use made of your name by the Returning Officer in that explanation.

I have, &c.,  
(Signed) WM. BROWN,  
Superintendent.

Mr. S. E. Hughes.

Auckland, March 27th, 1855.

Sir,—I have the honor to acknowledge the receipt of a letter from your Honor, dated 26th instant, enclosing a copy of the Returning Officer's explanation, in reference to his refusal to allow Messrs. Lowe, Smith, and Lowson to proceed to poll at the late City Election. As the Returning Officer has thought it necessary to connect my name with his explanation, I beg to enclose a statement of the part I took in reference to the City Election.

I have, &c.,  
STEPHEN E. HUGHES.  
To His Honor the Superintendent,  
Auckland.

Auckland, March 27th, 1855.

On the 20th February ult., I waited on the Returning Officer for the City Election, at the Police guard-room, with three nomination papers, one of which contained the names of Messrs. Lowe, Smith, and Lowson; the proposers of those gentlemen being myself, Stephen Edward Hughes, and William Ash Laxon. When the Returning Officer looked at the nomination paper, he remarked, Wm. Ash Laxon has signed Auckland, settler, it is necessary that the name of the street should be mentioned. I then said, he did live in Shortland-street, but if you will refer to the Electoral Roll I will alter it according to the description on the Electoral Roll. The Returning Officer replied, I have not got a copy of the Electoral Roll in the office. I then inserted the words Shortland street, and left. Upon returning home I looked at the Electoral Roll, and found that Mr. Laxon had neglected to register himself for the City, I at once was aware of the informality of the nomination, and Messrs. Hodge and McPherson having a candidate to propose, they renominated Messrs. Lowe, Smith, and Lowson, the fourth candidate being George Ebenezer Vaile, Queen-street, grocer. I handed in the nomination paper containing the four names above mentioned, on the 21st February. I have here distinctly to state, that on that day, the 21st, I handed in ONE paper only, on which was the names of four persons, and that I did not hand in two papers, on one of which was one name, and on the other three names. At the time I handed the nomination paper to the Returning Officer, I remarked, you have the written consent of three of the candidates already, I suppose you do not require them again. The Returning Officer said, there is no occasion to nominate them twice, to which I replied, that as Messrs. McPherson and Hodge wished to nominate those persons, I did not think there could be any objection to their doing so. I then left the office.

I beg further to remark, that the Returning Officer, in last paragraph but two of his explanation, says, that owing to those gentlemen being wrongly nominated, he could not have declared them legally elected; when at the same time he has declared one person,

them.

I also beg to enclose copies of four protests handed to me at and before the election, two of them having been read to me during the time of the election.

Requesting further instructions if necessary,

I have, &c.,  
(Signed) EDWD. MAYNE,  
Returning Officer.

To Daniel Pollen, Esq.,  
Chief Clerk, Superintendent's Office,  
Auckland,

Names of the successful candidates, with the number as polled by them:—

John Finlay .....	257
Walter Lee .....	237
Thomas Somerville ....	230
John Williamson .....	215
James George .....	212
John Kelly .....	205
Edward King .....	203
Thomas Murphy .....	201
G. Vaile .....	198

(Signed) EDWD. MAYNE,  
Returning Officer.

Auckland.

Joseph Lowe,  
John Makepeace.

To Edwd. Mayne, Esq.,  
Returning Officer.

Auckland, 28th Feb., 1855.

Sir—We the undersigned, duly qualified Burgesses of the City of Auckland, having examined the Laws entitled the City Council Act, Nos. 1 and 2, do hereby protest against the polling and election that have taken place this day for the following reasons, namely—

1st. Because several of the candidates have not been proposed and seconded in the manner and form prescribed by law.  
2nd. Because you, Edward Mayne, Esq., have (notwithstanding that you have been illegally appointed) acted as Returning Officer for the City of Auckland.

For these several reasons we protest against the said polling and election, and any returns that you may make herein.

(Signed)  
James George,  
John Makepeace,  
Charles Lowson,  
James Bond,  
Donald Sutherland,  
Joseph Lowe,  
James Sims.

Edward King, duly elected, the names of neither of the proposers of that gentleman being on the Electoral Roll for the City of Auckland, and one other person (John Williamson) only one of whose proposers' names appears on the Electoral Roll.

I have, &c.,

STEPHEN E. HUGHES.

To his Honour the Superintendent,  
Auckland.

Superintendent's Office,

Auckland, 26th March, 1855.

Sir,—I have the honor to direct your attention to my letter of the 21st instant, in which I request information as to whether "any nomination papers, other than those copied into the *Gazette*, were lodged, either regularly or irregularly, with you, and if so, that you will furnish me with the same, or with copies thereof."

A portion only of that information has been forwarded to me, and I have therefore to request that you will place me in possession of all the nomination papers (or copies thereof) lodged with you, containing the names of Messrs. Smith, Lowe, and Lowson, as candidates for the late City Election.

I have, &c.,

(Signed) WM. BROWN,  
Superintendent.

Edward Mayne, Esq.,  
Commissioner of Police.

Police Office, Auckland,  
March 27th, 1855.

Sir,—Referring to your letters of 21st and 26th instant, I have the honour herewith to enclose copies of all the Nomination Papers lodged with me containing the names of Messrs. Smith, Low, and Lowson, as candidates for the late City Election, as also the necessary accompanying certificates:—

Copy No. 1 is the Nomination Paper containing the names of Messrs. Smith, Lowson, and Low, signed by their proposers, Messrs. Hughes and Laxon, accompanied also by the necessary Certificates from the Candidates, and duly and regularly filed with me as Returning Officer.

Copy No. 2 is a Nomination Paper, containing the names of Messrs. George E. Vaile, (accompanied by his necessary certificate,) Joseph Low, Charles Lowson, and George Smith (without any certificate), and signed by Messrs. M'Pherson and Hodge as seconders to the above-named parties.

To this Paper I objected at the time of its being handed to me, as irregular so far as concerned Messrs. Lowe, Lowson, and Smith, stating, as I have already said in my first letter, that these parties had already sent in their Nomination Papers.

Should there have been no other objection to receiving and acting upon the document copy No. 2, I submit that its being unaccompanied by the necessary certificates would

have rendered the Nomination null and void.

I have, &c.,

(Signed) EDWARD MAYNE,  
Returning Officer.

To His Honour the Superintendent.

NOMINATION PAPER No. 1.

To the Returning Officer for the City of Auckland.

We the undersigned, duly qualified Burgesses for the City of Auckland, beg to nominate the undermentioned Burgesses of the City of Auckland as members of the City Council.

*Names of Persons proposed.*

George Smith, publican, Queen-street  
Charles Lowson, Wyndham-street, builder  
Joseph Low, Shortland-street, miller.

*Names of Proposers.*

Stephen Edward Hughes, Wakefield-street,  
settler  
William Ash Laxon, Shortland-street, Auckland, settler.

*Certificates.*

I hereby certify that I am willing to serve as a City Councillor if duly elected.

(Signed) JOSEPH LOW.

I hereby certify that I am willing to serve as a City Councillor if duly elected.

(Signed) CHARLES LOWSON.

I hereby certify that I am willing to fill the office of City Councillor if duly elected.

(Signed) GEORGE SMITH.

NOMINATION PAPER No. 2.

To the Returning Officer for the City of Auckland.

We the undersigned, duly qualified Burgesses of the City of Auckland, hereby nominate the following Burgesses as members of the City Council.

*Names of Persons proposed.*

George Ebenezer Vaile, Queen-street, grocer  
Joseph Low, Shortland-street, miller  
Charles Lowson, Wyndham-street, builder  
George Smith, Queen-street, publican.

*Names of Proposers.*

Shortland-street, tinsmith, Archibald Macpherson  
High-street, blacksmith, Andrew Hodges.

*Certificate.*

20th February, 1855.

I hereby certify that I am willing to serve in the City Council should I be duly elected thereto.

(Signed) GEORGE E. VAILE.

OPINION OF THE PROVINCIAL LAW OFFICER.

1. I am of opinion that the local Legislature of this Province exceeded its powers in passing "The Auckland City Council Act," and "The Auckland City Council Amendment Act," and that no election of City Councillors which may take place under their provisions can be valid, or have any force at law.

All powers given or conferred by Act of Parliament are strictly interpreted.

The Constitution Act, the 15 and 16 Vict., c. 72, created and constituted our Local Legislature, and defined its powers and jurisdiction. These extend to the making of laws for the good government of the Province, provided that such be not repugnant to the law of England; but that is their utmost limit: they extend no further.

"If a statute made use of a word the meaning of which is well known at the Common Law, the word shall be understood in the same sense in which it was understood at the Common Law."

The two words *Law* and *Institution* have different meanings well known in English jurisprudence. To erect or establish an institution is something quite distinct from the making of a law, and ought no more to be confounded with it than is the creating of a new title or dignity.

In the Charters of the Old British Colonies in North America, and in our statutes, the distinction between the two words is recognised and maintained.

Thus, the 10 Geo. IV., c. 22, contains the following provision touching the Government of Western Australia, viz. :—

It shall be lawful for His Majesty by any order made with the advice of his Privy Council, "to authorise and empower any three or more persons resident and being within the said Settlement, to make, ordain, and establish all such *Laws, Institutions,* and Ordinances, and to constitute such Courts and Officers as may be necessary for the peace, order, and good government of his Majesty's subjects, and others within the said Settlement."

And in the 4 and 5 Wm. IV., c. 95, under which South Australia was formed into a colony, the same distinction obtains. His late Majesty was empowered by that Act to authorise one or more persons "to make, ordain, and establish all such *Laws, Institutions,* or Ordinances, and to constitute such Courts and appoint such Officers," as might be necessary for the good government of the Province.

The 29th section of the 5 and 6 Vict. c. 76 (the first Constitution Act of New South Wales) empowers the Governor and Legislative Council of that Colony to make laws for the good Government thereof; but that the legislative powers thereby conferred did not include or extend to the establishing of municipal or other institutions, may be inferred from a subsequent provision contained in section 41, viz. :—"And whereas it is expedient that provision be made for the *local government* of the different parts of the said Colony, be it enacted that it shall be lawful for the Governor, by letters patent under the great seal of the Colony of New South Wales, to incorporate the inhabitants of every county within the said Colony, &c."

The local legislature of this Province not being empowered to erect or establish institutions, it follows that the municipal body called the City Council created by the two Acts above mentioned, does not derive its ori-

gin from lawful authority, and that it is therefore illegal.

It is a maxim or axiom of English law, that the donee of a power cannot delegate the same, unless expressly authorized to do so by the donor. This inflexible rule is as applicable to public bodies as to private individuals,—to Her Majesty as to the humblest of her subjects.

Thus in the two Acts mentioned, relating to Western and Southern Australia, his late Majesty was empowered to make and establish laws and institutions for and in those settlements, or to delegate such powers to one or more persons resident therein; and in the Constitution Act of this Colony, Her Majesty is expressly empowered to delegate to the Governor thereof certain powers conferred upon her by such Act.

The local legislature of this Province is not empowered to delegate any portion of its legislative functions. It has therefore clearly exceeded the powers conferred upon it, in constituting the City Council, and empowering it to levy rates and assessments, and impose penalties in a certain portion of the Province containing more than two-thirds of our population.

2. I am of opinion that the City Council would be an illegal body, even if the phrase "to make laws" included in its ordinary acceptance, the establishing of institutions.

The legislative power of our local legislature is conferred on it by the 19th section of the Constitution Act; but a subsequent one (the 70th) confers on Her Majesty, in express terms, the power of erecting municipal corporations within the Colony.

It is a rule of law that if two parts of a statute conflict, or are repugnant to each other, the latter part shall stand and be a repeal of the former part, so far as it is repugnant thereto, because it was last agreed to by the makers of the statute.

Applying this rule in the case assumed, it would follow that our local legislature could not legally establish within any part of the Province, a municipal body.

3. I am of opinion that no valid election of City Councillors could take place under the provisions of the local acts referred to, even though no municipal corporation had been established for the district of Auckland under the 2nd section of the Imperial Act, the 9 and 10 Vict. c. 103, and even though the power of establishing such Corporations within the Province had been conferred on our local legislature instead of on Her Majesty.

In constituting a statute or ordinance, the intent of its makers is to be collected and ascertained from the instrument itself, and can never be supplied by arbitrary conjecture.

From a careful perusal of the Auckland City Council Act, it appears that two bodies politic, wholly distinct, and having no relation whatever to each other, were thereby created—the one a corporation, and the other

a body aggregate called "The Council," consisting of seven persons. The latter was constituted for the government of this City, as appears from the 3rd section; but the purpose for which the inhabitants of Auckland were incorporated is not set forth.

Of the 56 sections whereof the Act consists, but four, viz., the 1st, 2nd, 27th, and 28th, relate to the Corporation; the remaining 52 contain specific provisions relating to "The Council."

The 3rd section contains the following provision, viz.:

"For the government of the said City there shall be a Council (throughout this Act called "The Council"), which shall consist of seven members to be elected as hereinafter mentioned."

The 1st section of "the Auckland City Council Amendment Act" repeals this provision, and thereby virtually annihilates the Council, and of necessity repeals all the other sections in any way relating thereto, so that but four (those relating to the Corporation as already mentioned) out of the 56 have any force remaining. The Council itself being extinguished or abolished, all provisions of the Act defining its powers and jurisdiction, regulating the mode of electing its members, &c., become mere surplusage, that to which they related having ceased to exist.

The second section of the Amendment Act is in these words, viz.:

"For the government of the said City, there shall be a Council (throughout the said Act, and herein called "The Council"), which shall consist of nine members, to be elected as in the said Act and herein provided."

And the 3rd section provides that the Members of the Council constituted in the last year, shall go out of office on the last Wednesday of February, 1855.

No provision is contained in this Act as to the constituency by or from amongst whom the Council of nine persons is to be chosen, nor is any time fixed for the election of its members; whilst all the provisions of the other Act (excepting the four mentioned) relate to the election, &c. of the Council of seven. And if we can by any force of construction infer, that it was contemplated that all the regulations applicable to the election of the Council of seven were for the future to be applied in electing the Council of nine, then the election that took place on the last Wednesday of the last month ought not to have taken place until the last Wednesday in 1856, as will appear from section 10 of the first of the two Acts.

"The election of members for the City Council shall take place on the last Wednesday in the month of February in the year 1854, and on the last Wednesday in the month of February, 1856, and every subsequent year."

No such mode of construction is, however, to be admitted in the present or in any other

case, unless the rules for the interpretation of statutes are to be wholly disregarded.

(Signed) SINGLETON ROCHFORD,  
Law Officer for the  
Province of Auckland.

Auckland,  
March 26, 1855.

Superintendent's Office,  
Auckland, March 24th, 1855.

I, WILLIAM BROWN, Superintendent of the Province of Auckland, do hereby notify, for general information, that the election of persons to serve as Members of the Council for the government of the City of Auckland, commonly called the Auckland City Council, which took place in the said City on the twenty-eighth day of February last, was, and is hereby declared to be, null and void, to all intents and purposes whatsoever.

Wm. Brown,  
Superintendent.

Auckland,  
Albert-street, March 26, 1855.

SIR,—I have the honor to state that I have observed a notice in the "Provincial Government Gazette" of Saturday last, notifying that "The Election of persons to serve as Members of the Auckland City Council which took place on the 28th day of February last, is declared by your Honor to be null and void."

I regret exceedingly that your Honor was advised to take such an unseemly course, and feel surprised, inasmuch as I had not been called on, (nor have I heard that any of the other members had been called on), to state the grounds on which they, with myself, claimed to hold their seats.

But I apprehend the course taken by your Honor is INTENDED to apply, and MEANT to be, in conformity with a special authority given under the 26th clause of the "Auckland City Council Act", Session 1, No. 10, which reads thus,— "If any question of any kind shall arise as to the election, or in reference to the vacancy of any seat of any Member of the Council, or as to the right or duty of any Member to sit therein, such question shall be determined by a written decision of the Superintendent, which shall be final and conclusive."

Therefore, Sir, as an elected Member of the said Council, I respectfully request, as a matter of RIGHT, to see that written decision, and to be furnished with a copy of it, and beg to state that I will attend at the Superintendent's Office at any time fixed by your Honor for that purpose.

I have, &c.,  
(Signed) WALTER LEE,  
Chairman or Ex-Chairman, as the case may be, of the Auckland City Council.

His Honor the Superintendent,  
W. Brown, Esq., M. G. A.

Superintendent's Office,

Auckland, 26th March, 1855.

SIR,—I have the honor to acknowledge the receipt of your letter of this day's date, and in reply beg to observe that I am unable to admit your right to see my written decision as to the validity of the City Election, but as a matter of courtesy willingly comply with your request.

As you ask me to fix a time, I shall name 2 p.m. to-morrow.

I have, &c.,

(Signed)

WM. BROWN,

Superintendent.

Walter Lee, Esq.

Albert Street, March 27th, 1855.

SIR,—I beg to acknowledge the receipt of your courteous letter bearing date the 26th instant in answer to mine of the same date, and in reply, regret I cannot avail myself of your invitation, as I still think my request to be founded on the principle of justice, seeing my seat, with others in the City Council, has for a time become affected by your decision; but, however, as you think differently, I must wait the result. I need not add that the course adopted by your Honor appears to be one of the most absolute and inquisitorial, and opposed to the very principle of free institutions; and, if such an oligarchal or despotic power is to be wielded, the sooner it is checked by the legislature the better, or revert to the old state of things.

I have, &c.,

(Signed)

WALTER LEE,

~~Chairman, or Ex-Chair-~~  
man, as the case may  
be, of Auckland City  
Council.

To His Honor the Superintendent,

W. Brown, Esq.

(Note endorsed.)

[Should any letter couched in disrespectful terms arrive, the Receiving Clerk is directed for the future not to register number it, until it should have been submitted to the Super-

intendent, in order that it may not necessarily become a record of the office.—(Signed)  
W. B., Supt.]

City Council Chamber,

26th March, 1855.

SIR,—Having read your notification in the "Auckland Provincial Government Gazette" bearing date the 24th instant, wherein you declare that "The Election of persons to serve as Members of the Auckland City Council, which took place on the 28th day of February last, was and is null and void, I have the honor to request you will forward to me (with as little delay as possible) the name of the gentleman appointed to act as Returning Officer, as I find it is my duty to carry into effect the provisions of the 24th clause of the "Auckland City Council Act, Sess. 1, No. 10," wherein it declares that—"Every vacancy shall be filled up by an election within 28 days after such vacancy shall have been made known to the Returning Officer by a certificate under the hand of the Clerk of the said Council," and I am thereby required forthwith to make known the same.

I have, &c.,

(Signed)

JOHN MITCHELL,

Clerk of Council.

To His Honor the Superintendent,

&c. &c.

Auckland.

Superintendent's Office,

Auckland, 28th March, 1855.

SIR,—With reference to your letter of the 26th instant, requesting me to forward "the name of the gentleman appointed to act as Returning Officer," I have the honor to inform you that all necessary information will be forwarded to you, as you request, with as little delay as possible.

I have, &c.,

(Signed)

WM. BROWN,

Superintendent.

Mr. John Mitchell.

AN ESTIMATE OF PROPOSED ADDITIONAL EXPENDITURE  
FOR THE YEAR 1855.

PROVINCIAL COUNCIL.

Contingencies for 5th session, additional	...	..	50	0	0
Expenses of Members 3rd session	...	...	100	0	0
Sheds for Members' horses	..	...			

Immigration Agent	...	..	150	0	0
Office	..	...	50	0	0

GAOL.

Matron	...	..	70	0	0
Increase of Rations	...	..	100	0	0

HARBOUR DEPARTMENT.

AUCKLAND—					
New Cutter for Pilot	..	..	...	350	0 0
RUSSELL—					
Increase of pay to two Boatmen, £7 per month, instead of 3s. 6d. per day, for remaining nine months	..	..	..	30	3 9
KAIPARA—					
Pilot Establishment, including boat	..	..	..		

BOARD OF WORKS.

Salaries of officers, rent, and contingent expenses	..	..	1,500	0	0
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PUBLIC SLAUGHTER HOUSE AND POUND.

Salary of Slaughter-house Keeper (also Pound-keeper)	..	..	60	0	0
Cleansing and other Expenses	...	..	80	0	0
Wardens of Auckland Hundred for Public Pound	..	..		120	0 0

DOG NUISANCE ACT.

Dog Collars and Plates	...	..	100	0	0
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WASTE LAND BOARD.

Chief Commissioner, also to be Commissioner of Crown Lands	300	0	0
Second Commissioner	300	0	0
Third Commissioner	300	0	0
Surveyor	300	0	0
Draughtsman	250	0	0
Clerk	200	0	0
Two extra Clerks to be employed when press of business may require, at 7s. 6d. per diem	250	0	0
Messenger	100	0	0
Travelling expenses	200	0	0
Estimated amount required for Contract Surveys	3000	0	0
Contingencies, including Office rent	300	0	0
General Contingencies, including Election of Superintendent	5500	0	0
City Council Election—Returning Officer	500	0	0
Two Clerks	3	3	0



LOCAL STEAM NAVIGATION—Contribution in aid of steamer			
“Wonga Wonga,” for making regular trips,			
weekly if possible, to the following places:—			
Howick, Waiheke, Wairoa, Coromandel, Ma-			
hurangi, Wangarei, Bay of Islands, Mongonui			
Purchase of a small steamer for Waikato	..	..	2000 0 0
Ditto do. for Manukau	..	..	3000 0 0
			4000 0 0
			<hr/>
			£10,200 0 0
Temporary aid for Widows and Orphans left destitute	..	..	300 0 0
For the discovery of a cheap and expeditious method of ren-			
dering the New Zealand flax available as an			
Export, the discovery to be disclosed for			
public benefit	..	..	1000 0 0
			<hr/>
			£11,500 0 0
Immigration—Loan System	..	..	£10,000 0 0

LOANS IN AID OF PUBLIC WORKS.

1. To Auckland City—for introducing water into the City,			
iron pipes, reservoirs, etc.	..	..	5,000 0 0
“ For bringing sea water from low water mark			
to a reservoir in the City, to aid in case of			
fire	..	..	400 0 0
2. Harbour—Loan to enable the works to be proceeded			
with, and until Endowments become available			5,000 0 0
3. Onehunga—For introducing water	..	..	

