

PROPOSED REGULATIONS UNDER THE LAND
REGISTRY ACT 1860.

Registrar General of Land's Office,
Auckland, May 3rd, 1861.

SIR,—I transmit to you the draft of Regulations, under the Land Registry Act, 1860, which I recommend as suitable for the adoption of the Governor in Council, pursuant to the 71st section of the Act.

The following is an outline of the plan which I propose:—

I. Any system of Registration, at all events in this Colony, must in my opinion fail of Surveys & Maps. success unless based upon Surveys and Maps. Without these, land cannot be defined with accuracy, and without such definition, Registration with exactness is impossible. The lands of the Colony are, for the most part, unoccupied;—a proper nomenclature of topographical divisions is wanting;—and the test of ownership is not reducible, as in the Home country, to actual occupation. Practically we are compelled to have recourse to Maps, more or less accurate, in all our transactions respecting land. If indeed the sole object of Registration were to secure the titles of individual proprietors, it might be possible to found a system upon the separate descriptions and maps contained in Crown Grants; but to rest here, would be to ignore one of the great uses of a Register. It is wanted not merely to secure individual proprietors, but as a guide to the public. Wanting maps, the public want the only practical clue to the discovery of title. A nominal index, by itself, can only be of partial use. Besides, if Government is to insure titles, as proposed by the new Act, it is indispensable that Government should in self-protection possess a means of reference to the lands, in respect of which they assume liability, and be enabled to distinguish them with accuracy.

The arguments on this question are stated *pro* and *con* in the Report of the English Registration Commissioner of 15th May, 1857.

The reasons there urged against a system of Registration founded on Maps, viz., delay See Sessional Papers and expense of construction, have little weight in the Colony, where, in this early stage, the work 1858, p. 1. required is comparatively trifling and inexpensive;—while on the other hand the reasons in favour of adopting them, have tenfold weight in a country where the divisions of ownership are almost entirely dependent on surveys, and which is for the most part destitute of visible lines of occupation and local designations.

Whilst, however, I insist on the pictorial representation by maps of land and its boundaries Surveys subordinate as the *sine qua non* of a Registration system, I admit that there is a test of ownership higher and to rightful occupation more authentic than map delineation, viz., rightful occupation. Map delineation ought to be made subordinate to this, and where discrepancy may be found between the two, error is to be presumed in the map, and provision made for correcting it. Rightful occupation may be shewn, either expressly,—as where land has been actually laid off, or possession delivered to purchasers;—In such case if the map differs from the occupation, the occupation must be taken to be correct;—the map is in fault;—or impliedly, where land has been occupied for a length of time, after a certain fashion, without dispute,—still more, if the lines of occupation of one proprietor have been assumed as a basis of measurement by adjoining proprietors,—in these cases also, the maps should be corrected according to the actual lines of occupation. The want of some means of correcting errors of survey of this kind is greatly felt. I submit for your consideration the accompanying Draft Bill, which Proposed Survey will, I hope, if adopted by the Legislature, contribute to the removal of difficulties of title, arising Amedudment Bill. from this source, and greatly facilitate the work of Registration.

II. I have already, with the sanction of the Government, taken steps to obtain proper Registration Maps. Registration Maps from various Provinces.

The Survey Departments are under the direction of the Provincial Governments. Here I Expediency of Gene- may remark that, as a safeguard to the Crown and the General Government, in disposing of the ral Government Su- public lands, it appears to me reasonable that some supervision should be exercised on the part of pervision. the General Government, over the laying out of the public lands for sale, under the direction of the Provincial Departments. The maps according to which the public lands are laid out, and from which Crown Grants are practically compiled, are the true basis of contract between the Crown and its purchasers, out of which the liability, on the part of the Crown towards its purchasers, arises.

Though, in a general way, reliance may be placed on the Provincial Survey Departments, this is not an invariable rule;—and the General Government, which represents the Crown, ought, in my opinion, to have means within itself of testing and insuring the accuracy of all Sale Maps.

To the Honourable
The Attorney-General.