

No. 36.

COPY of a DESPATCH from Governor the Hon. Sir ARTHUR GORDON to the Right Hon. the Earl of KIMBERLEY.

(No. 6.) Government House, Wellington,
MY LORD,— New Zealand, 23rd December, 1880.

I have the honor to acknowledge the receipt of your Lordship's general despatch of the 1st November, respecting the preparation of a new die for the seal of this colony, which I have communicated to my Advisers.

I have, &c.,

The Right Hon. the Earl of Kimberley. ARTHUR GORDON.

No. 37.

COPY of a DESPATCH from Governor the Hon. Sir ARTHUR GORDON to the Right Hon. the Earl of KIMBERLEY.

(No. 8.) Government House, Wellington,
MY LORD,— New Zealand, 30th December, 1880.

Your Lordship's Despatch No. 27, of the 1st September, was communicated by the Acting-Governor to my Responsible Advisers, and I have now the honor to enclose the copy of a memorandum giving cover to a report from the Registrar-General of this colony, containing the information required.

I have, &c.,

The Right Hon. the Earl of Kimberley. ARTHUR GORDON.

Enclosure in No. 37.

MEMORANDUM for His EXCELLENCY.

THE accompanying memorandum, prepared by the Registrar-General of Land, is respectfully forwarded to His Excellency the Governor for transmission to the Secretary of State, as giving the information asked for by Lord Kimberley, in compliance with an address to Her Majesty agreed to by the House of Commons on the 26th August, 1880.

Wellington, 30th December, 1880.

H. A. ATKINSON,
(In the absence of the Premier.)

Sub-Enclosure to Enclosure in No. 37.

MEMORANDUM by the REGISTRAR-GENERAL of LAND.

IN reference to the annexed circular, addressed by the Secretary of State for the Colonies to His Excellency the Governor of New Zealand, requesting information as to the working of the system of land transfer by registration in the said colony, the Registrar-General of Land reports as follows:—

The above circular has been referred to me as the officer upon whom it devolves to furnish the information required. It will be seen that the address by the House of Commons, therein referred to, requests "a return supplementary to those laid upon the table of the House and ordered to be printed on the 8th day of May, 1872, reporting on the working and progress of the system of registration of title in operation in the Australasian Colonies up to 31st December, 1879."

Referring to the said returns, I find that the report of the then Registrar-General (embodied in the said return, page 204) relates to the now obsolete system of registration established by "The Land Registry Act, 1860," and has no reference whatever to the system established by "The Land Transfer Act, 1870," which has been in general operation throughout the colony since March, 1871.

I find it necessary therefore to revert to the questions originally propounded in the circular despatch of February, 1870, and to deal with those questions with reference to the working of the land registration system as at present existing.

The following are the questions referred to:—

1. Whether indefeasibility of title has been practically secured under the law in force in your colony; or whether the Courts of law or equity have upset, and, if so, upon what grounds, any title which has been registered under such law?

1. To the extent to which "The Land Transfer Act, 1870," purports to secure indefeasibility of title, there is no reason to doubt that the object has, from a legal point of view, been effectually attained. Subject to qualification as to rights of persons adversely in actual occupation in certain cases ("Land Transfer Act, 1870," section 139), a purchaser or mortgagee, *bonâ fide* for value, undoubtedly acquires by registration a title which nothing less than an Act of the Legislature could subvert. It is important, however, to note the qualifications referred to, as showing that without actual possession the certificate of title cannot be absolutely relied on. The principle of indefeasibility is still more qualified as regards the titles of persons on whose application land is originally brought under the Act. As against such persons, and those claiming through or under them, otherwise than for value, the title is, until the registration of a *bonâ fide* transfer, liable to be upset upon the ground of fraud or misdescription of boundaries. In one instance only a certificate of title has been cancelled on the ground of