

It is then provided (s. 33) that "the registry as proprietor of land of any person shall confer on the person so registered, an indefeasible title in fee simple, subject to the incumbrances, reservations and other matters, if any, entered on the register, and hereafter included under the term incumbrances, and subject also to such charges and interests, if any, as are hereinbefore (by s. 19) declared not to be incumbrances, but free from all other estates, incumbrances and interests whatever, including estates, interests and claims of Her Majesty, Her Heirs and Successors."

That it appeared to your Grace that to invest a Public Officer with the power of effecting, upon what might often be in the nature of an *ex parte* application, a registration, having the consequences here set forth, was a very hazardous step; and your Grace felt great doubt whether you could properly advise Her Majesty to leave in operation an Act which, independently of its effect on the resident colonists, appeared to affect so seriously the security of landed property or encumbrances thereupon held by absentees.

Sir Frederick Rogers, was therefore pleased to request that we would favor your Grace with our opinion whether, having especial reference to the interests of persons not resident in the Colony of New Zealand, this Act is in our opinion open to serious objection.

And if it is, the nature of the amendments by which it might be rendered unobjectionable, at least as respects persons not resident or domiciled in the Colony.

In obedience to your Grace's commands we have carefully considered the above mentioned Act, together with your Grace's observations, and have the honor to report that we entirely concur with your Grace in the opinion that in matters of purely local concern it is most advisable not to control or interfere with the legislation of Colonial Representative Assemblies, but this rule ceases to be applicable when a Colonial Act affects to deal with the rights of all persons wheresoever resident, and expressly with the rights and interests of the Crown; such a measure is in its consequences equivalent to an Act of Imperial legislation.

The conditions that ought to be observed previously to the establishment of a Registry of Title, and the entering on that registry of any alleged owner, with a consequent statutory title against the whole world is a subject which has long engaged the attention of the present Attorney-General. In the Bill prepared by him, and which would have been introduced during the present Session but for recent events proving that it would be useless to do so, various safeguards and securities are provided with a view to ensure notice to all persons interested of any application to register a title. They may be described generally as consisting of a series of public notices during a period of six months, of a most stringent and searching investigation of title by the conveyancing counsel of the Court of Chancery, and of provisions for indemnifying the owner of any defeated right or interest who was not guilty of any neglect in not bringing forward his claim.

We will examine the Colonial Act with reference to these requirements.

By the 23rd section it is enacted that the District Registrar shall give such notices, public and private, as shall be prescribed by the rules thereafter authorised, &c., and in section 71, the Governor in Council is empowered to make rules for regulating the procedure, &c.

These rules, if made, are not before us, but it is obvious that on them depends in a great degree the opinion to be formed of the justice and reasonableness of the proposed measure.

We think your Grace can hardly form a final judgment until the rules of procedure have been laid before you.

2ndly. With respect to titles, it is provided in the 26th section that all titles shall be examined by the District Registrar, who shall determine absolutely what steps, notices, &c., are proper to be taken and given for proving the title, and shall, if he is satisfied, enter the applicant on the register as a proprietor with an indefeasible title.

We cannot think that the District Registrars are equal to the discharge of these most important and onerous judicial duties.

At the same time it is proper to recollect that the extent of the responsibility and the difficulty of the duties thus cast upon the District Registrars must depend on the nature of the present law with respect to titles to real estate in that Colony.

If it be already the law that every deed affecting land must be registered, and that no equity will prevail against the registered owner even if he had notice of the claim at the time of registration, the duties of the District Registrar will be much less difficult and complicated. Here again, therefore, we stand in need of further information, (*viz.*, on the subject of the existing real property law in the Colony) before we are in a condition to give a satisfactory opinion on the proposed measure.

With respect to the third point, *viz.*, the suggestion that Acts of this description should contain provisions to enable the owners of any undiscovered or subsequently arising interest to enforce their rights against the registered proprietor (if originally liable thereto) or any persons taking under him by descent, devise or voluntary transfer, and also provisions for indemnifying the owner of any interest (not being guilty of laches) whose right has been absolutely defeated or lost through registration, the Act before us appears to be very deficient.

But these last mentioned defects would not probably, having regard to the principle first stated, be sufficient grounds for refusing the Royal Assent to the measure.

There remain, however, the subject of the Crown's estates and interests, and the manner in which they are proposed to be dealt with by this Act.

And here again we stand much in need of exact information as to the position of the Crown with reference to land in New Zealand, and how its original rights and the rights and liabilities it acquired and incurred by reason of its dealings with the New Zealand Company have been affected by subsequent Colonial legislation. We also desire to know whether this Act was, in its progress, submitted by the Governor to the local Attorney-General, and what opinion or advice was given by him on the subject of this important part of its enactments.