

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