

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 authorize 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 honor 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 inquiries 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 authorized 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.,

Wm. Gisborne, Esq., Commissioner of Annuities.

G. GREY.

Wm. Seed, Esq., Secretary and Inspector of Customs.

John Knowles, Esq., Under Secretary, Public Works Department.

No. 2.

The PROVINCIAL SECRETARY to the COMMISSIONERS.

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 Honor has addressed to the Provincial Auditor.

I have &c.,

READER WOOD,

Provincial Secretary.

William Gisborne, Esq.

William Seed, Esq.

John Knowles, Esq.