

PAPERS RELATIVE TO THE LAND REGISTRY ACT, 1860.

No. 1.

COPY OF A DESPATCH FROM HIS GRACE THE DUKE OF NEWCASTLE TO HIS EXCELLENCY THE GOVERNOR OF NEW ZEALAND.

Downing Street,
26th June, 1861.

Sir,—

You will observe that the Act passed in the last session of the New Zealand Legislature, “to simplify the law relating to the transfer of landed property in New Zealand” is not among those which Her Majesty has been advised to leave to their operation.

NEW ZEALAND.
No. 62.

This law, as I understand it, enables a public officer, after such notice and investigation as may appear to him sufficient, to award to any claimant of an absolute interest in land “an indefeasible estate in fee simple” subject to the incumbrances, reservations and other matters, which he, (that public officer) may have entered on the Register, and to certain other limited interests, but “free from all other estates, incumbrances and interests whatever.”

This searching power may (it would appear) be so exercised as to extinguish the rights of persons resident in this country, but interested in real property in New Zealand, without any security that such persons will even have an opportunity of being heard in defence of their own titles.

Such a law can hardly be said to be of merely local interest, and I therefore felt myself unable to recommend that Her Majesty should leave it to its operation, without the concurrence of the Attorney and Solicitor General, to whom therefore I caused it to be referred.

I enclose a copy of the opinion which I have received from them, which will also incidentally shew the point of view in which they were invited to consider it.

I should wish you to communicate this opinion to your Ministry, and obtain from them that further information which is required by the Attorney and Solicitor General, in order to enable them to furnish me with a definite opinion as to the effect of the Act.

You will observe that the Law Officers refer particularly to the rights of the Crown to landed property in New Zealand. On this head there is of course the greatest possible difference between the waste land, or other property of the Crown, which is practically at the disposal of the local Government, and any barracks or other property which may be viewed as belonging to the Imperial Government; it is over property of the latter kind that the Secretary of State is bound to exercise a peculiar guardianship.

I have, &c.,

NEWCASTLE.

The Governor of New Zealand,
&c., &c., &c.

Enclosure in No. 1.

THE LAW OFFICERS TO THE DUKE OF NEWCASTLE.

Lincoln's Inn,
June 21st, 1861.

MY LORD DUKE,—

We were honoured with your Grace's commands, signified in Sir Frederick Rogers' letter of the 5th instant, stating that he was directed by your Grace to submit for our consideration a Law passed by the Legislature of New Zealand, intitled “An Act to simplify the Law relating to the transfer of landed property in New Zealand.”

Sir Frederick Rogers added, that your Grace was of opinion that the mode of transferring landed property in a Colony possessing Representative Institutions and a Responsible Government is *primâ facie*, a matter of purely local concern; and that even if any imperfect or inconvenient law were passed on such a subject, it would be unnecessary and impolitic for the Imperial Government to intervene for the mere purpose of protecting the Colonists from the consequences of their own ill-considered legislation.

Legislation, however, which tends to give residents in the Colony an undue advantage over persons not resident, presents itself under a somewhat different aspect to the Home Government, and it is in this point of view that your Grace brings the present Act under our consideration.

By the 17th and 18th clauses of the Act, any person entitled absolutely to an estate in land in fee simple, may claim registration of his interest, and the Registrar may entertain an application for registration, subject to any specified incumbrance or trust.

The Registrar is to require proper notices to be given of the application, is to examine the title deeds to the property, and if satisfied with the alleged title, is to register the applicant as proprietor of the land, (s. s., 21, 29.)