

is very important and can be clearly expressed in a very few words. Our Registry Law provides for the registration of all conveyances. This measure provides for the registration of titles alone. Under the Registry Law it is necessary to register all the conveyances that have been executed from the time of the Crown grant. By this system the Registrar tells you who is now the owner. It does not record how he became the owner, but shows directly who the owner now is, and dispenses with all the present investigation and searching of titles. The register now enables us to ascertain how the titles stand in this way:—You have memorials and copies of all the various conveyances. What means are you obliged to take to ascertain who is the owner? You require to employ a competent person to examine every deed and see what the effect of it is, and likewise to examine every mortgage and document affecting the land in question. He is then to form his own conclusion as to the result of the whole, as to whether the person is really the owner or not. The immense difference between the two systems is thus very manifest. In the system embodied in this Bill you have

#### ALL THE ADVANTAGES

of the present Registry Law. Although the present system is so cumbersome and requires so much pains and accuracy, yet it involves a certain amount of uncertainty. I have in my own experience had several examples of titles which have been passed after a thorough search, which after all had some blots about them. Many of such cases involve a large amount of money and cause very great distress. Every one having any acquaintance at all with this subject knows that cases have occurred when defective titles have been passed by several lawyers and very serious difficulties have arisen in consequence. A great amount of this uncertainty is completely guarded against in the new system. This is one of the most serious evils, and has been alleged for many years to be incurable. Under the present system there is always more or less delay in searching a title. Sometimes the investigation may be made in a short time. It sometimes happens that the title is found to be in such a condition that several days are required before it can be made good. In some cases weeks, and in others months, are necessary, and I have found in some cases that it has taken

#### MORE THAN A YEAR.

These evils are constantly increasing. The expense of the investigation under the present system is also a very important consideration. Every transaction that takes place requires all this work to be done over again. Every transaction has the effect of increasing the difficulty and making the title more complicated. How does the new system remedy these evils? In the first place it provides that there should be one thorough investigation of the title. That investigation has been found by experience, in countries where this system has been tried, to be very little more expensive than one ordinary investigation, sometimes it is greater and sometimes it is even less. A thorough investigation is made by thoroughly competent officers, who have this duty assigned to them. Every measure is taken to secure accuracy, and to make sure that the man who is recognized as the owner really occupies that position. For this purpose an affidavit is required to be produced that the land is his, a certificate from the registrar as to all the conveyances, etc., and a certificate as to the ownership from the chief registrar. The officer to whom this last duty is assigned is called Registrar-General or

#### MASTER OF TITLES.

I have adopted the latter name in the Bill. He investigates this thoroughly. It appears that there is some one whose name appears in the conveyances who may have a right to the property he receives notice that he may take steps to make good his right. So that every possible step is taken to secure against error. For the first examination advertisements have to be made that persons who may have an interest in the property will receive notice. It must appear that the applicant is in actual possession of the property. When the investigation is concluded, and the Master of Titles finds that the applicant is really the owner of the property he enters this in his register and the title becomes good. All that is necessary now for the owner to do to show his title to be good is to produce a certificate from the Registrar or from the Courts, and the title is not allowed to be questioned. With regard to the subsequent steps, they are reduced to the greatest possible simplicity. A form is given in order to make the transfer as simple as possible. The name of the purchaser is substituted for the name of the preceding owner, and a certificate is granted to the new man. The ownership is ascertained, and

#### IN ABOUT TEN OR FIFTEEN MINUTES

the whole thing is done. This applies to the sales of registered land and mortgages of registered land. When a mortgage is paid off this is simply registered. Persons afterwards dealing with the property have nothing to do with the mortgage. There are only certain classes of interests which will not be treated in this way. Trusts are not registered, these involving very serious questions. The trustees are registered as the owners of the property. Such persons file what is called in England a caution accompanied by an affidavit,

with the property without giving notice.

Mr. MEREDITH—What provision is made when the caution is filed by the guardians of an infant?

Mr. MOWAT—There is a provision for the purpose. The Court has certain powers in this respect. Now with regard to the interests which are registered. They are fee simple, mortgages, and long leases. The two former of these I have already dealt with. Long leases are much more common in England than in this country, yet they are common enough to require provision for. In Toronto there is a considerable amount of leasehold property. There are three cases which this Bill provides for:—One is the absolute, where the party claims to establish an absolute title. The second class is called

#### A QUALIFIED TITLE,

where it is found that the title is not complete. This is where there is a defect in the title or in the proof. He gets a certificate of a qualified title. The third class is found more frequently in the Old Country, where the title is a good holding title, but where it is not clear enough to force on a purchaser. It may be because of some present defect in the title or from want of present evidence. It is of immense importance to allow the title to be registered, and so to save all the expense and trouble of these investigations. All subsequent transactions are thus carried on in the simplest way. Now, notwithstanding all possible care with regard to titles on the part of the officers and on the part of judges and lawyers, cases may arise of their being in error, and cases may arise of fraud being perpetrated by some one or another, and to guard against damage or loss from that cause in those Australasian Colonies where the system was first introduced, a provision was made for an

#### ASSURANCE FUND

by which persons might be indemnified. This Assurance Fund makes it impossible that through any fraud or error any person can lose his land without compensation being had. This fund is made up by a very small payment being made by a person on his first application for a title under the Act. This Bill proposes that when a person first applies for a title he shall pay one-quarter of one per cent on the value of his land. If it is worth \$1,000 he pays in \$2 50, and so on. Of course it is a very trifling sum. It is the same as in the Australasian Colonies where it has been found abundantly sufficient, and, in fact, in some of them there has been no necessity for drawing upon the fund at all, so effective is the system against fraud. So that by this very small allowance perfect indemnity is obtained. It is important to know that the law has been tried. It is less than thirty years since it was introduced. It was then an experiment and met with a good deal of opposition. It was first introduced in South Australia by a gentleman who thought there was no reason why the titles to land and their transfer should not be as simple as in the case of titles to shipping, and after discussing the subject thoroughly induced the Legislature to pass an Act. It is now introduced into every one of the Australasian Colonies and there is no suggestion made that it does not work well and been a most beneficial Act, and we have the most satisfactory evidence because the system attracted attention in England likewise. Commissions were issued and were addressed to very able men—chancellors, judges, lawyers, and others—for taking evidence as to the work of this system in those colonies. We have the results of their investigations, from which it is perfectly manifest that the system has been a great success; that it has the effect of preventing frauds, of facilitating transfers, of removing uncertainty, of diminishing the expense. Finally an Act was passed in England which adapted all the main features of the Australasian system, and it is upon that Act that this Bill is founded. It is a Bill that had the approval of all parties in England. The ablest men there familiar with such matters had to do first with the enquiries regarding the system, and afterwards with the preparation of the report upon it. I have compared this

#### ENGLISH ACT

with the Acts of the Colonies, and that comparison has satisfied me that it was much more scientifically and much more simply expressed than these colonial Acts were, and also that it contains some provisions which are desirable over theirs in other respects, and for that reason I thought it better to adopt it as the best. Attention, so far as I know, was first called to this system in this country at the time the Hon. David Mills held the office of the Minister of the Interior. He prepared a Bill founded on these Australasian Acts, and applied it to the new territories. That Bill was printed, but he was not in office long enough afterwards to carry it through. After the change of Parliament Mr. McCarthy took up the subject, and for two years brought in a Bill substantially in accord in some respects with this Bill, but different in others. This year Hon. Alexander Campbell has prepared a Bill and introduced it as a Government measure, and I have no doubt the system will be adopted throughout the whole North-West Territories.

Mr. GIBSON (Hamilton)—When this Act comes into general operation is it proposed to have only one Master of Titles for the whole Province?

Hon. O. MOWAT—It will no doubt be an answer to my hon. friend's question to state that one such officer will be appointed for the Province, but that there is no reason why the registration should be confined to one locality. I think one officer over the whole management would be permanently necessary, or at any rate, for a great many years, but then there may be registration districts, so that it will not be necessary to bring all these transactions here. These colonial Acts contained clauses making changes in the general law in respect both to lands which did come under the operation of the Act, and also to those which did not. I have not thought proper to do this. The most important of these clauses removes the difference between the descent of real and personal estates. I have brought that provision in under a separate Bill. Another change which is made in the various Bills I have been speaking of, is that doing away with Dower Acts. I do not propose to change the law on that subject. The Bill as it stands now is confined to Toronto and York. The

#### REASON FOR LIMITING

it to this locality in the meantime is that it is desirable to gain a year's experience before extending it to the rest of the Province. That is a short time for the introduction of so great a change as our Bill provides for, and it will be of great value to us, in applying the measure to the rest of the Province, to know how it has worked here, and it will enable us to make those changes which experience teaches us are necessary for the purpose of its working well in the rest of the country. The question hon. gentlemen ask with reference to local registration is one of considerable difficulty, and I feel that I could not do anything with that until we have a greater experience.

Mr. MEREDITH—Is it the intention to pay the Master of Titles by salary or by fees?

Hon. O. MOWAT—My present notion is that some existing officer will be able to discharge the duty. The Act proposes to pay him by fees. I am quite aware that my own profession look doubtfully upon this change. I have not found in this House among the lawyers any who were opposed to it. Here, indeed, the lawyers are reformers in law matters, however conservative they may be in other respects, but those outside this House are apprehensive of their own position under this Act. It will only be gradually that the land in this country will be brought under this Act. Well then, it is to be observed that land only comes under the operation of the Act after a thorough examination of the title, and if the Act is made as popular as I believe it will, there will be a far greater examination of the titles in the meantime than there would be without the change. I think that these considerations will prevent the lawyers suffering as much as they fancy they will suffer, but at all events we all feel that whatever is for the public good must be carried out, whoever may be the sufferers. We all feel that if this present system is adopted, we shall have accomplished the greatest reform which has taken place during the last twelve years. I move the second reading of the Bill.

Mr. MEREDITH, in the course of a criticism of the Bill, expressed himself in favour of its object, but objected to some of its features. He opposed the idea of compelling people to transact their business in transferring titles at Toronto, which he characterized as a piece of centralization. There must be a speedy method of investigation, means of having examination and registration at convenient places, and the facility for speedy operation. It was a pity the measure had not been applied to the whole Province instead of being limited to the city of Toronto and county of York, if it was going to be a benefit, as they all agreed that it would be. He was sorry the hon. gentleman did not see his way to doing away with the law of dower.

Mr. ROBILLARD suggested the establishment of what he called "law dispensaries" through the country, where lawyers might give free advice to poor people in connection with this measure, the same as doctors were in the habit of doing.

Mr. FRENCH said he thought the lawyers of the House agreed with the general principle of the Bill. He objected to the application in the meantime of the Act to the city of Toronto and county of York, and to having the officer in Toronto, as that would have the effect of centralizing the work in connection with the transfer of titles.

Hon. O. MOWAT, in answer to the argument with reference to centralization, said the hon. gentlemen forgot that the Bill only applied to York and Toronto in the meantime. When the Government came to deal with the other parts of the Province then they would find the defects complained of provided for. There would be a considerable amount of lands brought under the Act during the year, so that the people would have the advantage of seeing how the system worked. He had been informed by one gentleman here that he was prepared to bring \$200,000 worth of property under the Act as soon as it was passed. It was not the occasion now to discuss the question of dowers. The usefulness of the present law upon that subject was a proper subject for discussion at another time. A mortgage upon land could not be made without the consent of both husband and wife, and he did not think there was much difficulty about that.