

current services cannot be issued, there being no sums legally available for them. To remove all doubt, I shall feel obliged by your obtaining the opinion of the law officers as to the proper interpretation of the words "legally available," as used in the 11th section of "The Provincial Audit Act, 1866," viz., Is the Provincial Auditor "before signing or certifying a warrant, in addition to seeing that the services therein specified are duly authorized by an Appropriation Act, required to see that sufficient money is in the Provincial Account to pay the amount of such warrant, and of all warrants previously issued but remaining unexercised?"

I have, &c.,

H. S. MCKELLAR,  
Provincial Auditor.

The Secretary to the Treasury, Wellington.

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MINUTES ON Mr. MCKELLAR'S Letter of 27th February, 1874.

WILL the law officers be good enough to advise hereon? Urgent—C. T. BATKIN.  
28th February, 1874.

I THINK the Provincial Auditor should be informed that the Government considers it is his duty, before issuing a warrant, to ascertain whether there are at the Provincial Account moneys legally at that account sufficient to meet not only the warrants, but all previously certified warrants, and should also be informed that the Government considers that this was the intention of the Legislature, and that such intention is sufficiently expressed in the Audit Act, and will support the Auditor in that interpretation of the Act, should it be contested by the Provincial Government.

28th February, 1874.

J. PRENDERGAST.

INFORM Mr. McKellar accordingly.—W. H. R.

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No. 37.

The SECRETARY to the TREASURY to the PROVINCIAL AUDITOR, Wellington.

SIR,—

Treasury, Wellington, 2nd March, 1874.

I have the honor to acknowledge the receipt of your letter of the 27th ultimo, in which you state that at the time of entering on your duties as Provincial Auditor, you find that the cash balance at the credit of the Provincial Account is insufficient to provide for claims included in warrants previously issued, but now remaining partly unexercised.

You express an opinion that under these circumstances you would be unable to certify to any warrant presented for that purpose, and request you may be advised whether, under the 11th section of "The Provincial Audit Act, 1866," the Provincial Auditor is required, before certifying any warrant, to see that the money in the Provincial Account is sufficient to provide for the expenditure included in such warrant, and for that included in warrants previously issued but remaining unexercised.

In reply, I am directed by the Hon. the Colonial Treasurer to inform you that the Government considers it to be your duty, before certifying any warrant, to ascertain that there are moneys at the credit of the Provincial Account sufficient to meet not only the amount of that warrant, but of all warrants previously certified but at that time unexercised.

It is considered that this was the intention of the Legislature; that this intention is sufficiently expressed in the Audit Acts; and the Government will support the Provincial Auditor in this interpretation of the law, in the event of its being contested by the Provincial Government.

I have, &c.,

C. T. BATKIN,  
Secretary to the Treasury,

H. S. McKellar, Esq.,  
Provincial Auditor, Wellington.

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No. 38.

The PROVINCIAL AUDITOR, Wellington, to the SECRETARY to the TREASURY.

SIR,—

Provincial Audit Office, Wellington, 10th March, 1874.

With reference to your letter of the 2nd instant, I have the honor to report that on the 27th ultimo warrants were presented to me for certificate amounting to £4,382 8s. 3d. "The Provincial Account" at the Bank of New Zealand being then overdrawn to the extent of £4,135 8s. 8d., and warrant 15, issued under certificate of the late Auditor, for £49,550, being only partly exercised, and although in my opinion illegally issued, the Provincial Treasurer being able under it to draw money from the Provincial Account, I decided that I could not certify that any sums were legally available for the services, and accordingly gave notice thereof to the Provincial Treasurer. Copy of letter herewith.

To-day I have received an order of the Supreme Court to show cause by Counsel, on the 17th instant, why a mandamus should not be issued to compel me to certify certain warrants; and I have to request that you will obtain from the Hon. the Colonial Treasurer authority for the necessary professional assistance.