



# Auckland Provincial Government Gazette.

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Superintendent's Office,  
Auckland, 8th May, 1876.

**T**HE following Correspondence is published by direction of His Honour the Superintendent, for general information.

READER WOOD,  
Provincial Secretary.

(1.) Government Buildings,  
Wellington, 28th March, 1876.

SIR,—

I have the honor to inform you that Messrs. Wm. Gisborne, Wm. Seed, and John Knowles, are visiting in succession all the Provinces, in order to obtain for the Colonial Government the information necessary to prepare Estimates for the Provincial services after the abolition of Provinces takes place. The Government desire to ascertain the extent to which it is found practicable, without occasioning local inconvenience, to incorporate some of the Provincial with the General Government departments.

I shall be obliged if your Honor will extend to these gentlemen your good offices, by giving them your views on points about which they seek advice, as also by placing them in a position to obtain the information they require. May I ask your Honor to introduce them to the members of your Executive, and to any officers of the Provincial Service with whom it is desirable they should consult, as also to allow them access to the Provincial Offices.

For your Honor's information, I enclose a copy of the Instructions with which three gentlemen have been furnished, and which are the same in respect to all Provinces.

I have, &c.,  
JULIUS VOGEL.

His Honor the Superintendent  
of Auckland.

(2.) Government Buildings,  
Wellington, 28th March, 1876.

Gentlemen,—

The Government wish you to visit all the Provinces, in order to obtain the information requisite for preparing and submitting to the Assembly the

Estimates for carrying on the public service in the Provinces during the coming year.

It is especially desirable not to make changes so suddenly as to cause local inconvenience. Whilst, therefore, some of the departments may be at once incorporated with the General Government service, it may be found desirable to continue for some time others on a more or less local footing. For example—it is proposed to arrange to make local payments for contracts in progress for works which, as soon as the necessary arrangements can be effected, will devolve upon the local governing bodies for which it is intended to make provision during the coming session.

For your guidance, I have to inform you that the Government intend to incorporate, as stated below, Provincial with General Government services. In some respects, as for instance the Land and the Education administrations, which it is desirable to continue under local control, the incorporation will mean little more than the appointment of the General Government department with which the local department will correspond.

With respect to Charitable Institutions, it will scarcely be necessary for you to do more than indicate their present cost and footing, as they will be handed over to local control, without, it is hoped, any intervening taking charge by the Colonial Government. With regard to the Police Forces, it would be better for you to confine yourselves to reporting on the present cost and standing of the various forces.

You will be so good as to suggest to the General Government the appropriations which you consider necessary under the circumstances I have pointed out, and also to indicate the officers whom you think might be dispensed with. To save you the feelings of regret which such an invidious task might otherwise occasion, I have to inform you that the Government propose to ask the Legislature to make much larger provision than at present authorized by way of compensation to the officers dispensed with. In most cases, it may be better to indicate the office which you think can be spared, than to name the holder of it.

You will, as soon as you arrive in the Province, present to the Superintendent the accompanying letter of introduction. If, as I do not doubt, the Superintendents meet you in the courteous and conciliatory spirit in which you are accredited to them, you will defer as much as you feel justified in doing to their advice, and when you do not concur with it, you will not fail to represent it to the Government. You will be careful to treat them with the respect their high position merits, and to remember that their functions still continue, and that the General Government are not entitled to do more at present than to seek information which will enable them to adequately discharge the responsibilities the law devolves on them after next session.

The Provincial Auditors, who are General Government officers, will render you such aid as you may require from them, for which these instructions will be sufficient warrant.

The following transfers of Provincial Departments are proposed:—

All Executive Departments connected with uncompleted clerical work, the keeping of records, &c., to be in the Colonial Secretary's Department.

The Police Forces to be in the Minister of Justice's Department.

The Crown Lands, Survey, Goldfields Departments, and the Inspectors of Sheep to be in the Secretary for Crown Lands' Department.

The Railway and Public Works Departments and the Public Plantations to be in the Minister for Public Works' Department.

The Harbour Departments to be placed in the Commissioner of Customs' Department.

Education, for a time, at least, in the Minister of Justice's Department.

The Hospitals, Lunatic Asylums, Industrial Institutions, Charitable Aid organizations, Orphan Asylums, Public Libraries and Museums—subject to arrangements to be made for the continuance of local control of Charitable Institutions—to be in the Colonial Secretary's Department.

I have, etc.,

JULIUS VOGEL.

Messrs. Wm. Gisborne,  
Wm. Sead,  
John Knowles.

(3.) Superintendent's Office,  
Auckland, 8th May, 1876.

GENTLEMEN,—

I have received from Sir Julius Vogel a Circular note, and an enclosure, purporting to be instructions issued to you, copies of which are enclosed.

The Act which provides a Constitution for New Zealand gives no power or authority to any person, not being one of the constituted authorities of this Province, to enquire into its finances, expenditure, or administration, nor to delegate such powers to others.

The only persons or bodies who have any lawful right to make such enquiries are the Superintendent and Provincial Council, or officers by them, or either of them appointed, and to an extent and for certain objects specified by law, the Provincial Auditor.

As the Superintendent of the Province of Auckland, my duty to its people, whose representative I am and the responsibility of whose Government I have at their request taken upon myself, forbids me to communicate to any person or persons, not legally authorized in that behalf, any information whatever beyond that which I communicate to the

public at large, unless I had been previously authorized so to do by a resolution of the Provincial Council.

The Provinces derive their existence and their privileges from the Constitution Act, and I beg to point out to you that by prosecuting the enquiries which are mentioned in the Circular note above alluded to you are attempting to assume a control over the lawfully constituted Government of this Province which is both unconstitutional and contrary to law.

I remark that the persons or body by which you are deputed to perform these illegal acts are called in the Circular note "the Colonial Government," "the Government," and "the General Government." These are altogether unknown to the Constitution Act and the thoughts and language of the Imperial Legislature when that Act was passed.

The only Governments known to this country are the General Assembly of New Zealand and the Superintendents and the Provincial Councils of the respective provinces.

I am aware that under the Royal Instructions to His Excellency the Governor, that high Officer is expected to act in accordance with the advice of his Executive Council, unless he sees good reason to differ in opinion from them; but I deny the right of that Executive Council to alter or to depart from the rules and usages of constitutional Government, or to usurp powers which belong only to Provincial Governments or to the General Assembly in Parliament assembled.

The Executive Council are but the advisers of his Excellency, and with all due respect to the representative of Her Most Gracious Majesty, I must, as the elected guardian of the rights and interests of the people of Auckland, be watchful that the authority even of the Crown, be not carried a single step further than the law permits.

The Governor has no right to instruct you to take the steps you contemplate. Even Her Most Gracious Majesty herself would have no right, without the authority of Parliament, to instruct you so to do, and most certainly Her Majesty would not sanction so unconstitutional and unlawful an act being carried out in her name, much less can those who are only the Governor's advisers for the time being have any lawful authority to authorise you to follow the course you are pursuing.

I find also that in the instructions issued to you measures are evidently contemplated not only destructive of the rights and privileges of this province, but also actually opposed to the provisions of "The Abolition of Provinces Act, 1875, should that Act be *intra vires* and good law, which, however, I do not admit. I am compelled, therefore, to say that I shall by all constitutional means oppose any steps which may tend in the slightest degree to compromise the rights and constitutional freedom of this province.

I have the honour further to remind you of that rule of law which provides that no command or order by a superior will avail as a defence when a person commits an act in itself unlawful. I have, therefore, to require you not to venture to attempt to carry out, within the Province of Auckland, the errand on which you are professedly sent. You were appointed to the Civil Service of this Colony, and hold your respective offices in it, for the purpose of fulfilling the duties imposed on those offices by the General Assembly of New Zealand. You have no lawful authority for entering upon the duties you have now undertaken. In so doing you are acting outside of the Civil Service of the Colony, and have become the emissaries of a single gentleman,

who had no right or power whatever to despatch you upon such a duty.

If, therefore, in defiance of my warning, and in breach of the lawful and constitutional rights of this Province, you enter upon or attempt to prosecute any such enquiries within its limits, I shall feel it to be my duty, as Superintendent, to appeal to the proper tribunals, in order that you may be individually or collectively dealt with as they may direct.

I shall cause a copy of this letter to be sent to the Provincial Auditor, at the same time calling on him to decline to give you any information, or to take any action whatever, save such only as he is authorised and empowered to give or take by the law, under which, and to carry out which, he was appointed to that office, and which law, moreover, accurately defines and limits the powers and duties he can lawfully and constitutionally exercise and perform as Provincial Auditor.

I have, &c.,  
G. GREY.

Wm. Gisborne, Esq., Commissioner of Annuities.  
Wm. Seed, Esq., Secretary and Inspector of Customs.  
John Knowles, Esq., Under Secretary, Public Works Department.

(4.) Superintendent's Office,  
Auckland, 8th May, 1876.

SIR,—

Herewith I have the honour to transmit to you the copy of a letter which I have addressed this day to Messrs. William Gisborne, William Seed, and John Knowles, as Commissioners appointed by Sir Julius Vogel to visit this Province in order to obtain certain information for the Colonial Government.

I beg leave to direct your careful attention to the provisions of the Provincial Audit Act, and to the Schedule therein defining the powers and duties of your office; and I earnestly request that you will decline to give any information, or to take any action whatever, save such only as you are authorized and empowered to give, or take, by the law, under which, and to carry out which, you have been appointed to your office of Provincial Auditor.

I have, &c.,  
G. GREY.

Benjamin Maclean, Esq.,  
Provincial Auditor,  
Auckland.

(5.) Superintendent's Office,  
Auckland, 8th May, 1876.

SIR,—

Having, since I wrote to you, had a conversation with Messrs. Gisborne, Seed, and Knowles, I now beg to point out to you that the information given to you in the Provincial Offices is afforded for the sole purpose of enabling you to fulfil the duties imposed upon you by the Provincial Audit Acts, and to communicate such information to the persons to whom the law requires you to impart it, and in the manner named in the Acts.

You are the depositary of this information for these purposes and for no other. It is given you in the full trust that you will use it only in the manner prescribed by the Acts, from which you derive your power to obtain it. Beyond those Acts, you have no right to travel, unless an amendment of the existing law be made by the General Assembly.

Any other duties, which the Colonial Government may require you to perform, I can of course offer no

objection to your undertaking, but, in so far as concerns the Provincial Audit Acts, I request you to observe faithfully the contract existing between yourself and the Provincial Government, and not to communicate to any other persons, or at any other time, than the law prescribes, such information as is given you in conformity to those Acts.

If the Colonial Government desire information, they can through the proper channel state, in detail, in a written communication to the Superintendent, the information they require; and he will then be able to determine whether or not it is his duty to afford such information, either in whole or in part. The Superintendent has no desire to withhold anything asked for in a proper and constitutional manner, which is of such a nature as that his duty will enable him to impart it to others.

I have, &c.,  
G. GREY.

Benjamin Maclean, Esq.,  
Provincial Auditor,  
Auckland.

(6.) Superintendent's Office,  
Auckland, 8th May, 1876.

GENTLEMEN,—

I am desired by the Superintendent to forward for your information the enclosed copies of letters (2), which His Honour has addressed to the Provincial Auditor.

I have, &c.,  
READER WOOD,  
Provincial Secretary.

WILLIAM GISBORNE, Esq.,  
WILLIAM SEED, Esq.,  
JOHN KNOWLES, Esq.

#### NOTICE.

IN THE SUPREME COURT OF NEW ZEALAND,  
NORTHERN DISTRICT.

Between WILLIAM HASKAYNE JONES, Trustee of the Estate and Effects of GEORGE THORNE, junior, trading as "JOHN ROBERTSON AND COMPANY," a Bankrupt, Plaintiff, and WILLIAM WHITAKER ARIELL, Defendant.

WHEREAS by virtue of a Writ of *Fieri Facias* issued herein, ordering me that of the real and personal property of the above-named defendant, William Whitaker Ariell, I should cause to be made the sum of twenty-two pounds sixteen shillings and sixpence, together with interest on the said sum at the rate of eight pounds per centum per annum, from the second day of October, one thousand eight hundred and seventy-five, with costs of the said Writ and Warrant thereon, besides Sheriff's poundage, officers' fees, and other fees and expenses of execution: And whereas by virtue of another Writ of *Fieri Facias* issued herein, ordering me that of the real and personal property of the said defendant I should cause to be made the further sum of twenty-three pounds ten shillings and tenpence, together with interest on the said sum at the rate of eight pounds per centum per annum from the second day of December, one thousand eight hundred and seventy-five, with costs of the said writ and warrant thereon, besides sheriff's poundage,

officers' fees, and other fees and expenses of execution. Now, I, Henry Colin Balneavis, Sheriff of the District of Auckland, do hereby give notice that I shall cause to be sold by public auction, by Richard Arthur, at his Auction Mart, Queen-street, Auckland, on the eighteenth day of May, one thousand eight hundred and seventy-six, at the hour of twelve o'clock noon, unless the said sums of twenty-two pounds sixteen shillings and sixpence, and twenty-three pounds ten shillings and tenpence, and interest thereon respectively, as aforesaid, with costs of writ and warrant, Sheriff's poundage, officers fees, and other fees and expenses thereon as aforesaid, be sooner paid, all the estate, right, title, and interest of the said William Whitaker Ariell, in and to all that piece or parcel of land in the province of Auckland, in the colony of New Zealand, containing one hundred and twenty acres more or less, being northern portion of allotment one hundred and twenty-nine, of the Parish of Matakohē, in the County of Marsden, and being the whole of the land comprised in a certificate of title under the Land Transfer Act, 1870, and the several Acts amending the same, volume four, folio fifteen. And in and to all that piece or parcel of land, containing seventy-seven acres, more or less, being north-eastern portion of

allotment number twenty-eight of the Parish of Paparoa, in the County of Marsden, in the Province of Auckland aforesaid, being the whole of the land comprised in a certificate of title under the said Land Transfer Acts, volume eight, folio fifty-six, with all the buildings erected upon the said pieces or parcels of land or either of them. And I further give notice that the estate or interest of the said William Whitaker Ariell, in respect of the aforesaid lands so intended to be sold, consists in his being the registered proprietor of an estate of freehold in fee simple in possession of the said lands under the provisions of the said Acts. And all the said lands and all the estates and interests of the said William Whitaker Ariell therein and thereto have been taken by me in execution at the suit of the said William Haskayne Jones, the execution creditor. The name and address of the solicitor for William Haskayne Jones, the said execution creditor, is Edmund Augustus Mackechnie, of Wyndham-street, in the City of Auckland, in the Province of Auckland, aforesaid.

Dated the 4th day of February, 1876.

H. C. BALNEAVIS,  
Sheriff.

MacCormick and Mackechnie, Solicitors, Wyndham-street, Auckland.