

Torrens System of Land Transfers

CHEAP, SAFE AND EFFICIENT

By A. E. Sheldon, Director, Nebraska Legislative Reference Bureau

The older a country grows and the oftener land is transferred the larger become the abstract fees, the more frequent becomes litigation over titles to real estate, and the greater becomes the real need and economy of the Torrens system of land transfers. The essential elements of the Torrens system are these:

1. Public registration of title in a government office.
2. Examination and approval of the title by a judicial officer before registration.
3. Guarantee of the title by the government.
4. Economy and speed in subsequent transfers.

COMES FROM AUSTRALIA

Sir Robert Torrens, the instigator of the Torrens system of land transfers, was collector of customs in Adelaide, South Australia, about sixty years ago. As such, he became familiar with the simple and inexpensive system by which shares of ships are registered and transferred from one person to another. Afterward Sir Robert became register of deeds. He was impressed with the great difference between the system of transferring titles in ships and transferring titles to land, and worked out a plan for applying the principles of ship registration and transfer to landed property.

At first he offered his plan to the Australian lawyers, who rejected it. Then he submitted it to persons outside of the legal profession. It

"looked good" to them, and, after the usual agitation and struggle over any new proposition, it was enacted into law in South Australia in the year 1858. The Torrens system received public approval rapidly in Australia. It was adopted by Queensland in 1861, New South Wales, Victoria and Tasmania in 1862, New Zealand in 1870, and Western Australia in 1874.

SPREAD OF SYSTEM

From Australia the system spread to England, where acts were passed in 1862, and to Ireland in 1865. In the Canadian provinces, British Columbia adopted the system in 1871, Manitoba and Ontario in 1885, Nova Scotia in 1904, Alberta and Saskatchewan in 1906. In the United States the Torrens system has been enacted into law, with various modifications, in the following states:

Illinois 1895 (held unconstitutional, re-enacted in 1897), California 1897, Massachusetts 1898, Minnesota and Oregon 1901, Philippine Islands 1902, Colorado and Hawaii 1903, Washington 1907, New York 1908.

An act providing for the Torrens system of registration and transfers may be either optional with the owner of the land or compulsory. Both forms of the law are found in operation today in different states and countries. In some cases, as in the western Canadian provinces, where the law was at first enacted in its optional form, after most of the land had been registered under the law it was made compulsory for subsequent transfers. This enabled a land owner to hold his land as long as he chose without registering it in the Torrens act land office, but when he wished to transfer he was obliged to bring his land under the act.

WHAT IT COSTS

The cost of bringing a tract of land under the Torrens system varies in the different countries and states. In British Columbia the fees provided for registration are \$2.50 on every application, registration and deposit of title papers, and one-fifth of one per cent on the value of real estate up to \$5,000, and one-tenth of one per cent on the value of real estate over \$5,000. Bringing 160 acres of land worth \$100 an acre under the Torrens system in British Columbia would, therefore, involve the following expenses:

Application	\$2.50
One-tenth of 1 pct. on \$16,000.	16.00
Total.....	\$18.50

For each subsequent transfer after original registration the fee is \$1.

Under the Illinois Torrens act the expense of bringing land under the system is as follows:

Clerk of court on filing application	\$5
Publication notice.....	2
Registrar for examination of title	15
Registrar on issue of certificate of title	2
Total.....	\$24

In addition to these fees, in Illinois, each applicant for first registration pays to the indemnity fund one-tenth of one per cent, or \$1 on each \$1,000 of the value of the property. This fee is payable only upon first registration and not upon any subsequent transfer. For each subsequent transfer in Illinois the fees are \$2.

GOVERNMENT GUARANTEE

Since one of the principal features of the Torrens land system is the insurance of the title by the government, and since officers working

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under the government sometimes make errors, an indemnity fund must be provided to make good to purchasers any possible loss arising under this system. It is for this purpose that the indemnity fee of one-tenth of one per cent is required. When I was in Regina, Saskatchewan province, Canada, last August the registrar of land titles there told me that in several years there had been but one payment made out of their indemnity fund. In this case a clerk had missed noting a judgment of \$3,500 standing against a tract of land, and the province paid the purchaser that amount to clear the title.

It will be noted that the initial cost of registering land under the Torrens system is considerable. This arises from the necessity of a thorough inquiry by an expert into the status of the title before registering it. It further involves, under the Illinois law, publication of a notice designed to bring into court all claimants of any interest in the tract about to be registered. It further requires the creation of an indemnity fund to enable the government to make good its guarantee of title. When these initial expenses are paid, and the land duly registered, subsequent transfers are made at a merely nominal expense of \$1 to \$2.

POPULARITY OF PLAN

The popularity of the system when once established is evidenced by its

spread from one to another of the English-speaking colonies, and even to the old country itself. In the four provinces of western Canada, Manitoba, Saskatchewan, Alberta and British Columbia, the use of the Torrens system is well-nigh universal. Even where the law was at first optional the advantages of the Torrens system have been so great that nearly all of the land has been brought under its jurisdiction.

In the United States, progress under the Torrens system in the various states that have enacted the law has been slow. Here the law has been in its optional form. The initial expense and the opposition of the abstract companies and title insurance companies has contributed to this. In some states loan companies have refused to make loans upon Torrens act titles. It has been charged that this was due in some cases to the fact that officers of the loan companies were stockholders in the title insurance companies. Letters in my possession, dated March, 1913, from the attorney generals of Minnesota, Colorado and Massachusetts practically agree in saying that the law is satisfactory in its operation, but that registration under its provisions proceeds slowly.

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Glow of Health Speaks for Postum.

It requires no scientific training to discover whether coffee disagrees or not.

Simply stop it for a time and use Postum in place of it, then note the beneficial effects. The truth will appear.

"Six years ago I was in a very bad condition," writes a Tennessee lady. "I suffered from indigestion, nervousness and insomnia.

"I was then an inveterate coffee drinker, but it was long before I could be persuaded that it was coffee that hurt me. Finally I decided to leave it off a few days and find out the truth.

"The first morning I left off coffee I had a raging headache, so I decided I must have something to take the place of coffee." (The headache was caused by the reaction of the coffee drug—caffeine.)

"Having heard of Postum through a friend who used it, I bought a package and tried it. I did not like it at first but after I learned how to make it right, according to directions on pkg., I would not change back to coffee for anything.

"When I began to use Postum I weighed only 117 lbs. Now I weigh 170 and as I have not taken any tonic in that time I can only attribute my present good health to the use of Postum in place of coffee.

"My husband says I am a living advertisement for Postum."

Name given by the Postum Co., Battle Creek, Mich.

Postum now comes in two forms: Regular Postum—must be well boiled. 15c and 25c packages.

Instant Postum—is a soluble powder. A teaspoonful dissolves quickly in a cup of hot water and, with cream and sugar, makes a delicious beverage instantly. 30c and 50c tins.

The cost per cup of both kinds is about the same.

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