

# CORRESPONDENCE

CONNECTED WITH

GENTLEMEN WHO EXPRESSED THEIR INABILITY TO ACT UPON  
THE COUNCIL OF THE

## NEW ZEALAND UNIVERSITY.

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PRESENTED TO BOTH HOUSES OF THE GENERAL ASSEMBLY, BY COMMAND OF  
HIS EXCELLENCY.

---

WELLINGTON.

—  
1871.



**CORRESPONDENCE CONNECTED WITH GENTLEMEN WHO EXPRESSED THEIR INABILITY TO ACT UPON COUNCIL OF THE NEW ZEALAND UNIVERSITY.**

**No. 1.**

The Hon. W. GISBORNE to the Hon. Major RICHARDSON.

(Telegram.)

Wellington, 22nd September, 1870.

WILL you consent to be nominated by the Governor to the Council of N.Z. University, under the Act of 1870, copy of which will be sent by next mail?

Hon. Major Richardson, M.L.C., Dunedin.

W. GISBORNE.

Telegrams similar to the above were sent to—

His Honor Mr. Justice Chapman, Dunedin.

His Honor J. Macandrew, Dunedin.

Hon. Captain Fraser, M.L.C., Dunedin.

W. H. Reynolds, Esq., M.G.A., Dunedin.

Hon. H. J. Miller, M.L.C., Oamaru.

H. J. Tancred, Esq., M.G.A., Christchurch.

His Honor Mr. Justice Gresson, Christchurch.

His Honor Mr. Justice Richmond, Nelson.

His Honor O. Curtis, Nelson.

**No. 2.**

[CIRCULAR.]

SIR,—

Colonial Secretary's Office, Wellington, 23rd September, 1870.

I have the honor to forward copy of "The New Zealand University Act, 1870," together with a list of persons proposed to be appointed to the Council under the Act, and I shall feel obliged if you will inform me whether you will be prepared to give the Colony the benefit of your services in the capacity of a member.

I have, &c.,

W. GISBORNE.

The above Circular was sent to—

Sir G. A. Arney, Chief Justice, Auckland.

Hugh Carleton, Esq., M.G.A., Auckland.

Hon. D. Pollen, M.L.C., Auckland.

Sir W. Martin, D.C.L., Auckland.

Hon. Major Richardson, M.L.C., Otago.

His Honor Mr. Justice Gresson, Christchurch.

His Honor O. Curtis, M.G.A., Nelson.

His Honor Mr. Justice Johnston, Wellington.

Hon. A. Domett, M.L.C., Wellington.

Hon. R. Stokes, M.L.C., Wellington.

Hon. M. S. Grace, M.D., M.L.C., Wellington.

Hon. W. Fitzherbert, M.G.A., Wellington.

J. Hector, Esq., M.D., F.R.S., Wellington.

**No. 3.**

Sir W. MARTIN to the Hon. W. GISBORNE.

SIR,—

Auckland, 26th September, 1870.

I have the honor to acknowledge the receipt, per telegram, of a question, "Will you consent to be nominated by the Governor to the Council of New Zealand University? &c."

I beg to say that I will return an answer as soon as I shall have had an opportunity of ascertaining the nature and extent of the duties to be discharged by a member of the proposed Council.

I have, &c.,

WM. MARTIN.

The Hon. the Colonial Secretary, Wellington.

**No. 4.**

Sir W. MARTIN to the Hon. W. GISBORNE.

SIR,—

Auckland, 4th October, 1870.

The promised copy of "The New Zealand University Act" having come to hand, I have carefully considered it, in order to ascertain whether it might be possible for me to undertake the office proposed to me by the Government.

I am not now able to work at night, whilst the daylight is taken up to a large extent by a variety of employments. I am forced to the conclusion that the time left free would not suffice for the fulfilment, either by conference or by correspondence, of the numerous and important duties of a member of the Council.

I beg to tender my thanks to the Government for the offer made to me, though I am unable to accept it.

The Hon. the Colonial Secretary, Wellington.

I have, &c.,  
WM. MARTIN.

No. 5.

Mr. Justice CHAPMAN to the Hon. W. GISBORNE.

(Telegram.)

Dunedin, 29th September, 1870.

TELEGRAM received from Judge Johnston, pointing out that all the Judges should not be members of University Council, because they are trustees. Consult Attorney-General thereon, and omit or include me as you may think best. Will write on Saturday.

The Hon. the Colonial Secretary, Wellington.

H. S. CHAPMAN.

No. 6.

Mr. Justice CHAPMAN to the Hon. W. GISBORNE.

SIR,—

Dunedin, 10th October, 1870.

I have the honor to acknowledge the receipt of your circular letter of the 24th September, enclosing a copy of "The New Zealand University Act, 1870," together with the list of the proposed Council.

On one feature of the subject I have already had the honor of addressing to you a telegram, which I afterwards explained to you more fully in a private letter.

The Hon. the Colonial Secretary, Wellington.

I have, &c.,  
H. S. CHAPMAN.

No. 7.

Mr. Justice JOHNSTON to the Hon. W. GISBORNE.

SIR,—

Judge's Chambers, Wellington, 1st October, 1870.

I have the honor to acknowledge the receipt of your letter (circular) of 23rd September, in which you ask me if I shall be prepared to give my services in the capacity of a member of Council under "The New Zealand University Act, 1870."

In answer, I have the honor to say that I should have been most happy to accept the office proposed to me but for the consideration of a difficulty which might probably arise if all the Judges of the Supreme Court were to become members of the Council. Inasmuch as the Act provides that the Council, until the Senate has been formed, and afterwards the Council and the Senate together, are to be a body corporate, in which the property of the University is to be vested, and which is to sue and be sued, it would appear that, according to established principles, no Judge of the Supreme Court, being a member of the Council, could take part in any decision affecting the University or its property without a risk at least of the judgment being invalidated; and, therefore, if all the judges were members of the Council, the Supreme Court and the Court of Appeal would be practically closed against the University.

I am not aware that it has been expressly decided that a person having only a judicial interest in a cause is disqualified to act as a Judge; but I remember the late Chief Justice Jervis withdrawing from the Court of Common Pleas during the hearing of the case in which the Ecclesiastical Commissioners were concerned, on the ground that he himself was a Commissioner.—[See the Ecclesiastical Commissioners v. the London and North Western Railway Company, 23 L.J. (N.S.) C.P., p. 179 in the note.]

Under these circumstances, you will probably agree with me that it is not desirable that I should accept the appointment.

The Hon. the Colonial Secretary, Wellington.

I have, &c.,  
ALEXANDER J. JOHNSTON.

No. 8.

The Hon. Dr. POLLEN to the Hon. W. GISBORNE.

SIR,—

Auckland, 13th October, 1870.

I have the honor to acknowledge the receipt of your letter of date 23rd September ultimo, covering a list in which my name appears, of persons proposed to be appointed to the Council of the New Zealand University.

Having attentively studied "The New Zealand University Act, 1870," I am obliged respectfully to decline the honor proposed to be conferred upon me, for the reason that I feel that I should not be able to discharge the important duties of a member of the Council with satisfaction to myself.

The Hon. the Colonial Secretary, Wellington.

I have, &c.,  
DANIEL POLLEN.

No. 9.

The Hon. Major RICHARDSON to the Hon. W. GISBORNE.

[Telegram.]

Balclutha, 24th September, 1870.

BEFORE replying, may I ask the following questions:—1. What number of Otago gentlemen will there be on the New Zealand University Council? 2. Can the Council formed under the Act abstract any of the present or future Otago endowments for another University elsewhere? 3. In case of amalgamation, or the establishment of another New Zealand University, would the Otago University still receive a fair share of Colonial endowments under the Act of 1870—I mean those applicable to scholarships? 4. If the abstraction referred to in No. 3 can be effected, could the terms of agreement of amalgamation prevent such abstraction? Is there any chance of the Assembly being called together immediately?

The Hon. the Colonial Secretary, Wellington.

J. RICHARDSON.

No. 10.

The Hon. W. GISBORNE to the Hon. Major RICHARDSON.

(Telegram.)

Wellington, 24th September, 1870.

IN *re* your telegram, University Council.—1st question, Six. 2nd question, Possibly; but not likely. 3rd question, Would be entitled to fair share. 4th question, No special contract possible. 5th question, No. List of proposed Council appended hereto.

Hon. Major Richardson, M.L.C., Balclutha.

W. GISBORNE.

No. 11.

The Hon. Major RICHARDSON to the Hon. W. GISBORNE.

(Telegram.)

Dunedin, 29th September, 1870.

THANKS. As the Council meets at three, and some of the members have to return to the country at once, may I ask whether the Government will be willing to receive and reply to telegraphic communications this evening, up to closing of telegraph offices?

The Hon. the Colonial Secretary, Wellington.

J. RICHARDSON.

No. 12.

The Hon. W. GISBORNE to the Hon. Major RICHARDSON.

(Telegram.)

Wellington, 29th September, 1870.

WITH pleasure. Address telegrams to me.

The Hon. the Colonial Secretary, Wellington.

W. GISBORNE.

No. 13.

The Hon. Major RICHARDSON to the Hon. W. GISBORNE.

(Telegram.)

Wellington, 29th September, 1870.

UNIVERSITY Council meets at three. May I request the opinion of the Attorney-General by that time, on the powers of the new University Council to divert any portion of present or future endowments made or to be made by Otago; also, the power of the two Councils to prevent this diversion in the agreement to amalgamate?

The Hon. the Colonial Secretary, Wellington.

J. RICHARDSON.

No. 14.

The Hon. W. GISBORNE to the Hon. Major RICHARDSON.

(Telegram.)

Wellington, 29th September, 1870.

RECEIVED your telegram. Attorney-General is of opinion that the University Council will have no power to divert any portion of present or future endowments made or to be made by Otago. This answers your second question. Next, with reference to telegram to Mr. Sewell, Government had no intention or power to fix place of meeting of Council.

The Hon. Major Richardson, M.L.C., Dunedin.

W. GISBORNE.

No. 15.

The Hon. Major RICHARDSON to the Hon. W. GISBORNE.

(Telegram.)

Dunedin, 29th September, 1870.

IMMEDIATE. Resolutions of Otago University Council for consideration of Government:—1. That, according to an implied, if not an accepted understanding, the composition of the new University Council was intended to include two members resident in Otago, most probably those in the present Council, in order to the more effective administration and supervision of the University therein located, and the Council consider such arrangement to be essentially necessary towards amalgamation. 2. Before taking any steps towards amalgamation with the New Zealand University, it is incumbent that this Council be assured that the endowments of the Otago University are secure against the possibility of their being diverted from the Province of Otago; and that, inasmuch as "The New Zealand University Act, 1870," makes no provision to that effect, the Colonial Government be requested to undertake the introduction of an Amendment Act for this purpose, and to engage to support the same. 3. That while

the third clause of "The New Zealand University Act, 1870," especially provides that of the twenty Councillors comprising the Council twelve at least should be laymen, the Council cannot but regard the exclusion of all ministers of religion, whatever their attainments and position, as marked and invidious, and more especially in the case of the Chancellor of the University of Otago, who has been intimately acquainted with the Province from its earliest history, and who was unanimously chosen to the office which he now holds. 4. That the Chairman be requested to forward a copy of these resolutions to the Hon. the Colonial Secretary, and that the Council meet again at nine o'clock to consider the reply.

The Hon. the Colonial Secretary, Wellington.

J. RICHARDSON.

### No. 16.

The Hon. W. GISBORNE to the Hon. Major RICHARDSON.

(Telegram.)

Wellington, 29th September, 1870.

I do not understand the first resolution. It says,—It is asserted that new Council should include *two* members resident in Otago. If I recollect right, there are six Otagonians in new Council. Second resolution,—General Assembly can alone, I am advised, divert Otago endowments. I am quite willing to support declaratory Act that no diversion should take place. I cannot at this moment consult my colleagues, but I fully believe they would also be willing. Third resolution,—Government would gladly have nominated ministers of religion on Council, especially the present Chancellor, but they strongly felt that if one denomination was represented by a minister of religion, other denominations would have the same claim, and it was felt impossible fairly or without invidious distinction to draw the line. My reply is rather hurried, as I have only received your telegram, at my private house, half an hour before Telegraph Office closes.

The Hon. Major Richardson, Dunedin.

W. GISBORNE.

### No. 17.

The Hon. Major RICHARDSON to the Hon. W. GISBORNE.

(Telegram.)

Dunedin, 29th September, 1870.

THE word is *ten* not *two*. The Council meets in half an hour. Please reply. Will the Government give the required guarantee asked in No. 2? Will the Government amend the nomination so as to include ministers and additional Otago members?

The Hon. the Colonial Secretary, Wellington.

J. RICHARDSON.

### No. 18.

The Hon. W. GISBORNE to the Hon. Major RICHARDSON.

(Telegram.)

Wellington, 29th September, 1870.

GOVERNMENT will agree to resolution 2. Cannot reply definitely to rest without consulting Cabinet. Will let you know to-morrow.

The Hon. Major Richardson, M.L.C., Dunedin.

W. GISBORNE.

### No. 19.

The Hon. Major RICHARDSON to the Hon. W. GISBORNE.

(Telegram.)

Dunedin, 29th September, 1870.

THE Council having read and considered telegrams 391 and 392, express their satisfaction that Government agrees to their second resolution, and trusts that they will be enabled to communicate a similar result with reference to resolutions 1 and 3. They would refer the Government to the constitution of the Melbourne University Council, in which four clergymen out of twenty members are on the Council, and to that of the Senate of the University of Sydney, in which there are three clergymen out of nineteen members; and they trust that invidious distinctions, disparaging to the rights of any class of colonists in New Zealand, will not for a moment be sanctioned by the Executive Government, especially as such distinctions would be contrary to the spirit of the Act of 1870.

The Hon. the Colonial Secretary, Wellington.

J. RICHARDSON.

### No. 30.

Mr. W. H. REYNOLDS to the Hon. W. GISBORNE.

(Telegram.)

Dunedin, 29th September, 1870.

THE Otago University Council had an interview this afternoon with the Superintendent and the Provincial Executive, who concur generally with the substance of the telegrams forwarded to-day by Hon. Major Richardson.

The Hon. the Colonial Secretary, Wellington.

WM. H. REYNOLDS.

### No. 21.

The Hon. W. GISBORNE to the Hon. Major RICHARDSON.

(Telegram.)

Wellington, 30th September, 1870.

RE your telegram of 29th.—As to question No. 2, Cabinet approve of answer already sent by me. As to questions 1 and 3, it would be impossible now to alter the composition of the Council. As regards

the proportion of members of Council to be assigned to Otago, no member of Government at Wellington is aware of any understanding that Otago should have any given number of members. Residence will always give Otago its full influence. As regards ministers of religion, Government appreciate Dr. Burns' claim to the utmost consideration, but the question has been fully considered, and the Government cannot alter the rule on which they have acted without creating invidious distinctions between religious denominations.

The Hon. the Colonial Secretary, Wellington.

W. GISBORNE.

A copy of the above was telegraphed to His Honor J. Macandrew.

No. 22.

Mr. W. H. REYNOLDS to the Hon. W. GISBORNE.

(Telegram.)

Dunedin, 30th September, 1870.

IN consequence of some difficulty having arisen in the amalgamation of the Otago with the New Zealand University, I beg respectfully to request that you relieve me from acting on the Council of the latter.

The Hon. the Colonial Secretary, Wellington.

WM. H. REYNOLDS.

No. 23.

The Hon. Major RICHARDSON to the Hon. W. GISBORNE.

(Telegram.)

Dunedin, 30th September, 1870.

I HAVE thankfully to decline the nomination to the New Zealand University Council, which you were good enough to offer for my acceptance.

The Hon. the Colonial Secretary, Wellington.

J. RICHARDSON.

No. 24.

CIRCULAR.

SIR,—

Colonial Secretary's Office, Wellington, 16th November, 1870.

I have the honor to forward copy of "The New Zealand University Act, 1870," together with a list of persons proposed to be appointed to the Council under the Act; and I shall feel obliged if you will inform me whether you will be prepared to give the Colony the benefit of your services in the capacity of a member.

I have, &c.,  
W. GISBORNE.

The above Circular was sent to—

The Hon. J. B. A. Acland, M.L.C., Canterbury.  
His Honor W. Rolleston, M.G.A., Christchurch.  
The Hon. Robert Campbell, M.L.C., Otago.  
G. Turnbull, Esq., Dunedin.  
Sir D. Monro, Nelson.  
The Hon. E. W. Stafford, Nelson.  
J. E. FitzGerald, Esq., C.M.G., Wellington.

No. 25.

Mr. J. E. FITZGERALD, C.M.G., to the Hon. W. GISBORNE.

SIR,—

Controller's Office, Wellington, 22nd November, 1870.

I have the honor to acknowledge the receipt of your letter of the 16th instant, received yesterday, requesting me to state whether I am prepared to give the Colony the benefit of my services in the capacity of a member of the Council of the University, established under "The New Zealand University Act, 1870," and enclosing a list of the names of those gentlemen whom it is proposed to associate with me in that office.

After giving the subject my best consideration, and with every disposition to aid in the proposed object, I feel it imperative upon me to decline the offer which the Government has done me the honor to make.

I have, &c.,  
JAMES EDWARD FITZGERALD.

The Hon. the Colonial Secretary,  
Wellington.

No. 26.

Mr. G. TURNBULL to the Hon. W. GISBORNE.

(Telegram.)

Dunedin, 19th December, 1870.

OBLIGED by proposal of Government, but it will not be convenient for me to act as member of the University Council.

The Hon. the Colonial Secretary, Wellington.

GEO. TURNBULL.

## PAPERS RELATIVE TO

No. 27.

Mr. G. TURNBULL to the Hon. W. GISBORNE.

SIR,—

Dunedin, N.Z., 22nd December, 1870.

I have the honor to acknowledge receipt of your circular letter of the 16th ultimo, forwarding copy of "The New Zealand University Act, 1870," with a list of persons proposed to be appointed for the Council under the Act, and requesting to be informed whether I would be prepared to act in the capacity of a member.

In reply, I have to thank the Government for the honor they have done me, but regret that it will not be convenient for me to act as a member of the University Council. I have telegraphed to you to this effect.

The Hon. the Colonial Secretary, Wellington.

I have, &c.,  
GEO. TURNBULL.

No. 28.

Sir D. MONRO to the Hon. W. GISBORNE.

(Telegram.)

Blenheim, 21st December, 1870

SORRY that I am unable to accept the office of Councillor in the New Zealand University.

The Hon. the Colonial Secretary, Wellington.

D. MONRO.

No. 29.

CIRCULAR.

SIR,—

Colonial Secretary's Office, Wellington, 28th December, 1870.

I have the honor to forward copy of "The New Zealand University Act, 1870," together with a list of persons proposed to be appointed to the Council under the Act; and I shall feel obliged if you will inform me whether you will be prepared to give the Colony the benefit of your services in the capacity of a member.

I have, &c.,  
W. GISBORNE.

The above circular was sent to—

Reverend Thomas Buddle, Wellington;  
Reverend D. M. Stuart, D.D., Dunedin;  
The Right Reverend Dr. Croke, Roman Catholic Bishop of Auckland; and  
The Right Reverend the Primate, Christchurch.

No. 30.

Rev. Dr. STUART to the Hon. W. GISBORNE.

SIR,—

Dunedin, 7th January, 1871.

While deeply grateful to the Government for their efforts to advance the higher education of the Colony, and also for the offer of a seat on the Council of the New Zealand University,—yet my sense of what is due to the services which the Chancellor, Vice-Chancellors, E. B. Cargill, and others of my colleagues in the Council of the University of Otago have rendered to education, and also my conviction that the proposed Council, from their distance from Dunedin, could not do justice to an institution which for some years will require much fostering,—constrain me to decline a position which I would otherwise covet.

The Hon. the Colonial Secretary, Wellington.

I have, &c.,  
D. M. STUART.

No. 31.

The Hon. W. GISBORNE to Rev. Dr. STUART.

(Telegram.)

Wellington, 27th January, 1871.

MUCH regret to hear of death of Dr. Burns; when I wrote to him, was not aware of his illness. Will you now waive objection, and consent to act on the New Zealand University? Reply free.

Rev. D. M. Stuart, D.D., Dunedin.

W. GISBORNE.

No. 32.

Rev. Dr. STUART to the Hon. W. GISBORNE.

(Telegram.)

Dunedin, 30th January, 1871.

DEEPLY grateful for being asked to reconsider my decision in regard to a seat in the Council of the University, but loyalty to friends who have long worked with me in the field of education, and who have been passed over, requires me to respectfully decline. This pains me the more, from my general agreement with the action of the Government.

The Hon. the Colonial Secretary, Wellington.

D. M. STUART.



No. 33.

The Right Rev. Dr. CROKE to the Hon. W. GISBORNE.

DEAR SIR,—

Auckland, 20th May, 1871.

I regret to say that it will not be in my power to attend the first meeting of the Council of the New Zealand University, to be held on the last day of this month.

Indeed, my distance from Dunedin is so great, and my duties here are so numerous, so urgent, and so increasing, that I fear I shall have to give up all hope of ever taking my place at the Council.

The Hon. the Colonial Secretary, Wellington.

I remain, &c.,

T. W. CROKE.

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No. 34.

The Hon. W. GISBORNE to the Right Rev. Dr. CROKE.

MY LORD,—

Colonial Secretary's Office, Wellington, 31st May, 1871.

I have the honor to acknowledge the receipt of your Lordship's letter of the 20th instant, and to express the regret of the Government at your inability to attend the meeting of the Council of the New Zealand University, to be held at Dunedin to-day.

I hope that your Lordship will be able to attend subsequent meetings which may be held nearer to Auckland.

The Right Rev. Dr. Croke, R.C. Bishop, Auckland.

I have, &c.,

W. GISBORNE.

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