

here. If it is possible to send such instructions as that the proceedings could be carried on here, from the first, perhaps it would be well. However, I think difficulties will arise in consequence of the Superintendent not being here.

As soon as the writ is issued the Superintendent can give his cognovit or sign a warrant to sign judgment; this must be done at Invercargill, therefore I think the proceedings had better be commenced there. As soon as judgment is signed and the writ of *fi. fa.* issued, the Deputy Superintendent will send up instructions to set aside writ of *fi. fa.*. An affidavit must be sent showing the issue of the writ *fi. fa.* and the threatened proceedings; and thereupon Messrs. Gillies and Turton can make the application to set aside the writ.

JAMES PRENDERGAST.

May 1, 1865.

I think the Superintendent would assume a desirable defensive position by adopting the course suggested.

J. RICHARDSON,
Postmaster General.

May 5th, 1865.

I have no objection to this course being adopted.

HENRY SEWELL.

May 16, 1865,

No. 45.

MR. FOUNTAIN TO MR. PRENDERGAST.

Attorney General's Office,
Wellington, 3rd June, 1865.

SIR,—

I have the honor to acknowledge the receipt of your letter of the date quoted in the margin, and in reply am directed to state that the Attorney General is obliged to you for the same, and that he has no official intimation of what has taken place, but as soon as he is in possession of the facts he will reply to your letter.

I have, &c.,

James Prendergast Esq., Solicitor,
Dunedin.

R. G. FOUNTAIN,
For the Assistant Law Officer.

No. 46.

MR. PRICE TO THE HON. MAJOR RICHARDSON.

Invercargill,
10th May, 1865.

SIR.—

I have the honor to acknowledge your letter of the 7th instant, handed to me this day by the Colonial Sub-Treasurer, calling upon me for an explanation regarding a certain matter connected with the execution of a writ of *fi. fa.*, issued out of the Supreme Court in the case of *M'Kenzie versus Superintendent of Southland*.

I would beg most respectfully to point out to you that the Sheriff being the Executive Officer of the Supreme Court, he is liable and responsible to the law only, and to their Honors the Judges who administer the law for every act of his in executing any process of the Court; and if he exceeds his powers or duties in any way whatever, not only does he render himself liable to heavy pecuniary damages, but also to attachment and imprisonment.

Under these circumstances, it appears to me to involve a grave principle of law in connection with the office whose powers, privileges, duties, and responsibilities are defined in the 8th clause of the Sheriff's Act, 1858, and which, in my case, is an unsalaried one. Whether a Sheriff shall be answerable for acts performed in the discharge of the executive duties of his office connected with the Supreme Court to others than the said Court, as the means are simple whereby his conduct can be brought under the judicial cognizance of the Court by either the plaintiff or defendant in the writ.

May I be permitted to observe that nothing will afford me greater satisfaction than to have the whole of my conduct reviewed by the Supreme Court as to the course I have pursued in executing the writ in question, which is still pending, as I am prepared to justify every step I have taken in the matter, having throughout acted strictly according to law, and in exactly the