CHAPTER 16

ORGANIZATION AND ADMINISTRATION

1 Prefatory

1.1 In this chapter we propose to examine some aspects of organization and administration that concern any government which operates or proposes to operate a system of registration of title. The first question is its place within the framework of government: which Ministry should be responsible for it and how should it be organized departmentally? Then we must consider the number and distribution of land registries. The qualifications and training of the registrar and his supporting staff come next. Last, but by no means least, is the financial side of registration: what does it cost, and how is it to be paid for? What is its effect on individual landowners so far as the expense of land dealing is concerned?

1.2 The discussion is complicated by the fact that, as we emphasized in Chapter 11, registration of title requires not merely the examination and authentication of the ownership of each land parcel (together with the recording of any limitations to which the ownership is subject) but also the unambiguous definition of the parcel. Though it is possible to make a record of rights in land without using a map,[1] survey in some form or other is an essential constituent of registration of title, as we have described it,[2] and therefore the survey organization should be considered in parallel with the organization of the registry. Yet survey has so many other vital parts to play in planning and administration generally, quite apart from its function in registration of title, that it must be treated as a separate and distinct institution with an independent administration; much of it will have no more connection with registration of title than did the first maps prepared by the British Ordnance Survey,[3] which is a huge department on its own. In this chapter we are only dealing with the administration and organization of the registry, but that does not mean that its dependence on survey should be forgotten.

2 The place of land registration within the framework of government

2.1 Under this heading we consider first whether control of registration of title should lie with the central government or with state governments in a federal constitution, or with local authorities. By 'local authorities' we mean organs of local government like the county and borough councils of Great Britain (or the communes of France or the Gemeinde of Germany). Whether such local authorities should be made responsible for registration of title can be a very live issue when

[1] See 8.3.3
[2] See 2.4 3
[3] See 7.5.2

tribal entities are given local government status and required to organize their own internal affairs. Dowson and Sheppard left us with no doubt as to the answer to this question:

> "the control and, at the outset at least, the administration of the operations of registrations of title must be entrusted to organs of the Central Government. It is a Central Government alone that has power to enforce and can assume responsibility for the sure, uniform and impartial working of such a register in every corner of a country; while it must be remembered that the Courts of Law are required to take cognizance of its effects and that their judgments on matters within its field do not become operative until registered. Assurance of security of lawful tenure and protection of all just interests in land — and particularly those of the smaller land-holders and peasants, which may require it even against local chiefs, headmen and elders — are not responsibilities which any Central Government or the competent Courts of a country can divest themselves of or delegate to others."[1]

2.2 We heartily endorse these sentiments, and though no doubt they were written mainly with 'local authorities' in mind, we venture to suggest that they also apply to federal forms of government where, unfortunately, land law (and with it land registration) is a subject which is normally left to state or provincial jurisdictions. This is not surprising since land is, of its very nature, the most rigidly local of all subjects, but its differential treatment has evident disadvantages, producing quite needless anomalies. Thus in Australia, with a total population of only thirteen million, there are seven separate statutes, and, as Hogg pointed out in his introduction to Kerr's book on the Australian Torrens system, "The first, most important, and in one sense the easiest, step towards improvement would be taken if in place of the seven existing local systems there could really be one system; in other words, if the law in the seven jurisdictions were uniform."[2]

2.3 Over forty years later, in an essay on present problems and future possibilities of the Torrens system in New Zealand, Whalan repeats the plea. "There should be a revision of the Torrens system, preferably on an Australasia-wide basis. The optimum aim would be to reach identity in the law, but, even if this were not achieved, such an inquiry would have the great advantage of drawing on a wide range of talents, views and experience."[3] Should anyone feel disposed to query the need for uniformity as being of little account, let him consider, for a beginning, the vast amount of learned endeavour that has been squandered on comparing and contrasting points of difference in neighbouring systems, not to mention the wastage of time in the courts that so often results from unnecessary variety.

2.4 A significant move in the direction of uniformity in a federal constitution has been made by the National Land Code, enacted by the Malaysian Parliament in 1965, "to introduce a uniform land system within the States of Johore, Kedah,

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[1] ID&S78
[2] KErr Australian Lands Titles viii
[3] Douglas J Whalan 'The Torrens System in New Zealand - Present Problems and Future Possibilities in *New Zealand Torrens System Centennial Essays* 265

Kelantan, Malacca, Negri Sembilan, Pahang, Penang, Perak, Penis, Selangor, and Trengganu", thus bringing into line not only the systems of the Malay States (where there was no great variation) but also the former Straits Settlements of Penang and Malacca where the difference was considerable.[1]

2.5 In the main, however, it will be found that in most federal constitutions land remains a state subject (with fifty-one distinct sets of law in the United States alone) even though it is clearly desirable that land law, and in particular the system of registration conducted under it, should be uniform under the central government. Even in Great Britain, with a single unified Parliament, the land law of Scotland remains wholly different from that of England and Wales, though there is now recognition that both sets of law need revision; Scotland in fact proposes to base its new registration procedure on the English system.[2] Uniformity in this regard is clearly a counsel of perfection which unhappily is very generally disregarded. However, the local adoption of the simple principles that we have advocated throughout this book could in the end lead to uniformity in law and practice, even though the systems are independently organized and controlled. This is happening in some other fields. For example, a common approach to the problems of horizontal subdivision and 'condominium' is developing throughout the world; the same problems demand the same solutions, and legislatures tend to pass similar laws.

2.6 The next question to be considered is the ministerial responsibility for the land registry. Should it be under the wing of the judiciary and independent of the executive, or is it to be part of an executive department of government? In England the Chief Land Registrar, who is responsible for the whole conduct of HM Land Registry, is appointed by the Lord Chancellor, and makes his annual report to him. The Lord Chancellor is the chief judicial officer under the British constitution. He also appoints the magistrates and the county court judges; he nominates the judges of the High Court, though not the Lord Chief Justice. HM Land Registry clearly appears to be part of the judicial rather than the executive structure. But in Britain there is no sharp division of powers of the sort that characterizes the Constitution of the United States of America. The Lord Chancellor is a member of the Cabinet and so of the executive. He is also a member of Parliament, presiding over the House of Lords. He thus exercises, at the highest level, judicial, executive, and legislative powers. That the Chief Land Registrar should be answerable to the Lord Chancellor appears entirely fitting since he too has judicial and executive responsibilities and, as a member of the Rules Committee, some legislative responsibilities as well.

2.7 In theory at least, it is perhaps more appropriate that registration of title (as distinct from registration of deeds) should be treated as a judicial rather than an executive function, particularly in countries where there is much government land and its disposition is an important matter not only of policy but also of practical administration. The Government will then be a very large landowner, possibly

[1] See 11.10.6
[2] See 6.5.19

owning more land than any other landowner on the register, and if the land registry is part of a lands department, the registrar may find that he has to give decisions in cases in which his superior officer is a party and may be required to appear. The public, as a rule, have great confidence in the courts and may feel more secure if they know that the safeguarding of their titles has more connection with the judiciary than with the executive, with which indeed they might be in conflict. In practice, however, given staff of the necessary quality, the point is of little significance, and is likely to be decided in the light of whatever appears expedient at the moment. Indeed, on the first introduction of registration of title operational feasibility is probably the determining factor when the departmental organization is decided, as it must be, at the same time as the question of ministerial responsibility, though later these may be regarded as separate and distinct issues.

2.8 In former British dependencies, there appear to have been at least four ways of administering land registries which have been retained when government became independent:

(1) The quasi-judicial approach typical of the English system and of the 'legal registers' of continental Europe has been adopted, for example, in the Sudan where the land registries are "a part of the Law Courts of the Government and…administered under the Chief Justice by a Registrar-General".[1] At one time the Registrar-General was also responsible for the registration of companies, trademarks, business names, partnerships, and even births, marriages, and deaths — an example of the 'general registry' which may be necessary where not only is there the need to economize on qualified staff but also the amount of business does not justify independent institutions.

(2) The administrative officers of the Government are responsible for the land records as part of their general duties, as in the Indian sub-continent or Western Malaysia, where the records are also used for the collection of revenue.

(3) The head of the lands department responsible for land policy and for the administration of the government estate is also responsible for the land registries, as for example in Kenya under the Registration of Titles Act where "a principal registrar of titles" is appointed "for the carrying out" of the Act,[2] but under the same Act a "Commissioner of Lands" is also appointed "who shall be placed in control of the Land. Land Surveys, Land Registration and Recorder of Titles Departments ", and is ex officio Registrar- General exercising extensive powers under the Act.[3] Under the Registered Land Act 1963, however, the Chief Land Registrar is "responsible for administering the land registries" in accordance with the Act, and in Kenya the Commissioner of Lands has no role in its operation. In Malawi the Commissioner of Lands has himself been appointed Chief Land Registrar under the Registered Land Act 1967 an example of 'administrative expediency'.

(4) Sometimes the land department (including the land registry) is combined with the survey department. For example there are combined land and survey

[1] Land Settlement and Registration Ordinance 1925 s20
[2] s4(2)
[3] s5

departments in Fiji, Sarawak, Uganda and Cyprus, and the head of the department is usually a surveyor by training.

2.9 When a register is being compiled on a systematic basis requiring a major operation in adjudication and survey there is obviously positive advantage if one Minister exercises control over lands, survey, and even adjudication (which, though itself a judicial process, demands an executive decision to decide where it should be applied). The subsequent operation of the registry may appear, perhaps rather deceptively, to be of the same order as adjudication, but there is nothing 'executive' about it and it seems desirable to give it judicial status.

2.10 There is, however, little point in pursuing the discussion further. In the end, particularly in those countries where qualified staff is scarce and where the volume of business is often small, the issue is more likely to be — and indeed should be — decided by practical considerations rather than by theories. Personalities of the moment will also be important, perhaps even decisive. 'Administrative expediency' is not to be sneered at. The primary requirement is that the land registry should be made to function properly; no matter how correct it may be in principle and theory, it will be worse than useless if it is not operated efficiently.

3 The number and distribution of land registries

3.1 The next question to consider is how many land registries there should be. Should the policy be to concentrate the registers in a single office (or as few offices as possible) or should they be decentralized? In England and Wales, although provision for the opening of district land registries was made in the Land Transfer Act 1875,[1] there was only one central registry in London until a branch was opened at Tunbridge Wells in 1955, and it was not until December 1963 that the Lord Chancellor made an order (under the Land Registration Act 1925)2 establishing Tunbridge Wells, Lytham St Annes, and Nottingham as District Land Registries. There are now ten such registries, with headquarters in the original office in Lincoln's Inn Fields in London where no registers are now kept. But since the policy is to encourage the use of the post for all business, it makes but little difference either to the general public or to their legal advisers where the registry is situated.

3.2 Countries where land dealing is an established practice and is usually conducted through professional advisers must, however, be distinguished from countries where there are communities which have only lately been introduced to land dealing (possibly through the medium of registration itself). Where the land registry staff themselves advise on conveyancing, or even actually prepare the forms, there are clearly strong reasons for distributing registries so that they will be conveniently accessible to the people, particularly if there is no long-distance public transport. Dowson and Sheppard expressed themselves strongly on the point. Having remarked, in the passage we quoted above, that registration of title is essentially a central government responsibility, they went on:

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[1] s118

> "On the other hand decentralization of the conduct of the operation — both on the book-keeping and land survey sides — is imperative in any territory of considerable size. In particular for successful working among an unsophisticated, inexperienced and partially illiterate peasantry, we regard the custody and maintenance of the Land Books and Plans of all villages (or analogous units) in a readily accessible District Office as indispensable…Difficulties occasioned by diversity of language, customs and conditions arc also simplified by such decentralization."[1]

3.3 Nevertheless, decentralization poses considerable problems. Small offices with insufficient business to keep even one official, let alone two, fully employed are not merely quite uneconomic but may be positively dangerous, for they are difficult to supervise and Satan finds mischief for idle hands. A possible solution is to make the keeping of the registers the part-time function of staff with other duties to perform (e.g. in some offices in the Sudan the land registers arc kept by the registrar of the civil court). But there are difficulties in the control by one organization of the staff of another, and the secondary function usually tends to suffer. The problem does not arise where the keeping of the land registers is regarded as part of the general land administration which itself requires extensive staff as, for example, in Malaysia.

3.4 The arguments for a centralized register are that it will save expenditure on buildings and equipment, there will be less duplication of staff and facilities, it will permit more efficient control by qualified senior personnel, and it leads to greater security and reduced opportunities for malpractices in the registry. The decentralized register, on the other hand, has in its favour the argument that land, by its very nature, is itself essentially a decentralized commodity since it cannot be moved; its use and occupation arc matters of great local concern in many communities; land registration is a social and economic service that must be seen to be of practical assistance to landowners, and decentralization makes it possible to insist on personal attendance which reduces correspondence, a great advantage where postal services are limited or inefficient. Personal attendance will, in any case, be essential unless there already exists a legal profession to conduct dealing in land, or the policy is to encourage the emergence of such a profession. A fully decentralized register also reduces the time and cost of getting to and from the registry, and it brings the registry staff into contact with the landowners, thus producing a more sympathetic understanding of their problems.

3.5 Yet the problem of scale remains. In Kenya, the Chief Land Registrar suggested that the optimum size of a land registry is from 50,000 to 75,000 titles and that a registry with less than 20,000 titles is not justified in terms of useful employment of an assistant registrar.[2] But the pattern of land dealings is uneven; more reliable guides are the actual volume of business and the time taken to effect and record a transaction. It may also be possible to take the register to the people by sending registry staff to, for example, local court centres on certain days. In

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[1] D & S 78

[2] Lawrance Mission Report (1966) 89 para 319

Cyprus, sub-offices are opened periodically in village centres in country districts by a land clerk, the number of openings per week or month depending on the demand.

3.6 It should be noted that the boundaries of land registration districts must be clearly defined and known; obviously a district registry cannot accept instruments affecting land outside the district; but this is unlikely to cause much difficulty, particularly if well-known administrative boundaries are used, as they generally are.

4 The qualifications of the principal registrar and his assistants

4.1 The title of the officer in charge of land registration varies extensively. In South Australia and New South Wales he is called the 'Registrar-General'; in New Zealand he is the 'Registrar-General of Lands', and in Tasmania the 'Recorder of Titles'. In Queensland there is a 'Registrar of Titles' and also a 'Master of Titles', the duty of the latter being to investigate applications for initial registration. Until 1954 there were similarly two officers in Victoria, a 'Commissioner of Titles' and a 'Registrar of Titles', and there still are two in Western Australia.[1] In the Canadian province of Manitoba the official in charge is the 'Registrar-General', but in Saskatchewan he is the 'Master of Titles', and in Alberta and the North West Territories the 'Inspector of Land Title Offices' (or 'Legal Offices' in British Columbia).[2] In Scotland the head of the Registry of Sasines is called the 'Keeper of the Registers of Scotland', perhaps the most picturesque name of them all. England, however, may fairly claim the simplest and plainest title, 'Chief Land Registrar' — there can be no mistaking what his function is, though a similar claim might be made for 'Principal Land Registrar' under the Registration of Titles Act 1919 in Kenya where, nevertheless, 'Chief Land Registrar' was the name adopted under the Registered Land Act 1963.

4.2 The operation of a land registry is essentially an exercise in practical administration. "What you want," said Sir John Stewart-Wallace, one of the greatest of HM Chief Land Registrars, when advising the Government of Uganda, "is an able and clear-headed administrator who will constantly keep in view what the system is intended to accomplish. The ideal thing is to have a strong administrator in charge with lawyers and surveyors on his staff to guide him on technical matters, but he must be capable of brushing both aside when they lose their common sense in applying their technique." This obviously was not intended to imply that a professional qualification necessarily precludes the required administrative ability, for Sir John was himself a barrister-at-law.

4.3 The professional qualifications required for a chief registrar will, to a large extent, depend on the powers conferred and the duties imposed on him by the statute he has to administer. A registrar who is required to examine and determine titles for first registration and is otherwise given extensive judicial functions will need better legal qualification (or advice) than will a registrar who is given little discretion and whose duties are mainly a matter of efficient book-keeping, as they may well be in

[1] See Kerr *Australian Land Titles* 52
[2] Thom *The Canadian Torren., System* 28-31

a well-established registry under a system where adjudication (i.e. the first determination of title) is dealt with outside the registry. Thus the English Land Registration Act 1925 gives the Chief Land Registrar very extensive judicial powers, in addition to making him responsible for accepting titles on first registration. He can even decide an application for the acquisition (and correspondingly the extinction) of a title under the Limitation Acts. Similarly, subject to an appeal to the court, he may order the register to be rectified, and he may also settle, by agreement, claims for indemnity. On the other hand, the Registered Land Act 1963 in Kenya gives the Chief Land Registrar no such powers, and an application must be made direct to the court in the first instance.

4.4 Dowson and Sheppard listed sixteen jurisdictions which require the principal authority to be a barrister or solicitor, and seventeen jurisdictions where no legal qualification is required.[1] The English Land Registration Act 1925 required the Chief Land Registrar to be a barrister of not less than ten years' standing;[2] but, in 1956, as the obvious successor to the then Chief Land Registrar was a solicitor and not a barrister, this was amended to enable solicitors also to qualify.[3] This is a very clear example of the inconvenience that can be caused by too rigid a specification. A legal qualification may be useful, indeed almost essential, if there is likely to be much contact, let alone conflict, with the legal profession, but it may be unwise to write such a requirement into the law; numerous examples can be given of registrars who were not professionally qualified but have been outstandingly successful, not least of course, the redoubtable Robert Torrens himself.

4.5 We have discussed the legal qualification of the registrar but, if we are to have regard to Stewart-Wallace's advice, we must be sure not to forget that the "strong administrator in charge" will have need of "surveyors on his staff to guide him on technical matters" in those systems where the map is kept by the registrar. If the system permits the use of sketch maps rather than properly authenticated survey plans, survey expertise within the registry is necessary, if only to recognize conflicting boundary evidence. We suggest, however, that a better arrangement is for the registrar to control the accuracy and completeness of the registry map through mutation forms which delegate matters to an agency or agents of recognized competence in the manner described in the next chapter.[4]

4.6 The qualifications required by the officers in charge of district registries will naturally vary according to the extent and nature of the responsibility involved. It is a far cry from, say, the Harrow District Land Registry (which serves London north of the Thames and handled 147,026 transactions from 1 October 1972 to 30 September 1973) to the Kisumu District Land Registry in Kenya (where in 1971 there were only 3,825 titles and 169 dealings). One possible solution for staffing difficulties is the use of district surveyors as assistant registrars of title, an expedient successfully tried in Uganda.

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[1] See D & S 99-l00
[2] s126(2)
[3] Administration of Justice Act 1956 s53
[4] See 17.3

4.7 In general, however, there is need to guard against what can be called ‘excessive professionalism’. Provided the advice of a senior and professionally qualified officer is available when occasion demands, as much of registration of title as possible should be reduced to an exercise in book-keeping. At that level insistence on professional qualification will increase the cost without necessarily improving the service.

5 Recruitment and training

5.1 We have already made the point that running a registry is essentially an exercise in practical administration. Administration cannot really be taught through the medium of a formal course of instruction; it is learned by experience — and then only by those who have the requisite aptitude. There is no academic course leading to a degree or diploma in land registration. Obviously there must be a minimum academic entry point into the service, but any training must be in-service, and probably largely ‘on the job’. Special attention should be paid to this training; it should not just be left to chance. Practice orders, and handbooks or manuals, have a vital part to play, and they must be expressly written for the type of person who is intended to use them. Where there are many district registries, regular inspection by a strong inspectorate staff is clearly essential, and this also presents an opportunity for training.

5.2 Problems in the recruitment of appropriate staff at the higher levels inevitably arise where registration of title is being newly established, particularly if any existing registry of deeds has been inadequate or has been poorly run. Even the ablest administrator is unlikely to be able to work out for himself a system which will be as good as it would be if he knew other systems and could profit from their experience. Yet all over the world land registries are in the charge of registrars who have never visited, let alone examined, any other registry; they alone are responsible for the organization and operation of a system depending on an expertise which they are apparently supposed to acquire or invent from a study of their own methods or those inherited from equally uninformed predecessors. Nor can the necessary knowledge be satisfactorily acquired merely by academic study; this is a practical subject in which one look is often worth a whole book. Indeed we would urge that anybody who is to be placed in charge of a land registry should be required to visit at least one other land registry (preferably more than one) and write a critical report on its operation, in order to qualify for his new post.

6 Registration costs and fees

6.1 An efficient system of registration of title avoids the retrospective investigation of title (except in respect of overriding interests) and so should reduce the actual cost of dealing in land; but the introduction of such a system necessarily requires an expenditure which would not otherwise have been incurred. The question is whether the cost of first registration should be paid by the State (that is, by the general taxpayers as a whole) or by the individual landowners concerned, and if the latter whether it should be paid at once or can be deferred to sometime in the future. In Chapter 15 we discussed the payment of fees on systematic adjudication. We suggested that, unless there were a dispute which necessitated the

equivalent of a court hearing, no fees should be payable: or at least fees should not be payable until there was a subsequent dealing, at which point the owner would derive advantage from registration. We need not repeat the arguments here.

6.2 Obviously we cannot give any very meaningful figures because conditions vary so widely from country to country, but the Lawrance Mission Report provided an instructive analysis of the cost of first registration in Kenya, broken down into the cost of survey, the cost of systematic adjudication (which up to 1959 included an extensive programme of consolidation), and the cost of setting up the land registries. The total expenditure up to the end of 1965 was

Survey	£1,287,577
Adjudication	1,995,437
Registry	69,000
Total	£3,352,014

Over the total area registered (including 215,212 acres which had to be done twice) this expenditure gave an overall cost of Shs. 36.36[1] per acre or Shs. 41.15 per acre of land actually shown on the register at the end of 1965. But there was wide variation between the provinces, and in particular between the cost of survey 'with refly' and 'without refly',[2] ranging from Shs. 46.73 per acre 'with refly' in the Central Province to Shs. 10.40 'without refly' in the Nyanza Province.[3]

6.3 It is even more difficult, however, to work out the true cost of registration when the registry uses a map which serves many other purposes besides registration of title but which may be made more expensive because of registry requirements. In England and Wales the registry has to meet the cost only of survey or re-survey expressly required for the purpose of registration; but as we explained in Chapter 7,[4] 'continuous revision' is now standard procedure in the Ordnance Survey in any case, so that survey costs charged to the registry are reduced to a minimum.

6.4 Before we discuss fees for recording transactions, we should draw special attention to the distinction which must be made between revenue to the State in the form of a tax on dealing, and fees which are collected to cover the cost of registration. The occasion of the sale of land clearly offers a favourable opportunity for raising revenue; a sum of money, often substantial, is changing hands, and it is comparatively simple to collect a small percentage of it as tax. Such a tax is usually payable whether title is registered or not, and it must be clearly distinguished from the fees which are required to pay for operating the registry.

6.5 There are two alternative principles on which fees for recording transactions may be calculated. They may be based upon the value of the property which is being registered, so that the higher the value the greater will be the contribution made

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[1] In Kenya, though larger sums are usually shown in pounds, smaller amounts are invariably reckoned in shillings (Shs.) and cents (100 cents = 1 shilling; 20 shillings = 1 pound).
[2] See 8.11.9
[3] *Lawrance Mission Report* (1966) 10—17
[4] 7.5.7-9

towards the cost of operating the registry; in this way the bigger transactions subsidize he smaller, which can then be recorded at less than cost. This is the principle followed in England where the Land Registration Fee Order 1970 made by the Lord Chancellor with the advice and assistance of the Rule Committee and with the concurrence of the Treasury[1] lays down four scales regulating the fees payable for various types of application or transaction presented for registration. The fees increase with the value of the transaction until £500,000 is reached, after which there is no increase. The Sudan offers an extreme example of this ad valorem principle, 4 per cent on the market value of the land being payable on the registration of a transfer, and 0.5 per cent on a charge (or discharge); but no stamp duty (or transfer tax) is imposed and there is therefore a substantial element of taxation in these figures, a fact which may be overlooked when the registry is formulating its budget and endeavouring to justify extra staff (e.g. for additional registries) claiming that 'it pays for itself'. The Sudan rate of registry fees was adopted in Cyprus in 1955. It should also be noted that the computation of value, by no means always revealed in the figure declared as the consideration, can be an embarrassment for a registry not equipped with valuation staff; it can even be a source of temptation, particularly in registries where supervision is difficult.

6.6 On the other hand, the fees may be based on a fixed charge on the principle that it actually costs no more to enter the transfer of a property worth, say, half a million pounds than it does one worth only a hundred. Such fees are simpler to calculate and are less prone to fraud. Thus in New South Wales fees are payable for the performance of various acts, such as for the registration of a transfer, lease or mortgage, no matter what the value of the property. In Victoria, however, the Transfer of Land Act 1954 provided a sliding scale up to £20,000 on which £8 is payable as against £2 on a transfer for a consideration of not more than £1,000.

6.7 We thought that it might be interesting to compare the cost of conveying land in various countries and, indeed, began to collect some figures, but as Fortescue-Brickdale pointed out in a lecture nearly sixty years ago, "When we come to compare one country with another we shall find a very great divergence prevailing among countries ostensibly very much the same as regards general circumstances and degree of intelligence and civilisation, from which the inference is natural that in the countries where costs are very much higher than elsewhere there must be considerable mismanagement. But it is easy to be misled by appearances. One cause may be that landowners are better off, and so have more margin for expensive luxuries in one country than in another; that will account for a good deal of extra cost. Or there may be some auxiliary services of the State, such as the highly-productive, efficient and up-to-date land tax systems of the Continent, which may afford gratuitous assistance (directly or indirectly) to some of the most costly operations incidental to land transfer, for instance, evidence of occupation and ownership and detailed descriptions of the properties dealt with. Or it may be that

[1] Land Registration Act 1923 s144(l). The Rule Committee consists of a judge of the Chanccry Division of the High Court chosen by judges of that division, the Chief Land Registrar, and three other persons, one chosen by the General Council of the Bar, one by the Minister of Agriculture and Fisheries, and one by the Council of the Law Society.

though in theory the possibilities of complication in one country are much the same as in another, yet as a matter of fact difficult cases are much rarer in practice, a distinction hard to gauge without long, wide and intimate experience of the everyday course of business in both."[1]

6.8 We have therefore abandoned the attempt to provide comparative figures as likely to be misleading without a much more elaborate analysis as we can possibly make. However, the Registrar of Titles of Victoria in British Columbia (who has English conveyancing experience and, incidentally, especially cautioned us against trying to compare the conveyancing charges of solicitors in England with those of British Columbia because of the difference in procedure) sent us a copy of an article from the British Columbia Notary which referred to a recent survey on international notarial conveyancing fees[2] and set out a table showing the conveyancing costs (notarial and registry fees) on the purchase of a house of a value of $40,000 (about £17,000), a 'typical' city being chosen in each country. These figures, shown in the table as a percentage of the cost, are, at least, thought-provoking. It is not surprising that along with the table we received the comment "It appears that it is good for a home buyer to live in Canada."

Country		Approximate percentage of total purchase price
Argentina		9.00
Australia		0.94
Belgium		0.33
Britain: London		3.28
Canada:	Toronto	0.50
	Vancouver	0.52
France: Paris		2.75
Greece		1.00
Israel		*
Italy 1		.50
Japan: Tokyo		5.50
Netherlands (vendor pays fees)		1.00
Norway		2.10
Switzerland		4.00
USA (includes title insurance)		3.00
West Germany		1.65

*No notary necessary; no registration fee

[1] Fortcscue-Brickdale Methods of Land Transfer 7-8
[2] Alan Edmonds 'Other People's Houses' Canadian Magaine (30 June 1973)