

LAND TITLE REGISTRATION IN ENGLAND.

The Ontario Land Titles Act is, broadly speaking, a transcript of the English Land Transfer Act, 1875. This latter Act is incorporated in its essential features in the Land Registration Act, 1925. Accordingly, it is useful to consider and examine the machinery adopted under the English Act.

In the first place, I should premise that the English Act is compulsory in the County of London, in Eastbourne and in Hastings. It is compulsory in this sense that every conveyance on sale of freehold land, on the expiration of two months from its date, becomes void, so far as regards the conveyance of the legal estate, unless the grantee has in the meantime applied to be registered as proprietor at H.M. Land Registry. (I omit any reference to leasehold land held for at least a 40-year term because such form of tenure is not common in Canada though it is most usual in London).

Compulsory registration has been in force in London since about 1900, that is to say, for more than a generation. In the rest of England and Wales registration under the Torrens title is voluntary as it is, e.g., in Toronto or Ottawa.

The complaint is made as to voluntary areas in England that "there is a tendency to use the (Act) as a hospital to cure complicated and doubtful titles while withholding simple and sound titles from registration." This is regarded as an unfair and unreasonable use of the Act. The same tendency appears very plainly in Ontario, at least, in Ottawa.

When land is brought under the Land Registration Act, the title is searched by a barrister or solicitor of about 20-years' standing, under the general supervision of the Chief Land Registrar.

Transfers are effected, as in Ontario, by an instrument of transfer, almost identical with the transfer indorsed on a share certificate of a company. No affidavits of execution are required, the witness and the solicitor being relied on, to verify the genuineness of the instrument in the same way as a witness and broker who register a share transfer are trusted. The absence of such affidavits is a thing that strikes an Ontario solicitor as very singular.

The mind is directed to the "titles" rather than to the "parcels" themselves under the English Act and so each title has a number and is entered in a register which is not a page or succession of pages in a large book but a single, stout cardboard sheet of moderate size.

On the top half of one side of such sheet is the Property Register with printed headings and on the lower half of the same side is the Proprietorship Register. The whole of the other side of the same sheet is set apart as a Charges Register. Printed headings and sub-headings with convenient columns are used so that all the information common to every title, e.g., that the title is absolute, appears clearly in print and only the minimum amount of typewriting is required and that too can be done by any ordinary typewriting machine and does not require the more elaborate Elliott-Fisher instrument.

The property register contains the number of the parcel according to one Land Registry General Map of London with the number of the sheet and section of the map set out.

The name of the owner, his address and occupation are typed in beneath a printed heading, the first line of which reads "Proprietorship Register" and the second line reads "Title Absolute."

If there are cautions, they too are entered in the Proprietorship Register.

When the land is transferred, the name, address and occupation of the old owner, are struck out with a red line and the name, address and occupation of the new owner typed into the blank space below kept for future dealings. As a general rule, however, instead of so doing on a change of ownership, the register is "cleared" by closing the register and making a new edition, as it is called, of the register containing only existing entries and issuing a new land certificate. This is always done when there are several cancelled entries which are of no interest to the new owner. There is so little detail set out in the register and so much is contained in the short printed headings that opening up a fresh parcel, as we should call it, is comparatively easy to accomplish. The object aimed at by this simplicity and shortness of method is to show at once who is the present registered owner, the net result rather than the means by which the change of ownership was effected.

On the back of the same cardboard register as above-mentioned is set out the Charges Register. It sets out the Restrictive Covenants, Charges and Short-term Leases (if any). Here too we note the evident desire to show at a glance the name of the owner of the charge. It is set out in a space by itself below the charge. Under the English Act as under the Ontario Act there is a State-guaranteed title as well for a parcel of land as for a charge. In the English register the name of the owner of the land and the name of the owner of the charge appear at the beginning of a line where they

can be seen at once by anyone searching. In Ontario, on the other hand, the name of the owner of the land or of the charge is always in the middle of a detailed entry.

I should have mentioned that the card registers are filed vertically in filing cabinets with the respective title numbers on the upper side and are handed out for inspection to anyone duly authorized by the owner of the land in question.

The desirable features are the frequent opening up of fresh parcels (or "titles" as they call them) on change of ownership (thus getting rid of cancelled entries) and the fact that the charges are kept together in one part of the register. This makes the examination of the register a very simple affair. Nothing is more bothersome than to have to wade through pages of entries of transfers, charges, charge-transfers, transmissions and the like all mixed up together, even though they follow one another in chronological order and are struck out and cancelled with red lines.

Another desirable feature of the English practice is that when a part of a parcel (or "title") is removed to a new parcel (or "title") the remainder of the parcel is not left in the old parcel register until it in its turn has been transferred but it is also at once, as a matter of course, removed to a fresh parcel. The result is that, if the part first removed is described by metes and bounds, the remainder enjoys the benefit of being immediately furnished with a carefully drawn description of its own instead of being described merely as the original parcel except what has been transferred.

F. A. MAGEE.

Ottawa.
