THE TORRENS LAW. Every reform meets with opposition. Any man who starts out with a new idea (or one new to his neighbors) counts on finding it resisted, though he may have only the vaguest guess as to where the resistance will come from. Most people have at bottom a kind of liking for things as they are, and consider any suggested improvement with instinctive disfavor, though they may like it well enough when they look at it a little more closely. In the case of the proposed reform in the system of conferring title to real estate, there is another reason for timidity; hearing that titles are to come directly from the state, instead of from the former private owners, people infer that this means state ownership of land; they think of socialism, or perhaps a faint image of the late Henry George arises in their minds; and they think they would rather not risk a change, nor any venture into the unknown.

Now the system of registration known as the Torrens Title system is meant for exactly the people who want things to stay as they are used to thinking of them. It is intended to assure to the farmer whose father left him a farm, and to the widow whose husband left her their home, that that farm and home shall be theirs for all time, if they want them, instead of leaving it open, as our present laws do, for some man whose grandmother failed to sign some deed, years ago, to come in and take them away without redress. Again, it is not an experiment. The original plan has been in operation for forty years in Australia; Prussia has essentially the same system; an adaptation of it has been in force in the province of Ontario since 1887; Massachusetts and Illinois have authorized it by legislative enactment, and other states are considering it.

The central idea of it is not to confer any strange or enlarged powers on the state, but on the contrary to require of the state fit protection to the rights of the citizen, in regard to a large and important class of property.

The position of the law at present is this: "prove your property, and we will protect you in the enjoyment of it;" and this applies with perfect impartiality to a pair of shoes, a cow, a ten-story office building or a quarter section of land. Now, the theory on which this proposed improvement is advocated, is that lands and buildings are not exactly on a level with perishable and movable things, but that they are of sufficient public importance to justify the governing power in fixing and maintaining the ownership of them in an orderly and systematic way. There is in the law governing the holding of real property so much still in force of the old "common law," the ancient traditionary law of England, which our fathers brought to this country with them, that to require a land-owner to "prove his property" is not only a hardship but an impossibility as well. It is not like identifying a cow or a pair of shoes: the points that the law theoretically requires to be observed in alienating or devising a piece of land are well-nigh infinite, and when multiplied by the number of times a holding has changed hands, to require an owner to prove that they have all been attended to is no less than absurd. In fact, it would be a bold lawyer who would claim that there is a single absolutely good and indefeasible title to real property now in existence in Nebraska; except where land is still held under the original United States patent.

This suggests the root of the whole matter; a patent from the government leaves no question as to ownership; then why, after starting a piece of land in with a perfect title, by so simple a process, should that method be at once discontinued, and all future owners left to their own resources; with finite intelligence to cope with infinitely complicated requirements? For even when you hire an attorney, as you must, to help you, his knowledge, though vast, is still finite.

It is curious and edifying, though scarcely comfortable reading, to see what the law really does require a man at present to know about the past history of his land. THE CONSERVATIVE will make a short statement of some of these things in a later number.

Now, the Australian or Torrens system begins by cutting off all the ancient history in which lies the main danger to a land-owner's security, and then provides a simple, expeditious, cheap and, above all, sure method of making future transfers, as outlined in THE CONSERVATIVE of December 1. When a piece of land is once under the provisions of the act authorizing the system, everything is plain sailing thenceforth for its owner; but before he gets that far there are a good many details to be attended to. In other words, the state, before declaring such a man the owner of such and such property, and becoming responsible for that decision, will take great care to award its certificate to none but the man who is justly entitled to it.

It is usual for the state legislature in making the necessary enactment, to leave it to the option of the several counties whether they will take advantage of it or not. This is the plan followed in Illinois. In Massachusetts the entire state was placed at once under regulation of a court of registration, the clerk of which was given the state title of recorder; and upon any land-holder making application to have his property registered under the act, the register of deeds for that county becomes thereupon assistant recorder. Uniformity throughout the state is secured by having all these officials subordinate to the one at the capitol. The court of registration also delegates its functions to local boards, to which it stands in the relation of a court of appeal.

When now a property-owner wishes the protection offered by the statute, he files a formal application with the proper official, in which he minutely describes the land which is to be registered, his estate in it, the manner by which he obtained title, his family relationship, and any other matters that may serve as a basis for investigation by the board; and asks that a certificate of ownership be issued to him. The court then refers the application to one of its examiners of title, who searches the records and investigates all the facts in the case. If he finds any defects, such as missing signatures or defective acknowledgments to old deeds, he so reports, and the applicant is given an opportunity to make the record good.

If the examiner reports favorably, then the court orders due notice to be given to all parties, by the usual means of publication, that at such a time title will be awarded; and if there is no opposition, on the day set a decree of confirmation and registration is entered. This decree "binds the land and quiets the title thereto" and is "conclusive upon and against all persons, including the state." Moreover, it "cannot be opened." That is, once the applicant has received his decree, he can sleep soundly on his land, knowing that no claimant can disturb his possession of it in the future. This, however, is providing he has done nothing dishonest in the matter. It is an old maxim of the law that "fraud vitiates any transaction into which it enters;" and it is usual to make a special exception, to cover this case, in the statute. But even in case of fraud, a petition for review must be filed within a year of the date of the decree, or it is too late; and during that year, the decree cannot be altered if an innocent purchaser has come between. The year once up, the registered owner is secure; even an honestly injured person cannot bring suit against him with the intention of dislodging him. The state has decided him to be the rightful owner, and the state, not he, stands good for the consequences.

To meet the case of a possible injustice being done by an award of title, there is established, wherever the Torrens system is in force, an assurance fund, made up by a very small assessment on each case handled. In Massachusetts, one-tenth of one per cent of the value of each piece of land registered is to be contributed to this fund until it amounts to $200,000; and this sum is to be constantly on hand to reimburse "any person who without negligence on his part sustains loss or damage, or is deprived of land" by the operation of the system. But his action for damages must be brought against the