

placed the sum of three thousand pounds, payable under the University Act, at the disposal of the Council, to be drawn upon, as requested by your telegram, by yourself and the Vice-Chancellor. The Government did this, relying on the Council adopting such measures as would give legal sanction to that mode of dealing with their funds. It would, in the opinion of the Attorney-General, be necessary that proper statutes or regulations for the management and disposal of the University funds should be made and submitted for the approval of the Governor in Council, in accordance with the provisions of the Act. Meantime, I venture to submit to you the propriety of not dealing further with the funds than may be absolutely necessary to provide for ordinary expenses already incurred.

I observe that, as to various subjects, the Council have considered that it was necessary to govern their proceedings by statutes submitted for the approval of the Governor in Council; but as regards other subjects of the greatest importance, the Council seem to have considered that they were not bound to frame statutes, but that it was sufficient to proceed by resolution. This course is, as the Government are advised, at variance with the terms of the University Act. I refer in particular to the establishment of professorships and scholarships, which has been publicly announced in advertisements. It appears that the Council contemplate the establishment of these professorships and scholarships in Colleges affiliated by the University. The Government are further informed that it is in the contemplation of the Council to found scholarships in the non-affiliated University of Otago. The University Act authorizes the establishment of lectureships in affiliated Colleges, but only authorizes the establishment of scholarships in the University of New Zealand. The establishment, therefore, of scholarships in affiliated Colleges, and *a fortiori* in the non-affiliated University of Otago, would not be, as the Government are advised, in accordance with law.

H. J. Tancred, Esq., Chancellor,  
New Zealand University, Christchurch.

I have, &c.,  
W. GISBORNE.

(The substance of the above letter was communicated to Mr. Tancred by telegraph on the 1st July.)

### No. 23.

MR. TANCRED TO HON. MR. GISBORNE.

SIR,—

Christchurch, July 6, 1871.

I have the honor to acknowledge the receipt of your letter, No. 336, of the 3rd instant, in reference to the action taken by the Council of this University, at its late meeting at Dunedin, in matters referred to by you (also a telegram to the same effect as your letter) and in doing so, I am sure that I only express the feelings of the Council when I say, that that body agrees with you in thinking that the Colonial Government has shown every desire to render it assistance, by the readiness with which it has placed the funds appropriated for the present year's service, at the disposal of the University; for, although the Colonial Treasurer is compelled by the Act to do this, yet I am sensible that the Government, had it been disposed to cripple the action of the Council, might have interposed considerable delay before paying over the money.

It will no doubt be a cause of regret to the Council that it should have misapprehended the intention of the Act, and proceeded, as appears to be the opinion of the Attorney-General, in contravention of its provisions. Nothing, I am sure, was further from the wish of the Council, and I propose to offer some observations on the points referred to in your letter, for the purpose of explaining what my impression is of the view taken by the Council of its position.

In the first place, you state that the obvious intention of the Act is that the University shall be founded at some given place, and that the University of Otago feels itself aggrieved that the union of the two Universities has been prevented by the Council of this University resolving not to fix upon any particular place in the Colony as a permanent site; and further, that under these circumstances it is open to grave doubt whether this University is capable of exercising its functions in the manner and to the extent which it has purported and proposes to do.

From this I gather that the omission to fix upon a site has produced these two evils:—1st. It has prevented the amalgamation of the two Universities. 2nd. It has curtailed the powers of the Council.

I think, upon consideration, that you will agree with me that this University is in no way responsible for the omission. It is true that the Council has expressed its opinion by resolution that the establishment of the University at any particular place is not desirable at present; but it has made no recommendation on the subject, nor has it in any other way communicated its views to the Government; and for this simple reason, that it is no part of its functions to take action in the matter. It is left to the Governor and Executive Council to determine whether they will exercise the power given to them of deciding upon any particular place as the seat of the University. If, however, the expression in clause 19, "The University of New Zealand may be founded, &c.," is mandatory, then I conceive the Government has no option in the matter, but is compelled by law at once to fix upon some place other than Dunedin. In either case this University has no responsibility in the matter, and the complaint of the University of Otago against the Council of this University resolves itself into a complaint against the Governor and Executive Council. If, as appears to be your opinion, this omission on the part of the Government has had the effect of curtailing powers which the Council would otherwise have possessed, and of throwing doubt upon the legality of action already taken, I venture to suggest that the Government should, as soon as possible, remove these doubts by at once fixing on a suitable site in accordance with the terms of the Act.

With regard to the form adopted for the appropriation of the funds, the Council was not aware that this must be done by statute or regulation to be approved of by the Governor; as clause 15, which specifies the purposes to which the funds at the disposal of the Council may be applied, makes