

CHAPTER 17

MACHINERY OF REGISTRATION

1 Prefatory

1.1 We cannot stress too strongly or too often how dependent registration of title is on its working machinery. We now propose to describe the 'physical components' of the system. The Kenya Registered Land Act 1963 provides that there shall be maintained in each land registry (a) the land register, (b) the registry map, (c) parcel files, (d) the presentation book, (e) an index of proprietors, and (f) a register and a file of powers of attorney.¹ We examine the purpose and use of each of these and, in addition, five further items: (1) certificate of title, (2) certificates of official search, (3) land registry forms, (4) register of instruments, and (5) machinery for collecting fees.

1.2 As we remarked in Chapter 2, a juridically perfect system is useless without efficient administration; on the other hand, efficient administration without formal statutory support has sometimes created procedure so effective in working practice that legislation appears unnecessary.² In Britain the Scottish Search Sheet³ is an outstanding example of a very effective administrative device not provided for in the law. But such devices take time to establish and obviously the best combination is good administration backed by good law.

1.3 Unfortunately, however, the humdrum processes of the daily working of a land registry are generally regarded as beyond the ken of those not actively engaged in them, with the result that the importance of these processes is far too often overlooked. In all except the very smallest countries land parcels are counted in millions rather than in thousands.⁴ If records of title are to be kept up to date, as they must be, repetitive operations are required of the sort which effectively repay good organization; even a relatively small improvement will, because it is so often repeated, show a big dividend in saving time, effort, and money. One word on each of a million entries is a million words (four times the length of this book); one new penny saved on each of a million registrations adds up to £10,000.

1.4 In the last chapter we emphasized how important it is for a chief land registrar to be acquainted with other systems. We urged that anybody who is to be placed in charge of a land registry should have visited at least one other land registry, and preferably more than one. Such visits (particularly if made by staff still active enough to be creative as well as receptive) are likely to repay their cost many times

¹ s.6

² See 2.6.13

³ See 6.5.4c

⁴ In Cyprus, for example, in 1959 there were two million parcels and a total population of only half a million. Thus there were four parcels for every man, woman, and child on the island.

over: yet governments remain short-sightedly reluctant to provide the necessary funds. Nobody should regard this description of the physical components of registration of title as a substitute for seeing for himself how a registry works; we only hope that it will assist him in making a critical appraisal of what he sees.

2 The register

(1) Meaning

2.1 The word 'register' is itself ambiguous, for in ordinary speech it is used so refer either to the record of the title to a single property or to the complete record of all registered properties (i.e. all the individual records collectively).

2.2 In the English system it is not only used in these two senses but the individual record is itself divided into three parts which, somewhat oddly, are called registers, being known as A. Property Register, B. Proprietorship Register, and C. Charges Register, presumably a throw-back to the days when separate register-books were kept for these items. Yet a further meaning can be found in the English system as the English Act provides that the correction of the register may be effected merely by making an alteration to the plan without altering the typewritten record (i.e. the register proper) and so in this context the word 'register' describes not only the typewritten record but also the filed plan referred to in the record.¹

2.3 In the Torrens system the individual leaf of the register is usually referred to as a 'folium' or 'folio'. Folium is the Latin for leaf; it is not a word to be found in an ordinary English dictionary and there would appear to be no good reason for resorting to Latin. 'Folio' is a term of art to English lawyers meaning a certain number of words (seventy-two or ninety) taken as a unit in reckoning the length of a legal document, a matter of some importance when lawyers were paid by the length of the documents they prepared, as they were in the days when Dickens wrote of conveyancers toiling by candle-light "for the entanglement of real estate in meshes of sheep-skin, in the average ratio of about a dozen of sheep to an acre of land".²

2.4 In the Kenya Registered Land Act the register as a whole is called the 'land register' (as it is in the Singapore Land Titles Ordinance) and it comprises a register in respect of every parcel of land and of every lease which requires registration. In this book we do use the word 'register' to denote the record of a single title (whether of the ownership of land or of a lease), but more often we use 'register' to denote the whole register. In any case, the expression 'land register' cannot really be confined to registration of title because in ordinary speech any sort of record of land units is likely to be called a 'land register', whether or not it has any connection with proving title. Indeed, on the continent of Europe, cadastral registers are called

¹ See C & R 15

² Charles Dickens *Bleak House* (1853) Ch XXXII first paragraph

‘land registers’ to distinguish them from ‘legal registers’ (which are registers concerning title, and may be either ‘positive’ or ‘negative’).¹

2.5 It should be noted that in the system we advocate a separate register must be prepared in respect of every parcel, showing its ownership (whether public or private, individual or corporate).² In addition it is necessary to prepare a separate register for any interest (known in English law as a ‘term of years’ or colloquially as a lease) which confers the right to exclusive possession and is itself capable of being dealt with just like ownership. It is unnecessary to keep any other register. It is true that charges and profits may also be the subject of dealings, but such dealings can easily be recorded in the register of ownership (as we illustrate below). Rentcharges³ are separately registered in the English system, but they are a complication which need not be inflicted on other countries, and indeed, are prevalent only in certain parts of England (where they could well be abolished by conversion to ordinary charges).

(2) CONTENT OF THE REGISTER

2.6 So far as title is concerned, the register is required to show what is owned, who owns it, and incumbrances and rights adversely affecting it. It is therefore convenient and logical to divide the register into three sections as follows:

A. PROPERTY SECTION This must contain not only an unambiguous definition of the parcel concerned but also the nature of the right owned, i.e. whether it is the outright ownership (which in Chapter 1 we called the ‘container’)⁴ or a leasehold interest, in which case short particulars should be given, i.e. the names of the parties, the period of the lease or the date it is due to terminate (this is the important date) and the amount of the rent. Where a title is provisional or limited (in those systems where this is possible) this fact should also be shown. (In the English system this is shown in the next section, as being a qualification of the owner’s right.)

The parcel is ‘unambiguously defined’ either by reference to the registry map or to a filed plan or, as is usual in the Torrens system, by a plan drawn on the register itself. It should be noted that the English practice of also giving a description of the property (e.g. its postal address) is a useful convenience for landowners where such descriptions are in common use; indeed, there can be circumstances in which such description alone will suffice.⁵

The property section is regarded as showing the ‘credit’ side of the register and so any right in or over other property which benefits the parcel should also be set out here.

¹ See 2.6.8

² See 11.12

³ See 11.9.10n

⁴ See 1.4.4

⁵ See 8.3.3

B. PROPRIETORSHIP SECTION This shows the name(s) of the owner(s) and his (their) address(es). The cardinal rule is that the entry must unmistakably designate the proprietor and enable him to be found. Where a 'description' of the proprietor is provided, it should be reasonably distinctive; for example, 'village headman', or even 'baker' or 'shoemaker', will help, but 'gentleman' (a description often used in English conveyances) is unlikely to be of much assistance in tracing or identifying the person so described. If there is no patronymic the names of the father and the grandfather should be added to the given name together with, perhaps, a nickname or village name. If there is a patronymic, full given names should be recorded, and if the combination is a common one or is likely to be repeated. Some further identifying factor should be added; for example, in South Africa where the son is often given the same name as his father, the date of birth is added.

The English practice of recording in this section any entry (such as a caution or restriction) affecting the owner's right of disposition is sensible because such an entry, so long as it subsists, will literally stand in the way of the entry which would be needed if the owner disposed of his property.

C. INCUMBRANCES SECTION This section can be regarded as showing the 'debit' side of the register and in it should be shown all rights and interests which adversely affect the property and which will continue to affect it should it be transferred (i.e. they 'run with the land'). The obvious examples are leases, charges (mortgages) and restrictive covenants. Any easement which burdens the land is also recorded in this section, though it might be more convenient and more logical to place it in the property section as being an essential part of the description of the land.

In the new Scottish system it is proposed to have a separate section for charges (or heritable securities as they are called in Scotland). There is also a separate section for charges in the German system.

2.7 It should be noted that, whereas the Torrens register is in the form of a grant (as that is what it is), the English register has itself no certificate written into it. We shall refer to this again below when we consider certificates of title.¹

(3) FORM OF THE REGISTER

2.8 Four types of register can be distinguished:

(a) *The ledger*, i.e. bound books in which entries are made as they arise, each property being given a separate page. Such registers are used, for example, in Cyprus and were at one time used in England. They are obviously convenient to handle, dead matter cannot be withdrawn from them, and when a page is full, continuation sheets cannot be inserted but will have to appear in a later volume; indeed the record of one property may stretch over several volumes. The system

¹See para 8.2 below

presupposes an interest in past history and in spent entries quite out of keeping with English practice which concerns itself with the current facts.

(b) *The bound volume*. It was (and often still is) common Torrens practice to bind up the duplicate of the grant or the certificate of title in volumes of fifty or more titles thereby conferring on them all the inconvenience inherent in the ledger system. Under the heading 'The Tyranny of Binding' the Deputy Registrar-General of New South Wales wrote:

"The ready availability of records to members of the staff and public is essential for efficient service. It is unquestionable, however, that restricted availability is an inherent feature of a bound register, and this becomes apparent with a rising tide of business such as that now experienced in the New South Wales Registry. In fact, the greatest single impediment to work-flow and searching is the non-availability of records. The basic reference unit in the system is the certificate of title. A certificate of title is an individual document having no direct relationship with its 'neighbours' in the numerical sequence: binding into books has, therefore, no functional searching or registration significance. Binding is an administrative technique only, aimed at securing folios of the register from damage and loss, and does not qualify as an essential ingredient of the Torrens System. As a security technique it is quite effective, but the security it offers is purchased at the price of operational efficiency.

"Ideally a folio of the register should be either 'in file' or the subject of registration action or search. Under the existing system, however, on each occasion that a folio leaves file its 49 captive neighbours travel with it. Ninety-eight per cent of movement is redundant, therefore, and this, coupled with frequent simultaneous demand by members of the public and staff to refer to different folios in the one book, seriously disrupts searching and work-flow. It is aggravated by the long registration 'production line' imposed by the rubber-stamp method of entering memorials along which the book must pass before being returned to file. A loose-filing system, well administered, permits attainment of the ideal; a bound system, however well administered, does not."¹

The argument that binding is essential to security is belied by the practice in Melbourne of keeping the registers loose in leather containers without any apparent disaster, though in Sydney and Adelaide (only a few hours away by aeroplane) it used to be asserted that it would be fatal not to bind up the registers. Sydney and Adelaide have now been converted to unbound registers, but Adelaide did not give in until September 1973. Unhappily — and almost unbelievably — binding was introduced to Singapore when the new register of title was set up there in 1961.

(c) *The loose-leaf binder*. Leaves can quickly be inserted or withdrawn from binders which can be varied in thickness to contain as many titles as may be desirable in one volume, with the great advantage of being able to keep the titles of registration sections (or blocks) together. Loose-leaf binders were warmly advocated by Dowson and Sheppard in their Memoranda published in 1930.² They

¹ B R Davics 'A "New Look" for the Torrens System in New South Wales' 34 The Australian Law Journal (January 1961) 259

² D & S Memoranda 9 pars 15

went on to say that lockable binders could be provided, but regarded this as unnecessary. Indeed working practice in many registries has proved the locks to be merely a nuisance — the key is often left lying about and then cannot be found when it is wanted. Similarly reinforced binders (with steel backs) do not justify their extra cost and extra weight. As a security measure, however, it may well be desirable to arrange for the blank leaves to be serially numbered (like the receipts in a receipt book) so - that each one can be properly accounted for. This will avoid the unauthorised substitution by a registry official of a new register for an old one, a stratagem which has been attempted to defraud government of fee or a stamp duty. If A transfers to B, the recording of B as the owner in a new register which makes no mention of A (or of any transaction) could enable a dishonest registrar to pocket the fees for B is quite happy since he is recorded as the owner (so he does not bother about a receipt), and A has no further interest in the matter. The presentation (or application) book (see section 5 below), if properly used, is a safeguard; but where the registry is small and the staff are few, it could be easy, for a dishonest official to resort to malpractices. In any normal-sized registry there must be collusion between three or four officials if such malpractices are to remain undetected.

(d) *The card or loose page system.* The English registers are kept loose on cards which are filed in drawers, and this makes handling very convenient. It also makes it much easier for a register to be lost (and misfiling, among hundreds of thousands of registers, will in effect lose a register). This, is not as disastrous as might be supposed. Registers can, be reconstituted from the parcel files (which we describe in section 4 below), or perhaps from the land certificate (as the advocates of such certificates would argue, but only, of course, where there are no parcel files). In New Zealand the Torrens bound up registers have recently been changed to completely loose registers which are filed in folders containing about fifty sheets. The public, are no longer allowed to inspect or handle the register itself, but instead are given a photocopy which can be produced in about twenty seconds at a very small cost. This would appear to be the best system yet devised, but it depends on sufficient business to justify the use of the photocopying machine and on technical expertise being readily available to keep it in operation. Thus small district registries remote from servicing facilities are unlikely at present to be able to make use of such devices, but cheap quick reproduction of this nature unquestionably opens new possibilities.

(4) NUMBERING OF TITLES AND ORDER OF FILING

2.9 When the registers are in bound volumes they are necessarily kept permanently in the chronological sequence of first recording, and therefore a parcels index is required to indicate the volume and the page (or 'folio') number where the record is to be found.

2.10 Loose registers (whether in loose-leaf binders or not) can be kept in any sequence and apart from avoiding the need for an index there is considerable convenience (for many administrative purposes) in using the parcel number as the title number and so keeping the registers in the order in which the proprietary parcels lie on the ground. This is particularly useful when for political or

administrative reasons an area administered by one registry is transferred to another registry. In Nigeria, for example, it would have saved much trouble when the Western Region registers were transferred from Lagos to Ibadan.

2.11 In the loose register system it is possible to place the register of a lease immediately after the register of the freehold (or leasehold) out of which it is created. Thus where two or more leases have been created the order will be: (1) ownership, (2) first lease, (3) sublease out of first lease, (4) second lease, (5) sublease out of second lease, irrespective of the dates of the second lease and subleases. The parcel description for the ownership record consists of the name of the registration section followed by the block indicator, if any (whether number, letter, or a combination of both), and then the parcel number. A lease is indicated by an oblique stroke and number following the parcel number, and a sublease by a further oblique stroke and number. Thus if the parcel number is, say 15, the first lease out of it will be numbered 15/1 and a sublease out of that lease will be numbered 15/1/1; the second lease will be 15/2 and a sublease out of it 15/2/1 and so on. Some registries use different colours to distinguish leasehold from freehold registers, but this practice has long been abandoned in England, although a different colour (pink) is used to distinguish possessory registrations.

2.12 In the English registry, titles, whether freehold or leasehold, are numbered consecutively (by counties) in the order in which they are first registered, and the registers of contiguous parcels may well be in different drawers; a leasehold register will similarly be separated from the register of the freehold (which indeed may not even be registered). An efficient index system enables registers to be quickly found, and since in any case in England they are not available for general administrative purposes (such as rating, or re-planning) the inconvenience is not significant. The keeping of the register by counties ensured that when the time came to open district registries, the relevant registers could be transferred without difficulty from the central registry in London.

(5) THE SIZE OF THE REGISTER

2.13 Registers vary in size from the 6.3 x 11.2 inches (160 x 278 mm) of registers used in the Kenya rural areas¹ up to the 18 x 11.3 inches (457 x 280 mm) of the registers which till recently were used in South Australia. The size of the English register card is 11.2 x 9.4 inches (278 x 239mm). (A 'card' tried in Teheran measured no less than 14.75 x 21.25 inches (375 x 540 mm), but it does not really 'qualify' since it was only experimental.)

2.14 As paper is sold by weight the smaller the register the cheaper it will be. Small registers are also much easier to handle and to store. Some of the old bound registers are massive in size and demand considerable physical effort to use. They have been aptly called 'rupturing registers' and a double hernia was an occupational hazard of the registry staff who had to use them. It has been argued that the larger the register page, the more difficult it will be to remove and conceal it. This is

¹ See pp 611-14 for the form of register prescribed for rural areas under the Kenya Registered Land Rules

similar to the argument that only the bound register confers security, and it is equally fallacious. Security measures need not necessitate discomfort. In a properly designed system the removal or loss of a register should cause no more than mere inconvenience, since it can be reconstructed from the parcel file; its loss should certainly be able of jeopardizing the owner or conferring an advantage on anybody else.

2.15 Small registers, combined with the use of continuation sheets for insertion when more space is needed, are more economical than large registers capable of taking more entries than on average are ever likely to be needed. The English device of new editions (copied in Kenya and countries which have adopted legislation similar to the Kenya Registered Land Act) enables small registers to be used and to be replaced, purged of dead matter, as soon as they fill up. The earlier edition can be kept in the parcel file if it is desired to keep the past history of the parcel, but in England it is destroyed six months after the new edition is opened.

(6) MANNER OF ENTRY

2.16 The type of the register will obviously affect the manner in which the entry is made. In a fixed-leaf ledger, though it is possible to use a special typewriter, entries will generally be made in manuscript (assisted, perhaps, by rubber-stamping); but where the initial document of title is not bound up until after it has been issued, it can be prepared by typewriting, with subsequent entries, after binding, being made in manuscript. This is also usually the best way of compiling and maintaining registers kept in loose-leaf binders: the first entry is typed, and subsequent entries are made in manuscript to avoid removing the page from the binder. In HM Land Registry all the entries are typed; the top copy is bound up in the land certificate (see section 8 below) and the carbon copy (on card but thin enough to go into a typewriter) is the register.

2.17 The common sense practice of cancelling an expired entry is by no means universal, but most registries provide that an expired entry should be ruled through, usually in red ink. Corrections are effected by ruling through the wrong entry in black ink leaving it capable of being read, and writing the correct entry above. Cancellations, new entries, and corrections should be signed or initialled by the responsible official.

2.18 In the Torrens system there has been argument as to whether the registry certificate or that issued to the proprietor is the duplicate; but in any case, since it has to be a 'duplicate' and not a 'copy', 'master and slave' typewriters (two typewriters linked electrically) have been used so that two identical copies are produced, one for the register and one to be issued. This is an expensive expedient which appears to serve no useful purpose, and indeed it is in conflict with the fundamental principle of registration of title that the register, and only the register, proves title; if this is so, then surely all that can be needed (or should be possible) is a copy of the register.

(7) DISASTER COPY

2.19 Some registries make provision for a duplicate of the land register to be available, should it be wholly destroyed in riot or war, or by some natural disaster such as earthquake or fire or flood. No such provision has been made in England and even during the Second World War when London was under heavy aerial bombardment HM Land Registry relied on the fact that land (or charge) certificates in the hands of owners would enable the registers to be reconstructed if it should be necessary. In the event, many certificates in private hands were destroyed but the registers themselves escaped, though the Land Registry's own building in Lincoln's Inn Fields was damaged. Other registries were not so fortunate. In Papua and New Guinea, for example, the destruction of the registers faced the Australian Government with considerable problems after the war, and much trouble and litigation would have been saved if a duplicate of the records had been available in Australia.

2.20 The microfilming of an existing land register affords no particular difficulty (if the money is available), but the keeping up to date of a duplicate record is quite a different matter. The duplicate, to be of any value, must be safely kept in a place not liable to suffer the same disaster as might overtake the registry. It must therefore be kept at least in a separate building, and preferably not in the same town, or even in the same country. The less accessible (and so more secure) it is, the more difficult will it be to keep it abreast of current dealing; so the wiser plan may be simply to repeat the whole micro-filming process from time to time.

2.21 There is, however, one simple precaution that can be taken easily and cheaply when a land register is being compiled from the proceedings of systematic adjudication. It costs little more — either in money or effort — to make a carbon copy of the new registers as they are being prepared and the copies (not forgetting a copy of the adjudication map) can then be sent to a safe place for storage. Their value for reconstituting a destroyed register will naturally depend on how soon this is required and how much mutation and dealing there has been in the meantime, but for many years they should be a valuable safeguard, just as the microfilming of the entire register² will similarly provide a base from which a new land register could be reconstructed, though with increasing difficulty as time passes. Any such arrangement is usually made as an administrative procedure and is not a requirement of law to be found in the registration statute, or even in rules made under it.

(8) EXAMPLES OF REGISTERS

2.22 We believe that our readers will be interested in specimen registers and would like to see samples of typical entries. We have therefore obtained a variety

² A microfilm of the Palestine land registers was sent to London during the troubles at the end of the British administration there when there was a danger that the destruction of the records might be a grievous loss which any future administration would bitterly regret, not to mention the landowners whose rights were secured by registration.

of registers showing how the purchase of a freehold parcel of land by John Smith from George Brown for £10,000 would be entered, John Smith then charging the property to secure a loan of £2,000 from the Local Building Society, before leasing it to Henry Green for seven years at a rent of £500 per annum; in other words a specimen of the register with a sample entry of the main transactions: (1) a sale, (2) a charge, and (3) a lease, together with explanatory notes that might be needed.

2.23 We show reduced facsimiles of registers from the following jurisdictions:

(1) *South Australia*. The Registrar-General sits under a large portrait of the redoubtable Robert Richard Torrens, who set up the system there in 1858. It gives a visitor the impression almost of 'apostolical succession'. When we asked for a copy of the register it was not only because of its historic interest but also because it illustrated the old-fashioned kind which was into heavy volumes and was so large that, to obtain a photocopy of a single page, first the top and then the bottom had to be inserted into the machine. But the citadel has fallen at last, and in September 1973 smaller metric-size (B4 — 353 x 250 mm) folios were introduced. These are no longer bound into the register book but are filed in polypropylene covers which accommodate fifty folios held securely therein by clips. Searchers are not allowed access to the original titles but must do their searching by photocopies. All entries are typewritten, thus putting an end to the 'illegibility' which was a charge sometimes levelled against the previous hand-written entries. No colour is used in the diagram (on which metric measurements are now shown); bold black lines indicate property boundaries and so appear on photocopies (just as the red edging of the English system also appears as a thick black line on a photocopy). It will be noticed that spent entries are not deleted, though doubtless this 'innovation' will be adopted one day.

(2) *Tasmania*. We chose Hobart because the registry there was one of the first registries in the Commonwealth of Australia to adopt a convenient new form of loose register (which is still one of the smallest and neatest of the Australian registers — 342 x 217 mm). We also wished to be sure of having a specimen which would illustrate, among other things, how certification of title is shown on the register page itself instead of being on a cover as in the English system, or requiring a separate certificate as in Guyana (see below).

(3) *New South Wales*. It took a long time to change the law to enable a loose-leaf system to be adopted, but the change was duly made in 1967, and now there is now very little need to include a specimen title since the new register is very much like those in Hobart and Adelaide which we have already shown, though it is rather larger — 393 x 255 mm. These registers are similar to the register in New Zealand (which we commended in paragraph 2.8(d) above) and, indeed there is no real reason why all the Australasian registers should be in common form. We have already drawn attention to the time and effort that could be saved by a uniform approach throughout Australasia to what is basically the same problem.³

(4) *British Columbia*. We chose the registry in Victoria not only because of the antiquity of the system in British Columbia,⁴ but because in Victoria there is

³ See 16.2.2 and 3

⁴ See 5.9.2 and 3

being developed the system of ‘instant registration’ which we briefly describe in Chapter 19. The certificate is of special interest because it illustrates the practice of issuing a new title every time the ownership of the fee simple is changed, a practice which is enormously wasteful not only of paper but of storage space. The certificate is also of interest because the exceptions (i.e. overriding interests) are set out on the back — as they are inside the English certificate.


(5) *Guyana*. A new system of registration of title was introduced by the Land Registry Ordinance 1959. We give more particulars of this system in Book 2. Since the register, like the English register, does not itself certify title in the manner of the Torrens system, we have included a reduced facsimile of the certificate of title (which, in Guyana, is issued only on request).

(6) *England and Wales*. We thought of seeking a specimen from the Nottingham District Land Registry, but leases of seven years are not registrable, and we came to the conclusion that the English system will be best illustrated by reproducing the reduced facsimiles which appear in the pamphlet issued by HMSO for the purpose of explaining the system. The English land certificate provides a considerable amount of general information printed within its cover, and this we have also reproduced from the HMSO pamphlet.

(7) *Ontario*. Ontario is of particular interest because its title registration is English rather than Torrens in origin,⁵ and also because its registers take a distinctive form. Recently a columnar style of parcel register page (357 x 432 mm) has been introduced on a trial basis in selected offices (Fig. 9(c)); but most of the land title records are maintained in books in which the pages are not divided into columns; the entries are made in narrative fashion with appropriate notes. It seems strange that, whereas the new Australian registers clearly show the influence of the English pattern (including, in Hobart and Sydney, the cancellation of spent entries and provision for new editions), the Ontario registers — though originally stemming from English sources — in fact follow their own distinctive line. As a result the Certificate of Ownership under the Land Titles Act does not include a copy of the register but is a separate document (Fig. 9(a)).

(8) *British Virgin Islands*. Finally, we give specimens of the ‘ownership’ (Fig. 10(a, b)) and ‘leasehold’ (Fig. 10(c)) registers (203x330 mm) of the British Virgin Islands as being typical of the registers used under the Registered Land Act which is described in Book 2. (It is suggested that these would be improved by the inclusion of the ‘certifying words’ with which the Torrens registers begin. A photocopy, countersigned by the Registrar, would then certify registration without any further addition. However, a rubber stamp can have much the same effect.) The ownership register is white and the leasehold register pink. It will be noted that the first entry is typed, and subsequent entries are handwritten in order to avoid removing the page from the binder.


⁵ See 5.9.5

ORIGINAL CERTIFICATE OF TITLE	South Australia 	Register Book, Volume Folio
--	---	-------------------------------------

Pursuant to Transfer 3515840 Registered on Vol.3065 Folio 163

GEORGE BROWN of Stockyard Creek 5461 Farmer and Grazier is the proprietor of an estate in fee simple subject nevertheless to such encumbrances liens and interests as are notified by memorial underwritten or endorsed hereon in ALLOTMENT 14 of portion of Section 277 and other land HUNDRED OF NOARLUNGA laid out as ABERFOYLE PARK (L.T.R.O. Plan deposited No.7104) and delineated by bold black lines on the plan hereon

In witness whereof I have hereunto signed my name and affixed my seal this day of 1974
 Signed the day of }
 1974, in the presence of }


 Deputy Registrar-General

SPECIMEN

MORTGAGE 3262791 to FINANCE CORPORATION OF AUSTRALIA LIMITED Produced 6.8.1971 at 2.05 p.m. (Including other land)

Dep.Reg.Genl.

DISCHARGE of Mortgage 3262791 by endorsement thereon Produced 8.9.1972 at 11 a.m.

Dep.Reg.Genl.

TRANSFER 3869761 to JOHN SMITH of 16 French Street Glenunga Auctioneer of the within land Produced 4.1.1974 at 3.05 p.m.

Dep.Reg.Genl.

MORTGAGE 3869762 to LOCAL BUILDING SOCIETY Produced 4.1.1974 at 3.05 p.m.

Dep.Reg.Genl.

OVER

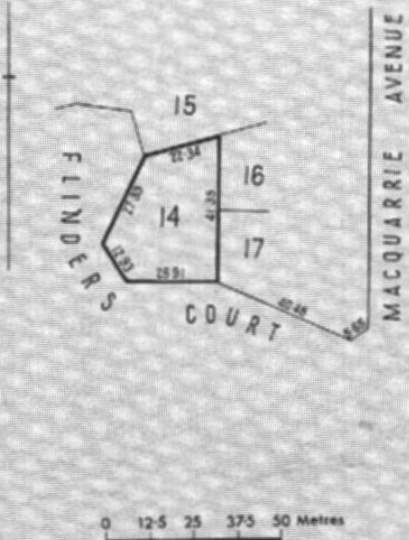


Fig. 3a. South Australia, certificate of title (front)

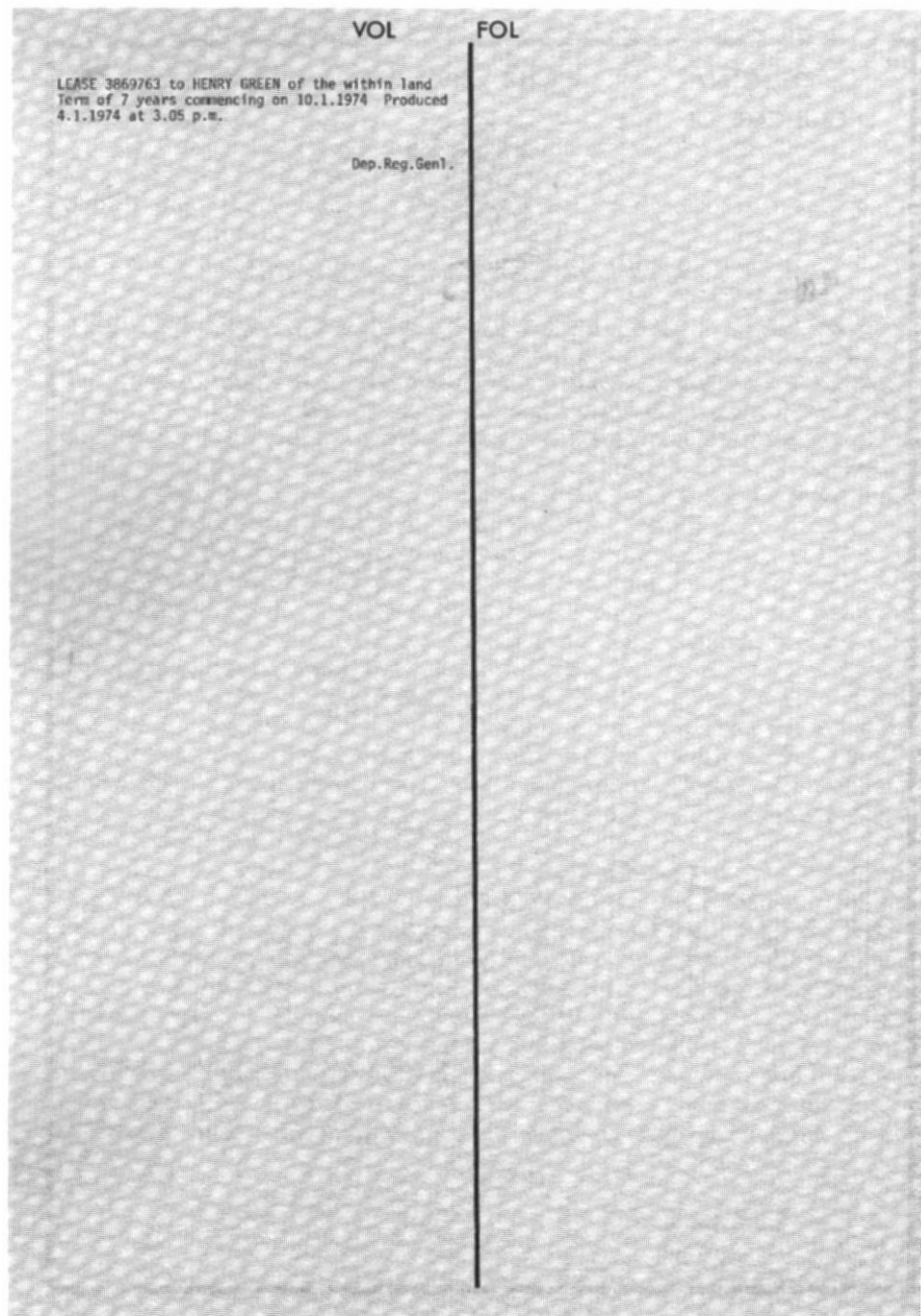



Figure 3b South Australia, certificate of title (back)


S.P. 1489
TASMANIA
REAL PROPERTY ACT, 1962, as amended



CERTIFICATE OF TITLE
Register Book
Vol. Fol.
34569 992

I certify that the person described in the First Schedule is the registered proprietor of an estate in fee simple in the land within described together with such interests and subject to such encumbrances and interests as are shown in the Second Schedule. In witness whereof I have hereunto signed my name and affixed my seal.

SPECIMEN ONLY
Recorder of Titles.



DESCRIPTION OF LAND

CITY OF HOBART
LOT NO. 770 on Sealed Plan No. 991 and on the Plan hereon

FIRST SCHEDULE (continued overleaf)

ENTRY CANCELLED

GEORGE BROWN of Hobart, Company Manager. C.T. DEEDSMAN
Recorder of Titles

SECOND SCHEDULE (continued overleaf)

NIL.

NOTE—ENTRIES CANCELLED UNDER SIGNATURE OF THE RECORDER OF TITLES ARE NO LONGER SUBSISTING.

FIRST Edition. Registered 30th FEB. 1983.
Derived from C.T. Vol. 34562 Fol. 891 - Transfer B765920

Figure 4a Tasmania, certificate of title (front)

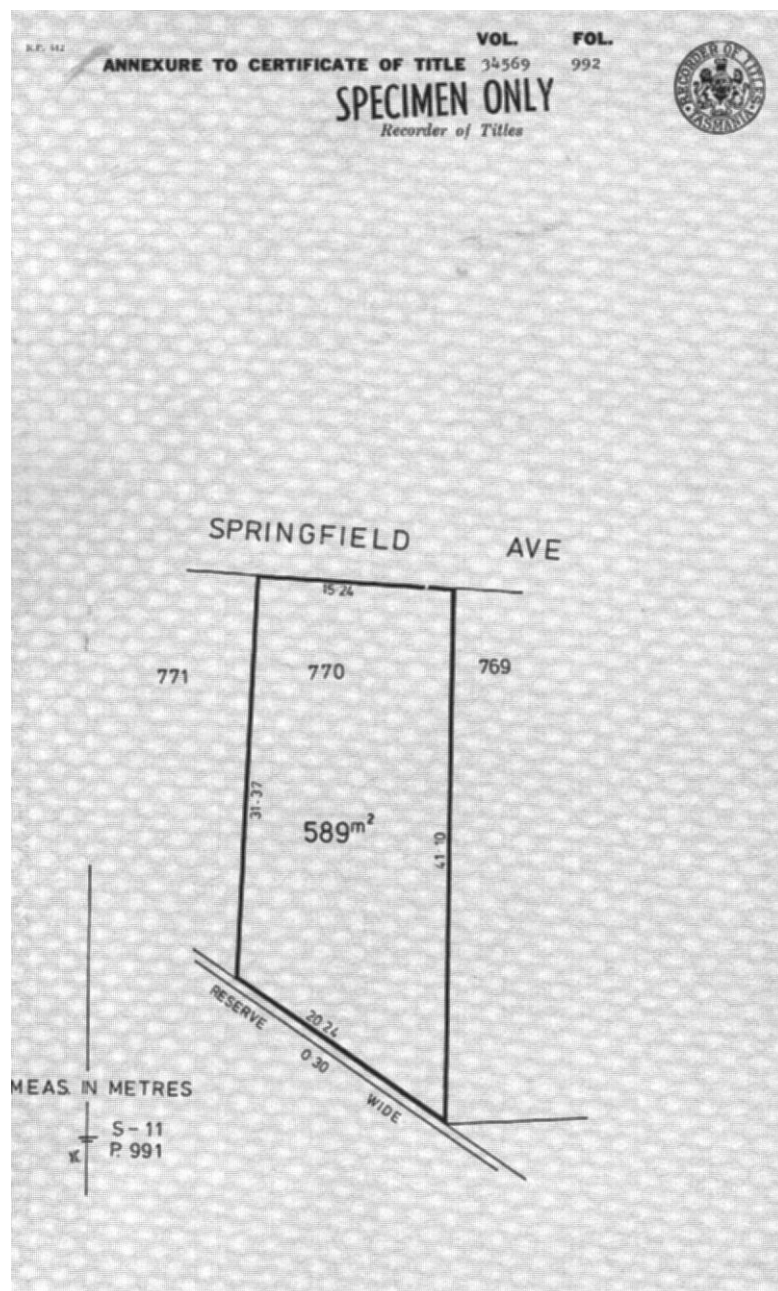


Figure 4b Tasmania, certificate of title (inside)

34569 992
VOL. FOL.

FIRST SCHEDULE (continued)					
INSTRUMENT		REGISTERED PROPRIETOR	Registered	Signature of Recorder of Titles	Seal
Nature	Number				
TRANSFER	B797525	JOHN SMITH of Launceston, Supervisor.	31.2.84(Noon)	C.T. DEEDSMAN	L.S.

SECOND SCHEDULE (continued)					
INSTRUMENT		PARTICULARS	Registered	Signature of Recorder of Titles	CANCELLATION Number
Nature	Number				
MORTGAGE	B797526	to Hobart Town Building Society	31.2.84(12.1p.m)	C.T. DEEDSMAN	
LEASE	B797527	to Henry Green, 7 years from 31.2.84.	31.2.84(12.2p.m)	C.T. DEEDSMAN	

NOTE.—ENTRIES CANCELLED UNDER SIGNATURE OF THE RECORDER OF TITLES ARE NO LONGER SUBSISTING.

Figure 4c Tasmania, certificate of title (back)

Land Law and Registration by S. Rowton Simpson

Figure 5b New South Wales, certificate of title (back)

SAMPLE ONLY


LAND REGISTRY ACT
(FORM F, SECTION 143)

Title No. C 3 0 2 5 6
Register Vol. _____
From Title No. C30250

CERTIFICATE OF INDEFEASIBLE TITLE

Land Registry Office, Victoria, British Columbia.

This is to certify that the undermentioned registered owner in fee-simple is absolutely and indefeasibly entitled in fee-simple, subject to such charges, liens, and interests as are notified by endorsement hereon, and subject to the conditions, exceptions, and reservations set out hereon, to the land situated in the Province of British Columbia, and more particularly described below.

Registered owner in fee-simple: Application for registration received 11th, February, 1974

GEORGE BROWN, Farmer,
1001 Main Street,
Victoria, B. C.

Description of land: (See back hereof for transfers (if any) of the land or a part thereof (Victoria Assessment District))
Lot 7, Section 11, Victoria District, Plan 1974

CANCELLED
Issued July 14th 1974
By C. J. 202 & Co.
Per DNE

CHARGES, LIENS, AND INTERESTS*

Nature of Charge: Register: Date and Time of Application	Registered Owner of Charge	Remarks

In witness whereof I have hereto set my hand and the seal of my office aforesaid, this 12th day of February, 1974.

"H. T. Kennedy"

Seal of Land Registry Office of
Victoria Land Registration District

* Each endorsement reflects all the land described herein, unless otherwise indicated by "Exemption" column. See back hereof for instructions, etc.

rbs

Figure 6a. British Columbia, cancelled certificate (front)

This certificate of indefeasible title is void as against the title of any person adversely in actual possession of and rightly entitled to the land included in same at the time of the application upon which this certificate was granted, and who continues in possession, and is subject to:

- the subsisting exceptions or reservations contained in the original grant from the Crown;
- any Dominion or Provincial tax, rate, or assessment at the date of the application for registration imposed or made a lien or which may thereafter be imposed or made a lien on the land;
- any mortgage charge, rate, or assessment at the date of the application for registration imposed or which may thereafter be imposed on the land, or which had theretofore been imposed for local improvements or otherwise and which was not then due and payable, including any charge, rate, or assessment imposed by any public corporate body having taxing powers over an area in which the land is situated;
- any lease, or agreement for lease, for a period not exceeding three years, where there is actual occupation under the same;
- any public highway or right-of-way, watercourse or right of water, or other public easement;
- any right of expropriation by Statute;
- any in pendency or mechanics' lien, judgment, caveat, or other charge, or any assignment for the benefit of creditors or receiving order or assignment under the *Bankruptcy Act*, registered since the date of the application for registration;
- any condition, exception, reservation, charge, lien, or interest noted or endorsed hereon;
- the right of any person to show that the whole or any portion of the land is by wrong description of boundaries or parcels improperly included in this certificate;
- the right of any person to show fraud, wherein the registered owner or wherein the person from or through whom the registered owner derived his right or title otherwise than bona fide for value has participated in any degree;
- any restrictive condition, right of reverter, or obligation imposed on the land by the *Forest Act* when noted and endorsed hereon.

THIS CERTIFICATE MAY BE AFFECTED BY THE LAND ACT AMENDMENT ACT, 1961 (S.B.C. 1970, Chapter 17).

The following parcels have been transferred:—


Land	To Certificate No.
— <i>ALL</i> —	C. 30260

ABBREVIATIONS:

CML = Claim of mechanics' lien.	LP = Lis pendens.	RP = Right to purchase.
CVT = Caveat.	M = Mortgage.	RW = Right-of-way.
E = Easement.	OP = Option to purchase.	SRP = Sub-right to purchase.
J = Judgment.	RC = Restrictive covenant.	TEN = Tax Sale Notice.
L = Lease.	RFR = Right of first refusal.	U = Undersurface rights.

Figure 6b. British Columbia, cancelled certificate (back)
See p 325 for a larger-type version of the above overriding interests

SAMPLE ONLY


LAND REGISTRY ACT
(FORM F, SECTION 143)

Title No. C 3 0 2 6 0
Register Vol. _____
From Title No. C30256

CERTIFICATE OF INDEFEASIBLE TITLE

Land Registry Office, Victoria, British Columbia.

This is to certify that the undermentioned registered owner in fee-simple is absolutely and indefeasibly entitled in fee-simple, subject to such charges, liens, and interests as are notified by endorsement herein, and subject to the conditions, exceptions, and reservations set out herein, to the land situated in the Province of British Columbia, and more particularly described below.

Registered owner in fee-simple: Application for registration received 14th, February, 1974

JOHN SMITH, Civil Servant,
4000 Cedar Hill Road,
Victoria, B. C.

Description of land: (See back hereof for transfers (if any) of the land or a part thereof). (Victoria Assessment District)
Lot 7, Section 11, Victoria District, Plan 1974

CHARGES, LIENS, AND INTERESTS*

Nature of Charge, Number, Date and Time of Application	Registered Owner of Charge	Remarks
M C30261 14.2.74	West Coast Building Society	
L C30262 14.2.74	Henry Green	

In witness whereof I have hereto set my hand and the seal of my office aforesaid, this 15th day of February, 1974.

"H.T. Kennedy"
Register.

Seal of the Land Registry
Office of the Victoria Land Registration
District

rbs

*Each endorsement affects all the land described herein, unless otherwise indicated in "Remarks" column. See back hereof for observation, etc.

Figure 6c. British Columbia, new certificate (front)
(the back is the same as p 323)

Overriding interests printed on certificate in British Columbia:

This certificate of indefeasible title is void as against the title of any person adversely in actual possession of and rightly entitled to the land included in same at the time of the application upon which this certificate was granted, and who continues in possession, and is subject to:

- (a) the subsisting exceptions or reservations contained in the original grant from the Crown;
- (b) any Dominion or Provincial tax, rate, or assessment at the date of the application for registration imposed or made a lien or which may thereafter be imposed or made a lien on the land;
- (c) any municipal charge, rate, or assessment at the date of the application for registration imposed or which may thereafter be imposed on the land, or which had theretofore been imposed for local improvements or otherwise and which was not then due and payable, including any charge, rate, or assessment imposed by any public corporate body having taxing powers over an area in which the land is situate;
- (d) any lease, or agreement for lease, for a period not exceeding three years, where there is actual occupation under the same;
- (e) any public highway or rights of way, watercourse or right of water, or other public easement;
- (f) any right of expropriation by Statute;
- (g) any *lis pendens* or mechanics' lien, judgment, caveat, or other charge, or any assignment for the benefit of creditors or receiving order or assignment under the *Bankruptcy Act*, registered since the date of the application for registration;
- (h) any condition, exception, reservation, charge, lien, or interest noted or endorsed hereon;
- (i) the right of any person to show that the whole or any portion of the land is by wrong description of boundaries or parcels improperly included in this certificate;
- (j) the right of any person to show fraud, wherein the registered owner or wherein the person from or through whom the registered owner derived his right or title otherwise than *bona fide* for value has participated in any degree;
- (k) any restriction, condition, right of reverter, or obligation imposed on the land by the *Forest Act* when noted and endorsed hereon.

Overriding interests printed on English land certificate:

- (1) All registered land shall, unless under the provisions of this Act the contrary is expressed on the register be deemed to be subject to such of the following overriding interests as may be for the time being subsisting in reference thereto, and such interests shall not be treated as incumbrances within the meaning of this Act, (that is to say):
 - a. Rights of common, drainage rights, customary rights (until extinguished), public rights, profits a prendre, rights of sheepwalk, rights of way, watercourses, rights of water, and other easements not being equitable easements required to be protected by notice on the register;
 - b. Liability to repair highways by reason of tenure, quit rents, crown rents, heriots, and other rents and charges (until extinguished) having their origin in tenure;
 - c. liability to repair the chancel of any church;
 - d. Liability in respect of embankments, and seas and river walls;
 - e. Land tax, payments in lieu of tithe, and charges or annuities payable for the redemption of tithe rentcharges;
 - f. Subject to the provisions of this Act, rights acquired or in course of being acquired under the Limitation Acts.
 - g. The rights of every person in actual occupation of the land or in receipt of the rents and profits thereof, save where enquiry is made of such persons and the rights are not disclosed;
 - h. In the case of possessory, qualified, or good leasehold title, all estates, rights, interests, and powers excepted from the effect of registration;
 - i. Rights under local land charges unless and until registered or protected on the register in the prescribed manner;
 - j. Rights of fishing and sporting, seigniorial and manorial rights of all description (until extinguished), and franchises;
 - k. Leases for any term or interest not exceeding twenty one years, granted at a rent without taking a fine;
 - l. In respect of land registered before the commencement of this Act, rights to mines and minerals, and rights of entry, search and user, and other rights and reservations incidental to or required for the purpose of giving full effect to the enjoyment of rights to mines and minerals or of property in mines or minerals, being rights which, where the title was first registered before the first day of January 1898 were created before that date, and where the title was first registered after the thirty-first day of December, 1897. were created before the date of first registration; Provided that, where it is proved to the satisfaction of the registrar that any land registered or about to be registered is exempt from land tax, or tithe rent charge or payments in lieu of tithe, or from charges or annuities payable for the redemption of tithe rent charge, the registrar may notify the fact on the register in the prescribed manner.

- (2) Where, at the time of first registration any easement, right, privilege, or benefit created by an instrument and appearing on the title adversely affects the land, the registrar shall enter a note thereof on the register.
- (3) Where the existence of any overriding interest mentioned in this section is proved to the satisfaction of the registrar or admitted, he may (subject to any prescribed exceptions) enter notice of the same or of a claim thereto on the register, but no claim to an easement, right, or privilege not created by an instrument shall be noted against the title to the servient land if the proprietor of such land (after the prescribed notice is given to him) shows sufficient cause to the contrary.

The following overriding interests have been added to the list.

- (1) Adverse rights, privileges and appurtenances appertaining to other land or reputed to do so (Land Registration Rules, 1923, rule 254).
- (2) Redemption annuities charged on land out of which extinguished tithe rent charge formerly issued (Tithe Act, 1936, section 13(11)).
- (3) All rights and title conferred on the National Coal Board (Coal Act, 1938, section 41; Coal Industry Nationalisation Act, 1946, section 5).
- (4) Tenancies continued by section 2(4) of the Leasehold Property (Temporary Provisions) Act, 1951 as extended by the Landlord and Tenant Act 1954.

[illegible]

Figure 7a. Guyana, register sheet (front)

SUPREME COURT-NO. 137. C.O.P. & S. 471/55.			C. ENCUMBRANCES
No.	Date of Registration	Instrument Number	PARTICULARS
1	14. 1. 1974	74/16	First Mortgage by John Smith to the Local Building Society for £5,000 (five thousand pounds).
2	10. 1. 1974	74/30	Deed of herein parcel (subject to mortgage No 74/16) to Mary Green of (address) for a period of 7 (seven) years commencing from (date) at a rental of £500 (five hundred pounds) per annum.
3	10. 1. 1974	74/31	Consent of mortgagee filed.

Figure 7b. Guyana register sheet (back)

GUYANA

CERTIFICATE OF TITLE TO LAND

Issued under Section 71 of the Land Registry
Ordinance, 1959.

Zone *E.C.D.*.....
Block *XXV.*.....
Parcel *100*.....

SPECIMEN

Description and location of Land :- *Part of Friendship Village,
East Coast Demerara.
HOUSELOT.*

THIS IS TO CERTIFY that *GEORGE BROWN, sr. (address)*.....


now the registered proprietor *(s)* under the Land Registry Ordinance, 1959,
of ~~all those~~ ^{*part*} parcels of land registered as Nos. :- *100*.....
and comprising *2.33.0.47*.....
..... acre, respectively
subject to the interests endorsed hereon or in the register and to such
interest as may under the provisions of the said Ordinance subsist without
registration.

IN WITNESS WHEREOF, I have hereto subscribed my name and affixed the Seal
of the Land Registry.

This day of 19, .

Registrar of Lands.

Transferred to the Land Registry on 11.1.1974 - 1974/10

 THE LAND REGISTRY
GUYANA

OFFICIAL COURT NO. 235. C.G.P. & S. 2825/57.

Figure 7c. Guyana, certificate of title

GUYANA

CERTIFICATE OF TITLE TO LAND

Issued under Section 71 of the Land Registry
Ordinance, 1959.

SPECIMEN

Yona E. G. D.
Block XXV
Parcel No. 10R
.....
Description and location of Land :- *Part of Friendship Village,
East Coast Demerara.
HOUSELOT*
THIS is to CERTIFY that *JOHN SMITH. M. (address)*
.....
.....
is the registered proprietor(s) under the Land Registry Ordinance, 1959,
of the parcel(s) of land registered as No.:- *10R*
.....
and measuring *0.232 A. 40*
.....
.....
acres, respectively
subject to the interests endorsed hereon or in the register and to such
interests as may under the provisions of the said Ordinance subsist without
registration.
IN WITNESS WHEREOF, I have hereto subscribed my name and affixed the Seal
of the Land Registry.
This day of 19 .
.....
Registrar of Lands.

*That mortgage in favour of the Local Building Society registered on 11.1.1974 - 0074/16
lease of him (subject to mortgage 0074/16) to Mary for 7 years commencing from 1962
at a rental of 1000 dollars per annum registered on 10.1.1974 - 0074/30.*

BYRONIC COPY NO. 121. C.G.P. & S. 0925/67.

Figure 7d. Guyana, certificate of title

FACSIMILE OF FORM OF TRANSFER
H.M. LAND REGISTRY
LAND REGISTRATION ACTS, 1925 TO 1966

Form 19 or 31a

Where payment is required in pursuance of section 28 of the Finance Act, 1925, to be deposited here When the transfer affects land subject to a mortgage, the stamp should be deposited here before lodging the transfer for registration

1. Form 19 (No.) to be used in cases where the transfer is made by a company or corporation. A transfer to a company or corporation should, where necessary, follow form 31a. **(1) TRANSFER OF WHOLE** (Freehold or Leasehold)
(Rule 98 or 115, Land Registration Rules, 1925)

County, county borough or London borough Norchester
Title number NR20376
Property 2 Angel Road, Shelford Park

Date 5th January 1971 In consideration of Six
Thousand Eight hundred and fifty
pounds (£ 6,850) the receipt whereof is hereby acknowledged

2. Write out if not required. **I, ⁽²⁾ JOHN SPENCER MORLEY**
3. In BLOCK LETTERS, full name, postal address and description of the proprietor of the land. of 645, REGENT STREET,
LONDON W1A, JEWELLER

4. If desired or otherwise as the case may be (see rules 74 and 77.) **⁽³⁾ as beneficial owner hereby transfer to:—**
5. In BLOCK LETTERS, full name, postal address and description of the transferee for entry on the register. GEORGE CHARLES FREEMAN
of 2 ANGEL ROAD, SHELFORD PARK,
NORCHESTER, NOR 79L
OPTICIAN

6. If there is no registered owner for any special interest they should be mentioned over this page; the interest and stipulation should then be added at the end. 7. A transfer for charitable uses should follow form 30 in the schedule to the Land Registration Rules, 1925 (see rules 121 and 122). 8. If a certificate of value for the purposes of the Stamp Act, 1963, and succeeding Acts is not required, this paragraph should be deleted. 9. It is hereby certified that the transaction hereby effected does not form part of a larger transaction or series of transactions in respect of which the amount or value or aggregate amount or value of the consideration exceeds £ 7000

Signed, sealed and delivered by the said JOHN SPENCER MORLEY John Spencer Morley (Seal)

in the presence of
Name Wesley Cleveland
Address 645 Regent Street, London W1A
Description or occupation Jeweller's Assistant

16

Figure 8a. England and Wales

FACSIMILE OF FORM OF CHARGE

Form 45A
H.M. Land Registry

Land Registration Acts, 1925 to 1966
(Rule 129, Land Registration Rules, 1925)

CHARGE OF WHOLE

County, county borough } Norchester
or London borough }

Title number NR 20376

Property 2 Angel Road, Shelford Park

Date 5th January 1971 In consideration of Five
Thousand Five hundred and fifty
pounds (£ 5,550) ⁽¹⁾ the receipt whereof is hereby acknowledged

⁽²⁾ I, GEORGE CHARLES FREEMAN
of 2 ANGEL ROAD, SHELFORD PARK
NORCHESTER, NOR 79L
OPTICIAN ⁽³⁾ as beneficial owner

hereby charge the land comprised in the title above mentioned with the payment to:

⁽⁴⁾ JOHN RICHARD GODOLPHIN
of 26 MARLBOROUGH STREET
NORCHESTER, NOR 27E
CLOTHING MANUFACTURER

on the 1st of July 1971 of the principal sum of £ 5,550
with interest at 7 per cent per annum, payable on the 25th
of March, the 24th of June, the 29th
of September, and the 25th of December
in every year ⁽⁵⁾.

NOTE: When lodged for registration, this charge must be accompanied by a certified true copy.

17

Figure 5b. England and Wales

FACSIMILE OF FORM OF CHARGE—continued
Schedule for any special stipulations

If space is not sufficient, additional sheets may be used provided they are securely sewn hereto; the execution and attestation should in that case be added at the end.

Signed, sealed and delivered by the said
GEORGE CHARLES FREEMAN } George Charles Freeman (SEAL)
In the presence of
Name Vanet Hilary Walker
Address 16 Beecher & Gardners
South Common Near Worcester,
Description or occupation Personal Secretary

Signed, sealed and delivered by the said }
In the presence of
Name _____
Address _____
Description or occupation _____

Figure 8c. England and Wales





Figure 8d. England and Wales

REDUCED FACSIMILE OF INSIDE COVER OF LAND CERTIFICATE

The most recent date entered below is the latest one on which this land certificate was made to agree with the register.

A land certificate may be sent at any time to the appropriate district land registry to be brought up to date in any respect that may be necessary. This official service is provided free of charge and is usually completed within a day or two of the receipt of the certificate. By this means, a registered proprietor is provided with conclusive evidence of the current state of the register.

Dates when this land certificate was made to correspond with the register.

GENERAL INFORMATION

OFFICE COPIES OF THE REGISTER

A registered proprietor may obtain from the appropriate district land registry an office copy of his registered title by applying on printed form A44 and paying the prescribed fee (amounting to a few shillings) according to the scale for the various items set out on that form. Form A44 (plus its printed Land Registry form) may be purchased from any branch of H.M. Stationery Office or through a law bookseller or stationer. Armed with the written authority of the registered proprietor, any other person may likewise obtain an office copy of the register. Office copies are posted to the applicant by first class mail, usually within two days of the receipt of the application.

SEARCHES OF THE REGISTER

An intending purchaser, lease or mortgagee who holds the written authority of the registered proprietor to inspect the register may apply to the appropriate district land registry for an official search to ascertain whether any entries have been made in the register since the date of issue of the office copy or, alternatively, the date on which the land certificate was last made to correspond with the register. The issue of the official certificate in form 94D of the result of search will automatically confer upon the purchaser, lease or mortgagee priority for a period of sixteen working days for the registration of the disposition. If the sale or other disposition is of the whole of the land in the title, application should be made in printed form 94A but, if it affects only a part of the land, printed form 94B is appropriate. The official certificate in form 94D will be issued in most cases by return of post and no charge is made for this service.

The above is a general outline of the procedure for obtaining an official certificate of search as laid down by the Land Registration (Official Searches) Rules 1969. The effect of these Rules is explained in Practice leaflet No. 2 which is obtainable free of charge from any district land registry. This deals with the procedure of searching in much greater detail than can be given here and shows how, in stated circumstances, the period of priority can be extended for a further fourteen working days. It also explains how an application for official search can be made by a person who is not a purchaser, lease or mortgagee and how solicitors can make official searches by telephone or teletype. Before applying for official searches, applicants are strongly recommended to refer to the Land Registration (Official Searches) Rules 1969 or to Practice leaflet No. 2.

INSPECTION OF THE LAND

Intending purchasers should inspect the land for the purpose of ascertaining its precise boundaries and discovering whether there are any rights-of-way, light, drainage or other overriding interests to which it is subject (see the inside back page of this cover sheet). Registered proprietors should also be addressed to any person in occupation of the land or buildings thereon as to their rights of occupation and to whom rent (if any) is paid.

ADDRESSES FOR SERVICE

The address of any person as entered in the register shall, unless he otherwise directs, be his address for service (Land Registration Rules, 1925, rule 315). Registered proprietors should notify the Chief Land Registrar at the appropriate district land registry of any change of address and forward the land certificate for amendment. No fee is charged for making the alteration.


Figure 8e. England and Wales

REDUCED FACSIMILE OF REGISTER IN LAND CERTIFICATE

Edition 3
opened
1.2.1971

H.M. LAND REGISTRY

TITLE NUMBER 00002
This register consists of 2 pages



A. PROPERTY REGISTER
containing the description of the registered land and the estate comprised in the Title

ADMINISTRATIVE AREA
(Districts, County Boroughs, etc.)
BLANKSHIRE

PARISH OR PLACE
BRODMORE




The Freehold land shown and edged with red on the plan of the above Title filed at the Registry
registered on 12 October 1934 known as 2 Moon Street.

Margin

TITLE NUMBER

B. PROPRIETORSHIP REGISTER
stating nature of the Title, name, address and description of the proprietor of the land and any entries affecting the right of disposing thereof

TITLE ABSOLUTE

Serial Number	Proprietor, etc.	Remarks
1.	JOHN SMITH, Printer and WILLIAM BROWN, Engineer, both of 4 Moon Street, Brodmore, Blankshire, registered on 1 February 1971.	Price paid £900 
2.	EXTENSION registered on 1 February 1971: No disposition by one proprietor of the land (being the survivor of joint proprietors and not being a trust corporation) under which capital money arises is to be registered except under an order of the registrar or of the Court.	
3.	CAUTION in favour of Jesse Turnbull of 30 Park Way, Torquay, Devon, Electrical Engineer, registered on 19 February 1971.	

Serial Number

Proprietor, etc.

Remarks

Any entries struck through in red are no longer subsisting

Figure 8f. England and Wales

REDUCED FACSIMILE OF REGISTER IN LAND CERTIFICATE—continued

Page 2

TITLE NUMBER 00002

C. CHARGES REGISTER

containing charges, incumbrances, etc., adversely affecting the land and registered dealings therewith

Entry number	The date at the beginning of each entry is the date on which the entry was made on this edition of the register	Remarks
1.	<p>1 February 1971—A Conveyance of the land in this title dated 30 September 1934 and made between (1) Mary Brown (Vendor) and (2) Harold Robins (Purchaser) contains the following covenants:</p> <p>"The Purchaser hereby covenants with the Vendor for the benefit of her adjoining land known as 27, 29, 31, 33 and 35 Cabot Road to observe and perform the stipulations and conditions contained in the Schedule hereto.</p> <p style="text-align: center;"><u>THE SCHEDULE before referred to</u></p> <p>1. No building to be erected on the land shall be used other than as a private dwellinghouse.</p> <p>2. No building to be erected as aforesaid shall be converted into or used as flats, maisonettes or separate tenements or as a boarding house.</p> <p>3. The garden ground of the premises shall at all times be kept in neat and proper order and condition and shall not be converted to any other use whatsoever.</p> <p>4. Nothing shall be done or permitted on the premises which may be a nuisance or annoyance to the adjoining houses or to the neighbourhood."</p>	<p style="text-align: right;"><small>Binding Register</small></p>
2.	<p>1 February 1971—LEASE dated 25 July 1935 to Charles Jones for 99 years from 24 June 1935 at the rent of £45.</p>	<p>Lessee's title registered under 00003</p>
3.	<p>1 February 1971—NOTICE of Deposit of Land Certificate with Mid Town Bank Limited of 2 High Street, Bromsore, Wiltshire, registered on 1 February 1971.</p>	

Any entries struck through in red are no longer subsisting

Figure 8g. England and Wales

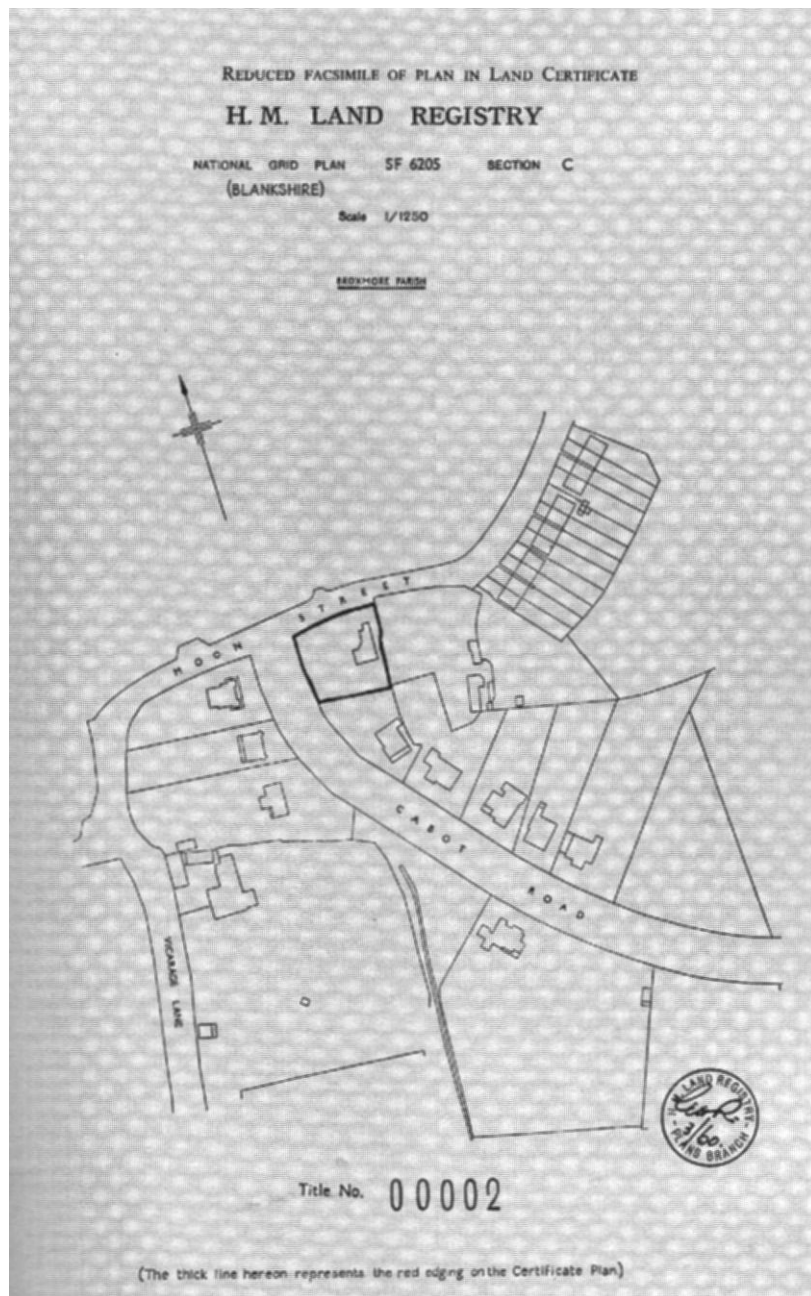


Figure 8h. England and Wales

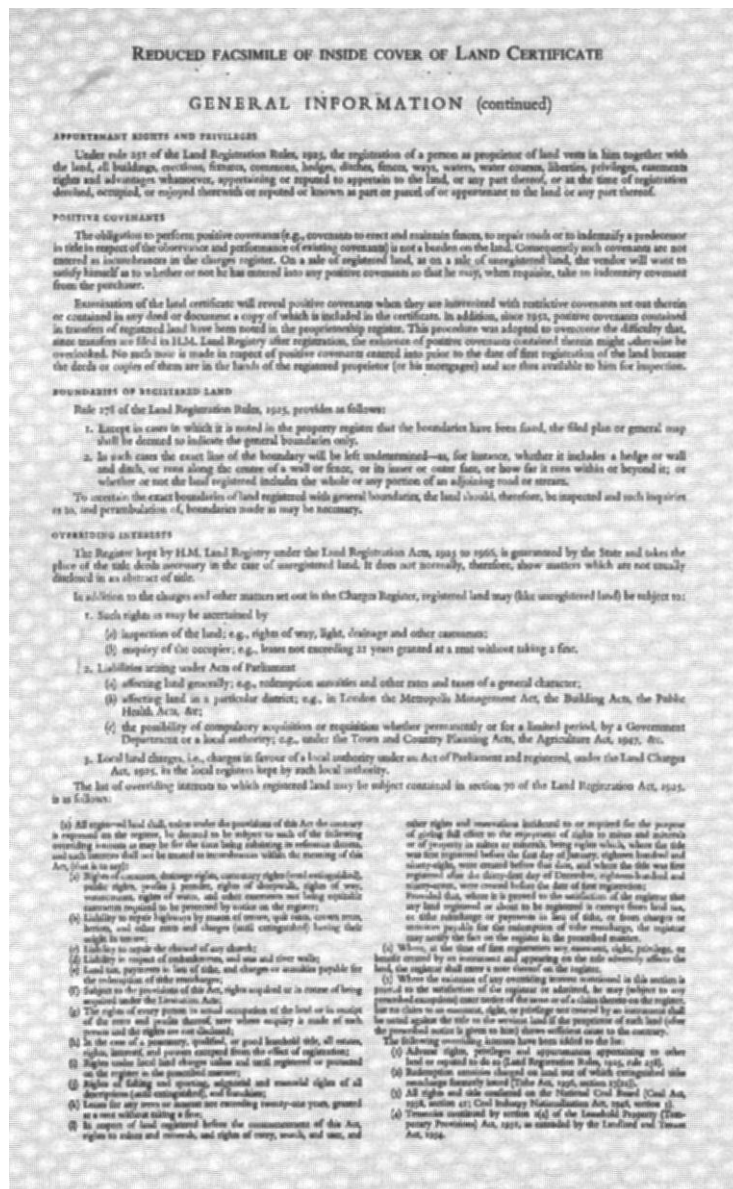


Figure 8i. England and Wales
See p 325 for a larger-type version of the above overriding interests

L.T.C. 1 Certificate of Ownership 2M11/71

Reference No.

THIS IS TO CERTIFY that, under

the registered owner in fee simple with an Absolute Title under The Land Titles Act of the land registered as

Parcel in the

Register for in the

Land Titles Division of

more particularly described in Schedule A hereto

SUBJECT TO

The reservations, limitations, provisos and conditions expressed in the grant thereof from the Crown, as varied by statute

The overriding provisions of The Land Titles Act and of any other Act

The encumbrances set out in Schedule B hereto

Delete and initial if inapplicable

Dated the day of 19 at m.

Land Titles Office

at

Signature and title

Schedule A — Land

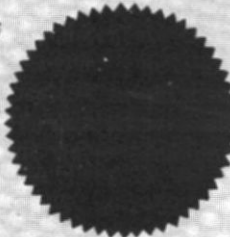


Figure 9a. Ontario, certificate of ownership

SECTION	N-812	PAGE	1
Originally 15500 Recently 15524 East York	<p>Under Transfer A-291787</p> <p>GEORGE BROWN of Metropolitan Toronto, Salesman</p> <p>is the owner in fee simple with an Absolute Title of:</p> <p>That part of Lot 12 on Plan M-812 (Municipality of North York) registered in the Land Registry Office for the Land Titles Division of Toronto and York (No.66) at Toronto, and designated as Parts 1 and 2 on a plan of survey of record in the said Office as 66N-809</p> <p>Subject to an easement in favour of THE BELL TELEPHONE COMPANY OF CANADA over the said Part 2 on Plan 66N-809 for the purposes as set out in Instrument No. 52924</p> <p>Subject to the right in the nature of an easement or license in favour of MONARCH CONSTRUCTION LIMITED its successors and assigns for itself, its servants or agents to enter upon the said lands at any time within one year from the 20th May 1973 for the installation on the said lands of such catch basins and for the planting thereon of such trees as may be required in order that the Transferor may carry out its obligations under the subdivision agreement between it and the TOWNSHIP OF NORTH YORK, as set out in Transfer A-291787</p> <p>The Title of the said owners is subject to:</p> <ol style="list-style-type: none"> 1. The exceptions and qualifications in The Land Titles Act 2. Notice A-245320 dated 15th October 1972, registered 17th November 1972, of an Agreement between MONARCH CONSTRUCTION LIMITED and THE CORPORATION OF THE TOWNSHIP OF NORTH YORK re services, elevations, building permits, re-division of blocks, etc. <p>Dated at Toronto 20th May 1973</p> <p>No Certificate</p> <p style="text-align: right;"><i>Signature</i> Deputy Land Registrar</p>		
Transfers Parcel	<p>By Transfer A-367426 dated 20th August 1973, registered 15th November 1973, the above Parcel was transferred to John Smith, of the City of Toronto, Civil Servant.</p> <p style="text-align: right;"><i>Signature</i> Deputy Land Registrar</p>		
Charges Parcel	<p>By Charge A-367427 dated 21st August 1973, registered 15th November 1973, the above Parcel was charged in favour of the LOCAL BUILDING SOCIETY with the payment of \$5,000.00 as follows: \$75.00 monthly, balance 15th November 1978, interest at 10% per annum.</p> <p style="text-align: right;"><i>Signature</i> Deputy Land Registrar</p>		
Notice of Lease	<p>By A-426002 dated 4th January 1974, registered 11th January 1974, notice is hereby entered of a Lease dated 4th January 1974, made between John Smith, above named as Lessor and Henry Green, as Lessee for 7 years from 5th January 1974.</p> <p style="text-align: right;"><i>Signature</i> Deputy Land Registrar</p>		

Figure 9b. Ontario, register page

Land Law and Registration by S. Rowton Simpson

Land Law and Registration by S. Rowton Simpson

Land Law and Registration by S. Rowton Simpson

Land Law and Registration by S. Rowton Simpson

[illegible]

Figure 10d. British Virgin Islands, leasehold register (back)

3 The registry map and mutation forms

3.1 In England a series of maps is prepared and kept in the registry for the purpose of describing registered land. These maps together are called the Land Registry general map (or briefly the general map), and are based on the Ordnance Survey maps. The present practice is to prepare from these maps a separate individual filed plan for each registered title. Unless additional information is required (such as an illustration to indicate the line of a right of way affecting the parcel) this filed plan will merely be a print of the general map with the parcel concerned outlined in red. A copy of this plan is bound up in the land (or charge) certificate, as we described above.

3.2 In the Torrens system the plan which illustrates the register is not taken from a general map but is prepared expressly for the grant of the land (or for a subdivision of a grant) and is usually drawn by hand on the register itself (and on the certificate). This plan differs from the filed plan of the English system in that the survey data are shown on it (or on a schedule to it) and in effect the boundary is 'fixed' in the manner of the 'fixed boundaries' of the English system.⁶ The law does not require a general map, or even an index map, though in the Australian States (but not in every country where the Torrens system has been introduced) "the Registrar progressively charts on maps available to the public the boundaries of all land brought under the provisions of the Torrens statute. He does this merely as a matter of administrative convenience and without any statutory direction. The charting consists of a coloured verge on a small-scale map, with a serial number directing searchers to the source of more detailed information."⁷

3.3 The system of individual filed plans prepared from a general map (as now used in the English system) would appear to be ideal, but despite the recent great improvement in the techniques of map reproduction it may still be too expensive to be worthwhile for small holdings in developing countries. In any case, if a land registry general map is prepared and properly maintained, it is questionable whether individual plans are really necessary.

3.4 The following are typical office instructions for the preparation and maintenance of a land registry general map:⁸

"1. For the purposes of the land registry, every piece of land will be given a single reference, the block and parcel number, which is also the title number and the file number. Parcels are units of land separately owned. Blocks are aggregations of parcels, with boundaries, chosen arbitrarily so that, by using varying scales, all block plans can be drawn on sheets measuring approximately 12½ x 14 inches. So far as possible, block boundaries will be drawn so as not to divide individual holdings.

⁶ See 8.5.7

⁷ 2 Batlman *Singapore* 42

⁸ Issued in Dar-es-Salaam in 1954

“2. Block numbers will all consist of six digits, of which the first three will serve to place the block on a quarter-degree map of the Territory.⁹ The remaining three digits will be given serially. Where, and so far as, practicable, block numbers will be given systematically, to run from left to right and from top to bottom of a quarter-degree sheet, but the circumstances of the Territory, particularly the lack of survey over considerable areas, rarely makes this practicable.

“3. Block boundaries may be changed, where, for example, a small piece of land is being cut off from a parcel in one block and combined with a parcel in another block. In such cases, the block numbers will not be changed but the block plans will be re-drawn and the old plans cancelled. All block plans will bear edition numbers and where a block plan is redrawn it will receive a new edition number.

“4. Where, as a result of mutations, there are numerous or complicated alterations on a block plan, the edition will be cancelled and a new edition prepared. When such a new edition is prepared, parcel numbers will not be changed but all cancelled numbers and all obsolete lines will be omitted. The object of the block plan is to show present boundaries, not the history of the land.

“5. Where divisions of parcels necessitate the use of a larger scale, the block plan will be cancelled and new block plans prepared on the larger scale. All the new blocks will receive new numbers, the number of the cancelled block never being used again.

“6. The parcels shown on the block plans represent separate holdings shown on sheets of the land register relating to freehold estates or rights of occupancy; the boundaries of leases and sub-leases will not appear on the index map.

“7. All parcels, including sections of roads, will receive separate numbers, so that every inch of land within a block will form part of a parcel.¹⁰

“8. In the first instance, parcels will be numbered serially, the numbers running, as nearly as is convenient, from left to right and from top to bottom.¹¹

“9. On any mutation, the numbers of the parcels affected will be cancelled and those numbers will never be used again. The new parcels will receive the next available consecutive numbers.

“10. All mutations and other alterations of a block plan will be made in such a way that any lines and numbers being cancelled remain clearly legible. Alterations will never be made by erasure.

“11. When the index map is complete, it will be possible to trace the entries in the land register relating to any given piece of land by reference, first, to a map of the Territory divided by a quarter-degree grid; secondly, to a quarter-degree sheet showing block boundaries; and finally to the block plan. Any entry in the land register can be related to the ground by the reverse process.”

⁹ This is an interesting arrangement, but not all countries base their maps on quarter-degree sheets (or even have them). Registration districts are usually divided into ‘registration sections’ which are given distinctive names, and may be again divided into ‘blocks’.

¹⁰ See 15.5.6. We consider it preferable not to number roads.

¹¹ Parcels will be easier to find if numbers run from left to right in the first row and right to left in the second, so that the next consecutive number is always to be found in the neighbouring parcel.

3.5 It should be noted that the above instructions relate to an index map prepared and maintained by registry staff in the land registry from maps and surveys provided by the Survey Department. This is similar to the way in which HM Land Registry in England, through its own Mapping Branch, uses maps prepared by the Ordnance Survey, but it took more than half a century to perfect this arrangement.¹² In Lagos, when registration of title was introduced on English lines, a mapping section was set up in the registry to prepare 'Intelligence Sheets' from plans prepared by licensed surveyors, but this has resulted in duplication of effort since the Survey Department also plots the same plans.¹³

3.6 In some countries, however (for example, in the Sudan and Kenya) the registry map is compiled and maintained by the Survey Department which is independent of the Land Registry. It is in these circumstances that it is imperative to make practical and effective arrangements to ensure that register and map keep in line. This is done by means of a 'mutation form', and Dow-son and Sheppard described the process thus:

"Changes involving the creation of new parcels of land, whether by a process of aggregation or of subdivision of previously existing units, are termed mutations. The successful, expeditious and economical working of a national record of rights to land is probably in practice more dependent upon the punctual and systematic embodiment of these unceasing and innumerable changes in the composite main record than upon any other single operation. This involves close and methodical co-operation between the officers responsible for the two complementary parts of the machinery of record, the Cadastral Survey and the Land Registers. This liaison is best effected through the intermediary of a standard Mutation Form which passes between these officers, and the information from which is incorporated in both the Cadastral Map and the Registers. These Mutation Forms should be numbered and filed in a convenient and readily accessible way according to the smallest permanent territorial units (e.g. registration blocks of villages) with which they deal and the year in which they occur."¹⁴

3.7 Since the registry map is an integral part of the register, alterations to the map (i.e. mutations) must be effected only on the instructions of the registrar. It is the registrar, therefore, who begins the process when he receives from a registered proprietor an application involving a mutation. When any necessary planning and administrative approvals have been obtained, the registrar completes (in duplicate) the first part of a 'mutation form' in respect of the parcel or parcels concerned. On this form he describes the mutation required, and sends both copies to the chief surveyor (i.e. the official responsible for maintaining the registry map). After the survey fee has been paid, a surveyor arranges to meet the parties (or their representative) on the site, and effects the necessary survey, returning both the forms to the registrar with a sketch illustrating the change. At this stage neither

¹² See 7.5.6

¹³ See Report on Registration of Title to Land in Lagos (1957) 43 para 116

¹⁴ D & S Memoranda 6

register nor map has been altered, and the registrar must now make sure that the instructions have been properly carried out in accordance with the wishes of the parties. If all is in order, the registrar completes the transaction, alters the register, and sends both copies of the form back to the chief surveyor with the instruction to ink in the alteration on the registry map. The chief surveyor returns one copy to the registrar, confirming that he has made the alteration, and retains the other copy for his own file. It sometimes happens, however, that the proposal is abandoned for some reason before the transaction is completed, in which case the registrar returns one copy of the form to the chief surveyor informing him accordingly, and retains the other copy in case a similar proposal should be raised again. There may, of course, be wide variation in the procedure depending on such factors as whether private surveyors are used, the sort of approvals required, the method of survey, and whether or not boundary beacons are emplaced. Therefore mutation forms differ considerably from country to country (or even between urban and rural areas), but to indicate how they are used we show as Fig. 11(a, b) a reduced facsimile of a mutation form prepared by Dowson and Sheppard as an illustration of an actual mutation.¹⁵ This form, however, does not provide for the registrar's instructions (which are presumably conveyed separately), and so we have added Fig. 12(a, b) a form from the Sudan which begins with a place for the instructions given by the registrar and shows how, in the end, one copy of the form remains in the registry and the other copy is kept by the Survey Department. (It will be noticed that unique numbering, which is a feature of the Dowson and Sheppard illustration, was not used in the Sudan system.) The mutation form used in Kenya under the Registered Land Act 1963 is shown on pages 632-3 as Form R.L.29 in the Registered Land Rules.

3.8 Though provision may not be made in the law for the keeping of a record of mutations, it is advisable to keep in the registry a book ruled into columns, showing the serial number of each mutation form and the date issued; the number of the parcel affected; the date the forms were sent to the surveyor-in-charge; and the date the registration was completed, or the application was rejected or withdrawn. The existence of this simple record will at once show any outstanding mutations, and in any case is valuable for statistical purposes.

3.9 Parcel numbering on mutation. Since any change in boundary in effect creates a new parcel, the new parcel should be given a new number (the next in sequence in the block) and the old number should be cancelled. This 'unique numbering' avoids the possibility of confusing the new parcel with the old. Some registries, however, prefer (unwisely, in our view) to retain the original parcel number and give a sub-number (or letter) to a subdivision. Thus parcel number 15, if subdivided, would become numbers 15 and 15/1, and if further subdivided the new subdivisions would be 15/2 and 15/3, though here again some registries believe in further sub-numbers. This system, of course, precludes the numbering of leases in the manner we suggested above.

¹⁵ D & S Memoranda Plate X

[illegible]

Figure 11a. Dowson and Sheppard's mutation form (front)

MUTATION FORM.
Field sketch and observations on site.

New parcels created 65, 66, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.
Old parcels cancelled 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.
Survey completed in field and recorded in Field Book
Vol. 1, Page 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.
Signed and dated 10 January 1900
D. Sheppard
100 January 1900
Sheppard

Observations on site.
The boundary marks shown on the sketch are correct.
The area in the center of the new plot 67
was cleared and new marks were placed as
shown on the sketch. The area was cleared and
in the presence of the undersigned, the area
boundary marks being replaced by
Mr. Frank Foster

Mr. Frank Foster
J. Black
Frank Foster
J. Davis
J. Black
J. Davis
100 January 1900

Figure 11b. Dowson and Sheppard's mutation form (back)

Land Law and Registration by S. Rowton Simpson

SKETCH.

Seals or Signatures of Parties Present on the land at the time of Survey.

Date :—

Surveyed by:—

Date :—

NOTE.—Date of each signature is to be inserted.

B Received

Date :—

Surveyor-in-Charge

C To :— Director of Surveys
Herewith Survey Form 40

Date :—

Surveyor.

D To :— Registrar of Lands
at
Action taken

Date :—

Director of Surveys

E To :— Director of Surveys

(a) Passed correct.
Register amended.
Please alter plans.

(b) Application abandoned.

Date :—

Registrar

F To :— Registrar
at.....

Plans altered, one copy of L.R.F. to retained.

Date :—

Director of Surveys

Figure 12b. Sudan mutation form (back)

4 Parcel files

4.1 As we explained in Chapter 2 any instrument which supports an entry in the register must be retained for as long as the entry subsists, since the instrument may be required to show that the entry was correctly made.¹⁶ In the Torrens system it is usual for these instruments to be kept, either loose or bound up into books, in the sequence in which they were received, each instrument being allocated a serial number. The different sorts of instrument (e.g. leases and charges) may each be kept in a separate series, or all instruments may be filed in a single series. This manner of keeping documents is similar to that followed in a deeds registry.

4.2 In the English system, however, and in registries which have adopted that system, the practice is to keep a 'parcel file' in respect of each registered parcel. Every entry in the register requires a document to support it, which may be an instrument or a court or registrar's order. The parcel file consists of an open-ended envelope bearing the same reference number as the parcel to which it refers. In it are placed all the documents affecting the parcel. If any of these documents affects another parcel then a cross-reference or alternatively a duplicate should be placed in the other file. (It should be noted that correspondence relating to a parcel should not be kept in the parcel file.)

4.3 This system of parcel files offers very considerable advantages over serial filing. It not only makes it simple to destroy (or pass to archives) any instrument which has ceased to have any effect, but by bringing together in one place everything which affects a parcel, it enables a register to be reconstituted should it be lost or destroyed. Subdivision affords no difficulty since the new parcels receive new numbers, and new registers and new parcel files are started, referenced back to the old parcels.

5 Application book

5.1 In the 'Application Book' (called the 'Presentation Book' in the Kenya Registered Land Act and elsewhere sometimes known as the 'Day Book' or 'Journal') are recorded the particulars of all applications made to the registry, in the order in which they are made. This book is ruled into columns for the recording of the following minimal information: a serial number of the application; parcel reference number; name of grantor or applicant; name of grantee; nature of application; consideration; registry fee payable; number of official receipt for fee; date completed, and signature of the registrar. Additional columns may be required, e.g. for the reference of the land control board consent, or amount of stamp duty. The date should be written across the page each day the book is opened.

5.2 The application book is commonly associated with priority, but the order in which instruments are presented for registration can be shown simply by marking

¹⁶ See 2.6.5

them with a serial number as they are received.¹⁷ There is no need to record them in a book for this purpose, nor is there any need to record the time, as the number alone will indicate the order. This order will determine the priority of the instruments that are registered (the fact that some that are presented fail to be registered makes no difference), but in title registration priority has not the same significance as it has in deeds registration, where two conflicting instruments can both be registered and the question of priority, whenever it arises, will depend on which was registered first. Thus if A sells to B and then sells to C, both instruments of sale can be registered in a deeds register, and priority will be determined by which was registered first. With registered title, on the other hand, the one whose registration is completed becomes the registered proprietor instead of A, and obviously no further disposition by A can be registered. Priority has been finally determined not by the time but by the fact of registration. Where, however, as conceivably might happen (though it very seldom does), two conflicting instruments are received so close together that there is doubt as to which should prevail, the conflict should be determined on its merits by the registrar before registration. The fact that one of the parties was able to get to the registry more quickly than the other does not necessarily mean that his claim is better. Right should not depend on speed any more than on force.

5.3 In busy registries there may be a considerable delay between the time an instrument is presented and the time it is actually recorded on the register. Provision must therefore be made to ensure that it is not overtaken (or, worse still, overlooked or even mislaid) whilst it is still in the 'pipeline', and so particulars of an application must be recorded as soon as it is received. In the English system an elaborate card index — not a book as required by the rules — is kept and is known as the 'Day List'.¹⁸ Practice varies widely and there is considerable scope for administrative ingenuity in running this part of the registry business. In Adelaide, for example, an application is at once passed to the register room where a pencil note is made on the register of the parcel concerned. This automatically gives notice to any registry official wishing to make an entry in that register, and will be overwritten in ink when the entry is actually made to give effect to the application noted in pencil. Where the registers are kept in loose-leaf binders a leaf can be inserted at the beginning of each binder, listing all the parcel numbers in it. Application numbers can then be entered against the relevant parcel numbers instead of on the register page, and can be crossed through when registration has been effected. Or a list of parcels may be kept separately in a special book, against which all applications may be entered. Dowson and Sheppard called this an 'instrument record' and illustrated it in their 1930 Memoranda. They pointed out that this record would facilitate the reconstruction of a register should it be lost. It would, of course, only be needed for this purpose if parcel files were not used.

¹⁷ Rolls of numbers, as in the English registry, are an effective device. There should be no mistake as the next number in sequence is stuck on the application.

¹⁸ Land Registration Rules 1925 r83(1) requires applications to be entered in a book in the order in which they are delivered. Sec 19.4.3 for description of the use of the Day List.

5.4 It should be specially noted that in registries where the staff is not of a very high order, the application book has a vital additional role to perform in the administration of the registry. The rule that the particulars of every application to the registry must immediately be entered in the application book without delay or exception should be so strict that entry becomes automatic. This not only enables the registrar in charge to keep track of the business in his registry, but it also enables any inspecting officer to check that the requisite entries in the register have been properly made. The more people who know that entry in the application book is the first indispensable step towards registration the less likely are mistakes (or worse) to be made. It is a considerable drawback of small registries that it is difficult to ensure that the application book is properly kept, for when applications are few and far between, it is easy to be casual about their entry; whereas in a busy registry with a regular flow of applications, any interruption in the established routine would cause comment — and require the collusion of a number of officials.

6 Index of proprietors' names

6.1 An index of the names of proprietors of land, and of leases and charges, showing the numbers of the parcels in which they are interested as owners or lessees or chargees should be kept in alphabetical order on cards or card-strips, in loose-leaf binders, or, ideally, in a computer. The index must be brought up to date whenever there is a transaction (including, of course, transmissions). Such an index is not essential to the successful operation of a register of title, but it may be useful when a proprietor dies or if he goes bankrupt; it may even save hunting through all the registers in a registration section if a proprietor knows the locality of his parcel but not the number. If the register is public, the index can also be put to other uses, particularly in connection with land reform, e.g. where 'ceiling' legislation prescribes maximum holdings.

6.2 Nevertheless, indexing is a chore which is so unpopular in some land registries that it is not even undertaken. Indeed it offers considerable practical difficulties when landowners are unaccustomed to writing their names and, from occasion to occasion, may vary the spelling or even the name itself,¹⁹ particularly when patronymics have not yet been generally adopted. But all peoples go through this stage. A glance at the London telephone directory will show the wide variation found in the spelling of the same names in England and how, in due course, these names have become fixed in families. The official recording of a name obviously helps the fixing process, and, though there may be difficulties in indexing when a register is started, the task should not be evaded.

¹⁹ "Sign it Weller," said Mr Weller to his son Samuel (Dickens, *Pickwick Papers* Ch 33), and here would have been an immediate problem in indexing if the document had been a deed instead of a valentine (i.e. an amatory missive sent on 14 February, St Valentine's Day). Indeed, during "the memorable trial of Hardell against Pickwick" (*ibid.* Ch 34), when the judge inquired whether Weller was spelt with a 'W' or a 'V', Sam replied, "That depends upon the taste and fancy of the speller, my lord. I never had occasion to spell it more than once or twice in my life, but I spells it with a 'V'."

7 Register and file of powers of attorney

7.1 It is usually provided that a register and a file of powers of attorney affecting registered land shall be kept in the land registry. Powers of attorney should be fastened into a file and numbered in the order in which they are received. A hard-backed lined book (foolscap or A4 in size) can be used as the register in which the donors are listed in alphabetical order. A page should be kept for each letter of the alphabet and each page should be ruled into columns headed date, name and address of donor, name and address of donee, number of power (i.e. its number in the file), date of revocation, and signature of registrar.

8 Certificates of title

8.1 The certificate of title, or land certificate, is something of an anomaly in a system of registration of title, for if “the cardinal principle of the statute is that the register is everything”, as the Privy Council said of the New Zealand Torrens statute,²⁰ then the certificate should have no meaning or use other than to indicate what the register shows; that is, it should merely have the same function and effect as an official certificate of search. But we have already debated this question in Chapter 9, and here we propose merely to describe the form the certificate takes and how it is used in registry procedure.

8.2 In the Torrens system the certificate of title is a duplicate of the register, and it must be produced whenever there is a dealing, which is then recorded on it in the same way as it is recorded on the register. In the English system, however, the register merely sets out the particulars of the property and of the proprietor together with incumbrances, if any, and it does not itself ‘certify’ the entries. This is done by a certificate printed on an ornate cover (in design of the same era as the Albert Memorial) into which are bound a copy of the register (actually the top copy, the register being the carbon copy, since it is on card),²¹ the relevant section of the registry map with the registered parcel outlined in red, and a copy of any relevant document (e.g. a deed containing restrictive covenants not set out in full on the register).²² A registered proprietor does not, however, retain this impressive document if (as so often happens) he has charged (i.e. mortgaged) his property, for the land certificate is then ‘deposited’ in the Land Registry;²³ in fact the cover is removed and destroyed, and its contents are bound into a ‘charge certificate’ which is sent to the chargee.²⁴

²⁰ *Wainiuhā Sawmilling Co. v. Waione Timber Co.* (1926) A.C. 101, 106

²¹ See para 2.16 above

²² A reduced facsimile of a land certificate is shown in Figs 8d-i, pp 333-8

²³ Land Registration Act 1925 s65

²⁴ Habit (or practice) dies hard. The express provision in the Kenya Registered Land Act 1963 s33(3) that, after the charge has been recorded, the land certificate shall be delivered to the chargor is honoured more in the breach than the observance, and the certificate is generally retained by the chargee.

8.3 In some countries (for example, Kenya and Guyana) it has been provided that a land certificate should only be issued on request, but if issued then the fact of issue must be recorded in the register, and thereafter the certificate must be produced whenever there is a transaction. We suggested in Chapter 9 that this latter provision (which has been followed in some West Indian legislation) was mistaken.²⁵ The certificate is similar in form to an official certificate of search, which could have satisfied the local desire for a 'title deed', without incurring the danger and inconvenience that result from making the 'certificate' indispensable. We must therefore now say something of certificates of search (or 'office copies' as they are called in the English system).

9 Certificates of official search²⁶

9.1 Most systems of registration of title provide that any person may require an official search to be made in respect of any parcel on the register and is entitled to receive certified particulars of all the subsisting entries relating to it and certified copies of any document or plan. These certificates are evidence of the particulars contained therein, and so provide up-to-date proof of what is shown on the register.

9.2 Official searches play a particular part in the English system since the Land Registration Act 1925 provides that on a sale or other disposition of registered land the vendor shall furnish the purchaser with an authority (the English register being secret) to inspect the register, and, if required, with a copy of the subsisting entries in the register and of any filed plans.²⁷ Actual inspection of the register, however, is now rare and, instead, an 'office copy' is usually supplied to the purchaser. This office copy is admissible in evidence to the same extent as the originals.²⁸ Office copies are dated the day before the date of any pending application. If there is no such application they are dated the day before issue to guard against the possibility of an application being entered on the Day List later that day. Xerographic copying machines are used, and these have proved very satisfactory.

9.3 Where plans have to be copied it is unnecessary to employ a true-to-scale process, provided that the copy plan is marked to show that it is liable to distortion. Even if the original plan bears coloured references, these can usually be indicated on a photocopy without the need for costly hand colouring. For example, the red edging, which in the English system surrounds the registered land on the filed plan, shows up as a thick black line on the Xerox copy. An arrowed legend superimposed on the plan as it is copied explains that this represents the red edging.

9.4 The advantages of office copies over personal inspection are, first, that they provide a permanent and reliable record guaranteed by the State against error and, secondly, in most cases it is easier and cheaper to get them than it is to make a personal inspection. If the registry is not close at hand, some travelling will be

²⁵ See 9.3.14

²⁶ This section is based on information kindly provided by Mr N U A Hogg of the Nottingham District Land Registry

²⁷ s110

²⁸ s113

necessary in order to make a personal inspection, or a local agent will have to be instructed and paid.

9.5 In England and Wales, where conveyancing is carried out away from the registry, usually by the parties' legal advisors, and the application for registration is lodged by post, a procedure has been devised whereby an official search of the register also confers on the prospective purchaser a period of priority in which to lodge his application. This is essential if application are to be lodged by post, and until this procedure was introduced in 1930 a personal visit to the registry was usually needed. The priority procedure proved to be so successful that in 1943 the Land Transfer Committee reported "The evidence on the subject satisfies us that in the great majority of cases, and perhaps in all, a personal visit to the Land Registry building by the solicitor bringing in a title for registration, or desiring to effect a search, is neither necessary nor desirable, and that personal visits delay rather than expedite the discharge of business."²⁹ The procedure now in force is governed by the Land Registration (Official Searches) Rules 1969, and is broadly similar to that introduced in 1930; it is described in the next two paragraphs. A similar procedure has been introduced in various other countries (e.g. Guyana, Singapore, Kenya and countries which have adopted the Registered Land Act described in Book 2), but of course it is not really needed where conveyancing is actually done in the registry.

9.6 Since in England and Wales the register is not open to public inspection, anyone who is not the proprietor must (with some limited exceptions) have the authority of the proprietor to inspect the register before he may obtain an office copy or make an official search. A purchaser who has already received from his vendor an office copy of the entries and an authority to inspect will apply for an official search of the register four or five days before the date fixed for completion. In the prescribed form "application is made for an official search of the register of the said title to ascertain whether any adverse entry s been made since [a specified date] being the date of the issue of an office copy of the subsisting entries on the register (or the last date on which the land ci charge certificate was officially examined with the register)". The certificate of the result of search will set out any adverse entries made since the specified date or state that there is none. It will also disclose any pending applications including other official searches. It is, of course, possible to make a search in respect of part only of the land in a title.

9.7 When a purchaser has applied for an official search in accordance with the Rules, any application for registration which is made during the priority period (which ends at 11 a.m. on the sixteenth day after the day on which the search application was delivered) is postponed to a subsequent application to register the instrument of purchase provided that that instrument is in order, is delivered to the proper office within the priority period, and affects the same land as the postponed application. The effect of this is that the purchaser (or his solicitor), having made sure that no adverse entry (or none that he is concerned about) has been made, has fifteen days within which to complete his purchase, stamp his transfer, and lodge

²⁹ Lord Rushcliffe's Committee Report (1943) 5 para 14

his application for its registration secure in the knowledge that no other entry can be made on the register in priority to his transfer.

10 Land registry forms

10.1 The forms prescribed for conducting registrable transactions play a very important part in the effective operation of a land registry. Nothing illustrates more clearly the enormous simplification which results from registration of title than the form for the transfer of freehold prescribed under the English Land Registration Rules 1925. The transferor has to do no more than fill in the title number, the purchase price, and the name of the transferee, before he ‘signs, seals, and delivers’ (since that part of the old ritual still survives).³⁰ The brevity of this form is remarkable, particularly when it is contrasted with an old-fashioned deed of conveyance, but it is all that is needed and, according to Curtis and Ruoff, “normally there is no reason to depart from the stark simplicity of the statutory forms as set out in the Schedule to the Land Registration Rules, 1925” though nevertheless “it is the practice to allow alterations and additions to a considerable extent”.³¹ Furthermore, the forms are not supplied by the Land Registry but have to be purchased from HM Stationery Office.

10.2 In the Sudan, however, the Land Settlement and Registration Ordinance 1925 (s34) expressly provides that “the use of printed forms issued by the Land Registry shall be compulsory unless the Registrar permits the use of a different form”, and in practice it is very seldom that any other than a printed form is used. The form is supplied by the Land Registry without additional charge and, indeed, is usually filled in by registry staff.

10.3 The Sudan procedure was readily acceptable in the new registries in Kenya,³² but in the older registries where solicitors were employed they naturally preferred to prepare their own instruments since the completion of the printed form (particularly in respect of transfers) was manifestly so simple that it could scarcely justify the fee which a specially prepared conveyance could make appear quite reasonable. The forms prescribed under the Kenya Registered Land Rules are printed at the end of Chapter 22 and will repay study; they illumine the whole procedure. Such forms are indeed a vital part of the machinery of land registration.

11 Register of instruments and statistical analysis

11.1 In some registries, possibly as a survival from the time when they were registries of deeds and not of title, a register is kept showing the particulars of instruments that have been registered. This may be convenient for statistical purposes but is not really necessary since the application book can be made to serve the same purposes, notwithstanding that it also shows applications which have not yet been registered or which may have been rejected. The important point, however,

³⁰ See 4.5.1

³¹ C&R 343

³² See Kenya Land Registration (Special Areas) Ordinance 1959 s72(1) and Kenya Registered Land Act 1963 s108(1)

is that a statistical analysis should be made each month showing the number and type of transactions, fees paid, amount of mortgages and so on.

12 Machinery for collecting fees

12.1 The machinery for collecting registry fees (and any tax — or stamp duty — payable at time of dealing) is of an importance which may be said to increase in inverse ratio to the value and size of the average transaction in the registry. Where transactions are big and are conducted by professional advisers who pay by cheque, registration is unlikely to be deterred even if the arrangements are not as convenient and sensible as might be desirable. But where registration of title is extended to the dealings of unsophisticated small-holders who live a long way from the registry, it is imperative to provide reasonable facilities for the prompt payment of any sum that may be due. Yet many registered owners, or prospective registered owners, having made the journey to the registry and successfully conducted their business (with the willing assistance of registry staff), then find that the payment of the required fee necessitates a visit to another office, perhaps some distance away, before the transaction can be completed; the collecting office is possibly closed by the time they arrive, or the registry is closed by the time they return and so a night's stay is forced on them.

12.2 In these circumstances inconvenience and incidental expenditure may far outweigh the actual fee, but this is a side of registry operation that not infrequently gets overlooked because financial regulations, necessarily stringent with regard to the collection and safekeeping of public money, are regarded as beyond the purview of registry staff, matters for which a quite different department of government is responsible. This is not the place to examine such regulations; we can only make the point that facilities for prompt payment of fees must be provided if there is to be any hope of land registries being kept up to date in areas where the parties conduct their own transactions without professional assistance, especially when registration is still a novel device and the need for it is not fully appreciated. It is also important that a registrar should be enabled to proceed with registration even though the fee or part of it has not been paid.¹

13 Conclusion

13.1 Once again we can draw on Dowson and Sheppard to sum up. They said, "A careful study of the long and abundant history of registration of rights to land shows that the difficulties that have so frequently been encountered in the successful establishment of this obvious and common-sense record have been due to defects in, or handicaps to, the daily working of the service, not to any extraneous disturbing conditions, and certainly not to fraud."²

¹ See Kenya Registered Land Act s156(2)

² D & S Memoranda 8