Upon a measure of this most useful nature we are sorry to send your Grace a report so unsatisfactory, but at present we are of opinion that, having regard to the insufficiency of the provisions of the Act, especially with reference to the interest of persons absent from the Colony and the rights of the Crown, the measure appears to be open to serious objection.

But we desire to withhold our final opinion until the information we have requested be laid before us, if your Grace shall think it proper so to do.

We have, &c.,

RICHARD BETHELL,
WILLIAM ATHERTON.

His Grace the Duke of Newcastle, K.G.,
&c., &c., &c.

No. 2.

MEMORANDUM BY MR. SEWELL ON THE SECRETARY OF STATE'S DESPATCH ON THE "LAND REGISTRY ACT, 1860."

The "*Land Registry Act*, 1860," was brought in by the late Attorney-General, Mr. Whitaker. It is founded on Sir Hugh Cairn's Bill of 1859, with some important modifications. The present Government entirely adopt, and desire to give effect to the measure, which is in their opinion likely to be of great value to the Colony.

The objections raised by the Attorney and Solicitor General in England, to this Act are:—

1. That sufficient provision is not made for protecting the interests of absentees.
2. That the powers of the District Registrars are too large.
3. That the Act does not provide an adequate remedy for parties losing their rights as Registered Proprietors or their representatives.
4. That Crown Estates held for special purposes may be affected by it.

A further Act was passed in the late Session (1861) for amending the Act of 1860. A copy of such amended Act is transmitted herewith, as well as of another Act for enabling erroneous surveys to be corrected, relating to the same subject, together also with a copy of the proposed Rules of Procedure and the Report of the Registrar-General.

"Land Registry Act, 1861."
"Survey Correction Act, 1861."
Proposed Regulations under the "Land Registry Act."

It will be seen that the fourth objection raised by the Law Officers in England is expressly removed by the 15th section of the Land Registry Amendment Act, 1861.

I notice the other objections:—

It is suggested that the interests of absentees are not sufficiently protected—that the powers of the District Registrars are too large, and that no sufficient remedy is provided in cases of wrong done.

Persons conversant with the circumstances of the Colony will not attach undue weight to these objections. The rights of absentees ought to be guarded as scrupulously as those of resident settlers; but not more so. If considerations of public policy require the application of a particular law to the Colony, the case of absentees ought not to be made an exception from the general rule. The law, though it may affect absentees, is matter of local concern. The truth is, that in the infancy of a Colony a ruder machinery is necessary for dealing with Land Questions than would be admitted in an old settled country. The rights affected are not of the same magnitude and the importance of quieting Titles is more strongly felt. Facility of dealing with and transmitting property is material to the development of a new country. To shew instances in which it has been necessary to apply the principles I have stated, I refer to the "Land Claims Settlement Act, 1856." Power was given by that Act to the Attorney-General by mere advertisement in the Gazette to call in and repeal Crown Grants believed to be invalid, in a summary way. Of course such a power would not be tolerated in an old country. Practically it was necessary for the sake of upwards of 300 grantees whose grants were technically invalid, and who would have remained without remedy if a separate proceeding by *scire facias* had been necessary in each case. As matter of public policy it was essential to put an end to the uncertainty of Title arising under these grants. The result has been effectually to quiet a large mass of Titles and to remove a great political difficulty. Again, in the case of the New Zealand Company's Land Claimants—the Commissioners of Land Claims do practically exercise a summary jurisdiction in equity of the largest kind, in deciding what parties are entitled to Crown Grants. It is necessary that they should do so. Substantially full justice is done—though the method of proceeding is foreign to English notions and habits of procedure. So in the present case, it is necessary as matter of public policy, with the least possible delay to define Titles to land, providing the best preventatives and remedies we can against casual wrong. By the operation of the new law it is hoped and believed that for the future the chances of wrong will be reduced to a minimum.

Now as to the risks created by this Act and the means provided for removing them:—

It is perfectly true that large powers are given to the proposed Registrars, and the duties imposed on them are analogous to those which belong to skilled Conveyancers in England, whilst it is also true that the Colony will not supply any large number of persons belonging to that class,