A—No. 2A

PAPERS

RELATIVE TO THE

LAND REGISTRY ACT, 1860.

PRESENTED BY COMMAND TO BOTH HOUSES OF THE GENERAL ASSEMBLY.

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,—

NEW ZEALAND. No. 62.

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.

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, intituled "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.)

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 incum- "brances, 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 *exparte* 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 thereinafter 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 Crowns 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.

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,

I think from my experience, that men may be found of sufficient practical ability to work the proposed measure. The ordinary work of conveyancing in the Colony is in general done by competent men, and in this early stage there is no great complication of Title. At any rate we must work with the best materials we have, and men's rights will be at least as safe under a system which provides responsible officers and compensation in case of wrong done, as under a law which practically leaves these rights to the mercy of chance practitioners for whose competency there is no guarantee.

The remedies provided by the Act against cases of wrong are:—

1. By appeal, and reference to the Registrar General or the Supreme Court under Sec. 101, *et seq.*
2. By application to the Supreme Court under Sec. 106, *et seq.* especially under the summary powers given to the Supreme Court by Sec. 112.
3. By compensation under Sec. 81 *et seq.*

The safeguards provided under Sir Hugh Cairn's plan, as well as under that intended to be passed by Sir Richard Bethell, are doubtless more elaborate and complete than those provided by the Colonial measure. Practically, I doubt whether one will not be as efficient as the other. Under the Colonial plan the Supreme Court is made to answer in substance, the purposes of a Landed Estates Court. We cannot afford a separate machinery for this work.

Besides under the present Registration Law, risk of wrong to absentees is really as much or greater than it will be under the new Law.

The Registration Ordinance now in force in the Colony will be found in Ordinances of Legislative Council, Sess. II No. 9, (Domett's Vol. J. 9,) a copy of which Act is also transmitted herewith.

The defects of this Ordinance are very great. The Report of the Registrar General points out some of them. But the force given by this Ordinance to Registered Instruments is such as to put the rights of absentees and others in jeopardy fully as much, if not more, than the new Law, which requires Titles to be regularly sifted before admitting them on the Register. Besides this, the existing Registration Law will have the effect of greatly facilitating the deduction of Title and so diminish the work and responsibility of the Registrars.

The measure is beyond doubt a great experiment and will require in all probability amendment when brought into practical operation. It is proposed however to proceed tentatively, and the Colonial Government will gladly adopt and give effect to any suggestions which the Imperial Government or the Law Officers of the Crown in England may make with a view to improve the machinery of the measure or to assure its successful working.

Subject to these remarks, it is trusted that the Imperial Government will see fit not to withhold the Queen's sanction to this measure, from which all parties in the Colony anticipate very beneficial results.

HENRY SEWELL,
Attorney-General.

20th September, 1861.

No. 3.

COPY OF A DESPATCH FROM HIS GRACE THE DUKE OF NEWCASTLE TO GOVERNOR SIR GEORGE GREY.

Downing-street, 14th March, 1862.

SIR,—

NEW ZEALAND. No. 16.

I have received your predecessor's Despatch No. 124, of the 25th September last, enclosing a Memorandum on the subject of the recent Acts for the Registration of Land, communicated to him by his Responsible Advisers.

I referred that Despatch and its enclosures to the Law Officers of the Crown, and I now transmit to you the Report which I have received from them. You will perceive that this Memorandum has not, in their opinion, removed the objections entertained by Lord Westbury and Sir William Atherton to the law of 1860.

An expression of my own opinion can add little to the authority of those eminent lawyers or to the weight of their arguments, yet I cannot refrain from stating how entirely I concur with them as to the dangerous character of this Act. I think that the colonists can hardly be aware of the risks to which, under such a law, they will be subject, and I think it due to them and the Legislature that you should take some means of giving publicity to the correspondence which has passed on the subject, including the opinions of Lord Westbury, Sir W. Atherton, and Sir R. Palmer.

What precautions should be taken to protect the interests of persons resident in New Zealand is a matter which I am fully prepared to leave to their own decision, when they are fully informed of the opinion of the English Law Officers. But it will be impossible for me to advise that the Act of 1860 should be left in operation by Her Majesty unless the Act or Regulations are amended in the manner which is considered necessary by the Attorney and Solicitor-General, in order to give a reasonable security to non-resident proprietors.

I have, &c.,
NEWCASTLE.

Governor Sir George Grey, K.C.B.,
&c., &c., &c.

Enclosure in No. 3.

THE LAW OFFICERS TO THE DUKE OF NEWCASTLE.

Temple, February 26th, 1862.

My Lord Duke,—

We were honored with your Grace's commands, signified in Sir Frederick Roger's letter of the 28th January last, in which he stated that with reference to the Law Officer's Report of the 21st of June last, he was directed by your Grace to transmit to us a copy of a Despatch from Colonel Gore Browne, together with a Memorandum drawn up by his Responsible Advisers, respecting the Act of the New Zealand Legislature "To simplify the Law relating to the transfer of landed property in New Zealand," and to request that we would inform your Grace, whether the explanations now supplied in Colonel Gore Browne's Despatch, and its enclosures, were sufficient to remove the objections stated in such Report to some of the provisions of the Bill; and if so, whether the Act in question, together with the subsequent Acts, of which copies were annexed, entitled respectively "An Act for giving effect to Regulations under the 'Land Registry Act of 1860' and for amending the said Act," and "An Act for correcting Surveys of Land," might be left to their operation.

In obedience to your Grace's commands we have taken this matter into consideration, and have the honor to Report:—

That the first point to which attention was directed by the former Report of the Law Officers, was the necessity of providing adequate safeguards and securities, with a view to ensure notice to all persons interested, of any application to Register a Title; as to which, it was observed, that the opinion to be formed of the justness and reasonableness of the proposed measure would depend in a great degree upon the rules of procedure which might be made by the Governor in Council, under the powers of the proposed Act; and which were not then before the Law Officers.

These rules of procedure, confirmed by the "Land Registry Amendment Act, 1861," are now before us. By the 47th rule it is provided that "within one month after receipt of an application to Register a Title to land, the District Registrar shall cause a notice to be inserted in some local newspaper circulated in the District and shall continue such advertisement three times consecutively in such newspaper." The notice, (which is the only safeguard or security taken for non-apparent claims or titles,) is to state the name, &c.. of the applicant; is to give "a short description of the land, specifying the estimated contents, the section, parish, district, county, &c., where situate"; and is to appoint a day for all parties interested to lodge their claims and evidence in support thereof, and to attend personally or by Attorney at a specified time and place for the purpose of establishing their rights. The time to be fixed for the appearance of parties is thus left absolutely and without limit to the discretion of the District Registrar; if they do not appear at the time appointed, they will be liable to be absolutely concluded by the entry of the name of the applicant upon the Register; which entry, under the 33rd section of the Land Registry Act, will give the person registered (unless he obtains the Registry by fraud) an indefeasible Title in fee simple, free from all charges and liens whatsoever, which are not entered, or saved by reservation, on the face of the Register.

It is impossible not to perceive the serious danger to which persons absent from the Colony, or living in the Colony, but at a distance from the district where the land is situate, may be exposed under such a mode of proceedure. The sole medium of notice is an advertisement in three successive numbers of a local newspaper circulating in the district, and the interval between the notice and the entry of the applicants' name on the Register may be indefinitely short. The difficulty, therefore, which was felt by the Law Officers on this point, in June, 1861, is not at all removed by the Regulations which have hitherto been made.

The remarks upon this subject, of the Registrar-General of New Zealand, in paragraph 20 of his able Report, dated the 3rd May 1861, and of the Colonial Ministers in their Memorandum of the 20th September 1861, must not be overlooked. "As regards absentees and dormant claimants," (says the Registrar-General) "the Act requires notice to be given, calling on parties to come in to substantiate their claims; by shortening or extending the time of such notices, and enlarging or contracting their circulation, we shall afford more or less opportunity to absentees and dormant claimants to come in and present themselves. Upon the whole, the balance of reason is, I think, in favour of adopting a short notice, and of not attempting wide or distant circulation, otherwise, we may practically frustrate by delay, the benefits proposed by the new system. The instance, will be rare in which wrong will happen. The chances of it will not be greater than under ths present Registration law, if so great. It will be the business of the Registrar to watch jealousle for all such possible cases, and the 81st section provides compensation when wrong may happen by default of the Registrar. But the mere contingency of possible wrong ought not, in my opinion, to be admitted as a cause for frustrating the benefits of the new law."

It will be for your Grace to estimate the degree of weight due to these arguments, but we cannot say that they are, to our minds, at all satisfactory. To create a Parliamentary title to land against all the world, thereby extinguishing all such prior and paramount rights as may not be brought forward within a limited period, is an exercise of legislative power which can only be reconciled with the fundamental principles of justice, if the notice given and the time limited are reasonably sufficient to enable the persons having such rights to come forward and defend them. Justice, in such a matter, and when the first foundation of a new system of titles is being laid, seems to us to be of very much more importance than mere despatch; but the Registrar-General's

argument in favour of a short notice and a narrow and local circulation (which, in many cases, may be tantamount to no notice at all) appears to proceed upon the opposite view, namely, that despatch is of more importance than justice. The existing Registration law in New Zealand (under the Land Registration Ordinance, 1841) does not seem to be justly open to any similar objection; it merely gives priority in the case of two competing titles derived from a common source, to registered over unregistered deeds or contracts in favour of purchasers (whether with or without notice) for valuable consideration. If that Ordinance when first passed, had been suddenly brought into operation before persons at a distance could become acquainted with its provisions, and have the opportunity of acting upon them, it might have worked injustice of the same kind with that to which we now refer; but, unless this was the case, (which we do not understand the Registrar-General of New Zealand to suggest) all persons interested under any deeds or contracts in land in New Zealand must have had equal opportunities of availing themselves of its provisions and protecting their own interests, which is all that justice could require. With respect to the argument that it will be the duty of the District Registrar to protect, as far as he can, the interests of absent parties, and that compensation will be provided for any wrong which may happen by his default, the answer seems to be that it cannot be his duty to protect interests of which he has no information, and that his only information on the subject will, as a general rule, be derived from the applicant's own statement and from those deeds and documents of the title which the applicant produces. If these alone could be safely relied upon, no notice would in any case be necessary; if they cannot, the notice should be such as may at least be reasonably expected to answer its intended purpose of putting all persons interested upon their guard.

We desire to point out to your Grace that the Legislature of New Zealand has itself recognized and acted upon this principle in one of the series of Acts now before us. The 7th and 8th sections of the "Survey Correction Act, 1861," (of which the object is to correct errors in the public maps proposed to be used as the basis of the Registry of Title) provide that if any correction of error shall appear to the Deputy Registrar to affect the lands of any other person, he is not to proceed without giving such person notice and an opportunity of being heard, and that such notice is to be served if such person has no last known or usual place of abode within the Colony, and no agent within the Colony authorized in that behalf, by transmitting it to him by post, addressed to him at his last or most usual place of abode elsewhere than in the Colony.

We entirely concur in the observations of the Colonial Ministers in their Memorandum of the 20th September, that "the rights of absentees ought to be guarded as scrupulously as those of resident settlers, but not more so;" and that, "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 defect, as it seems to us, of the proposed Regulations is, that they do not secure to absentees the same reasonable opportunity of defending their rights, which is given to resident settlers, and that the general rule and principle of the law being, not to take away any man's title without such a public notice as may put him on his guard; the means proposed for that end are adapted only to give notice to persons on the spot, although the law previously in force has enabled and encouraged persons at a distance, as well as persons on the spot, to acquire and hold valuable interests in landed property in New Zealand.

It appears to us, for these reasons, that the interests of justice require notice of every original application to Register a Title, to be advertised in the Gazette or some newspaper used for public and official advertisements at the General Seat of Government, as well as in a newspaper of local circulation within the particular district, and that some definite period of time which may be considered reasonably sufficient, under the circumstances of the Colony, to enable the interests of persons not resident upon the spot or in the Colony, to be duly protected, ought to be fixed by law, as the minimum interval to elapse between the publication of the advertisement and the next step to be taken by the District Registrar towards registering the title; or else, that the interests of all persons absent from the district or from the Colony to whom notice may not have been expressly given, should be reserved upon the face of the Register for some reasonable time after, and notwithstanding the entry of the applicant's name as proprietor.

Upon the other points adverted to in the former Report of the Law Officers, we do not think it necessary now to insist. The special rights of the Crown have been protected, and the investigation of title by the District Registrars seems to have been carefully provided for under as efficient safeguards by way of appeal to the Registrar-General and the Supreme Court, and otherwise, as the circumstances of the Colony render possible. We doubt, indeed, whether the rules prescribing the course to be taken by the District-Registrar on any devolution of title by death, may not be found to exceed the proper province of a system of Land Registry, and to encroach too much upon that of a suit in equity for the general administration of a deceased person's estate. But this is a matter of local concern, which may (we think) well be left to the Colonial authorities. We think also, that, in giving the first Registered proprietor himself, even when not a purchaser for valuable consideration, and before any transfer to such a purchaser, an indefeasible title in fee simple against all the world, these Acts have gone further than was either expedient on general principles or necessary for their object; and that, under such circumstances, especially the absence of any provisions for making such a Registered proprietor liable even in damages, unless proved to be guilty of fraud, or for making any compensation to the party injured, unless the wrong done to him may have been owing to some default of the Registrar is a serious defect. The scheme and operation of the Acts, in these respects, make it in our opinion, of the greatest moment that better safeguards against wrong should be taken in the first instance, than will be attained by means of such notices only as are at present proposed; and, from the readiness which the Colonial Government have expressed, to "adopt and give effect to any suggestions which the Imperial Government

or the Law Officers of the Crown in England may make, with a view to improve the machinery of the measure or to assure its successful working," we should anticipate that the proper authorities of New Zealand will not be indisposed to pass a supplementary enactment or to make supplementary regulations such as we have suggested for that purpose. If this is done, the operation of the Acts will, at least, be equal and impartial, and the other defects to which we have adverted are, probably (as was observed in the former Report) of such a kind as not in themselves to constitute sufficient grounds for refusing the Royal assent to these measures.

The conclusion at which we have arrived is, that it will not be expedient to leave these Acts to their operation until the cardinal requirement of notice shall have been more satisfactorily provided for, but that, in other respects, they might properly be permitted to take effect.

We have, &c.,

W. ATHERTON,
ROUNDELL PALMER.

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