It will not be questioned that simplicity and security in titles to land and facility and economy in dealings therewith, are objects of great importance in every civilised community.

A new system, professing to be a great advance in this direction, having been for some time on trial in this colony and elsewhere in the British dominions, I venture to believe that a paper thereon in the nature of a progress report, will not be unacceptable at a meeting of this society.

An improvement such as this may conduce more to human welfare than many which attract our notice, and loom more largely on our senses, in such an Exhibition as that by which we have been so recently delighted and instructed in this city. Under this persuasion I offer the following to those interested, as a kind of supplementary exhibit.

The Real Property (Torrens's) Act of New South Wales, has been in operation since the 1st January, 1863.

The following is an approximate return of transactions thereunder for the six years ending 31st December, 1868.

During that period, land containing 252,512 acres, valued about £1,830,000, has been placed in the new register after examination and report upon upwards of 2000 distinct titles submitted with applications from the respective owners.

During the same period 697,924 acres, valued at about £831,500, and comprised in 15,077 separate Crown grants, issued since 31st December, 1862, have become subject to the new law by the mere operation of the grants. The total property under the Act consisted, therefore, on 31st December last, of 950,436 acres, valued at about £2,661,500.

During the same six years the dealings affecting the property or the register by transfer, mortgage, &c., have numbered upwards of 3129; transmissions under will, succession, &c., have been investigated and registered to the number of fifty-seven. And whenever the transfer or transmission has been absolute, new certificates have been issued to the transferee, devisee, or successor, conferring the same simplicity and indefeasibility of title as if he were the original grantee.

It may be premature to boast too confidently of the non-existence of any claim on the assurance fund for indemnity against
Operation of the

loss consequent on error. Nothing short of miracle could guard against the possibility of some dormant claim, resulting from such a multiplicity of transactions. It is, however, very satisfactory to be able to state that hitherto not one such claim has been brought to light.

Very different might have been the result, if the examiners had acted on the view of their duty lately expressed by one of our legislators, by using their powers as a mere expedient for curing the bad titles of applicants. The honorable member must have surely forgotten that this could only transfer the mischief of the bad title to the public. The object of the Act is not to cure bad titles—but to place the "guinea stamp" upon good ones—and by thus rendering them current coin, to save the worry and expense of a fresh assay upon every future transfer. This advantage alone is surely enough to merit the approval of a commercial people. Upon this particular question there is a passage in the speech made by Lord Cairns, in the House of Commons, when introducing his Titles to Land Bill of 1859, which is so exactly to the point that I cannot do better than adopt his explanation. As the objector on that occasion was no less a person than the late Lord Palmerston, the colonial member for whose benefit I reproduce the answer will not be able to complain of my treating him with any indignity.

"It may be said," observes Lord Cairns, "that the plan I have sketched is all very well so far as good titles are concerned, but that it is desirable to know what we intend to do with respect to those to which there is some objection. Indeed, the noble lord (Palmerston), in his usual playful manner, remarked that he supposed we were proposing to give an indefeasible title to all occupiers of land—to convert bad titles into good ones; and as a consequence to produce what no doubt would be regarded as a very popular measure. I can, however, assure the noble lord that we have no plan in contemplation for turning a bad into a good title. What we do propose is, that those who have a good title should be entitled to obtain a declaration of it. But it is important, at the same time, to bear in mind that this is not the whole of the measure. I believe that, in point of fact, there are very few titles which are not good. But there are titles which, though substantially good, are open to certain technical objections that are generally guarded against by conditions of sale, and which, in strictness, are of a nature which prevents you from saying a title is absolutely good, and it is very rarely the case, in regard to any one of these, that it could not by a little trouble, or expense, be cured. At present there are no inducements for a man whose title is open to such defects to have them removed, because their removal would occasion him expense, without any corresponding advantage upon a sale. But if you were able to
assure him that by some such arrangement as I have described
he could cure the technical defects which now exist, and then
have a declaration of title once and for all, I am much mistaken if
numbers of titles liable to these objections would not be cured
and made good in form, as in substance, and be found to deserve
the sanction of this measure. The course, therefore, which I
anticipate is this,—that those who desire to avail themselves of
it, and have perfectly good titles, will at once obtain a declara-
tion in their favour.—while those whose titles are open to technical
defects, *will do what is required to cure them*, and so come in to
secure the same advantage.

"And then we all know that, sooner or later, there must come
a time when, with regard to the very worst titles, their flaws may
be taken away by very long possession, if by nothing else.—so
that the period will arrive at which titles which are now bad, will
in turn receive the benefit of this declaration."

It may be very true that the progress of the new system in
Great Britain has hitherto very imperfectly realised the expec-
tations thus held out by Lord Cairns ten years ago. Some of
the obstructing causes will be adverted to in the course of the
following remarks. But however this may be, it is quite evident
that in the Australian colonies, the new law has been fully ac-
cepted by the public. So far from any serious obstruction
through opposition, there is now more danger of mischief from
indifference, that is to say from the too contented toleration of
imperfections from which no infant institution can possibly be
exempt, and the removal of which is necessary to complete its
usefulness. Yet even those who at first most distrusted it as a
hazardous innovation, may fairly be expected, when they find it
established beyond recall, to lend a willing ear to the suggestions
for its amendment. They may thus render it either less objec-
tionable—or more perfect,—in whichever of these points of view
they may now please to regard it.

When the nature of the subject is considered,—involving, as it
does, a complete revolution in the law affecting transactions full
of complicated details,—it must be confessed that the passive
acquiescence of those who originally opposed it—not only refrain-
ing from all clamour for serious amendments, but leaving the
task of suggesting alterations wholly to the friends of the measure—
is a telling tribute in favour of the care and ability bestowed
upon it by Mr. Torrens and those few professional men who aided
him in his difficult task. If the history of similar revolutions in
the laws affecting new phases of commercial enterprise in joint-
stock companies and other subjects of modern legislature be
reviewed, they will be found (although framed and watched by
the most eminent lawyers of the day) to have required frequent
and more imperative amendments to make them work with
tolerable satisfaction to the public.
Upon the subject of such amendments in \( \text{the present case I feel that my experience of six years in administering the Act may excuse me in offering some observations.} \)

Neither the merits or defects of the measure can, however, be duly appreciated without some review of its history, and of the circumstances leading to its introduction to this colony in the particular form of the present Act.

Its leading principle, the substitution of registry of existing title for registry of successive assurances, has made its way into British legislation by a very slow process. The first published hint of it will, I believe, be found in the Appendix to the Report of the Real Property Commission on Registration, laid before the Imperial Parliament in 1830. This contained a suggestion from Mr. Fonnerau and Mr. Hogg, for the application to land titles of the machinery of the Funds, being the same in principle, if not in all the details, as that of the Shipping Act, which was Mr. Torrens's avowed model in his South Australian measure. But this did not, at that time, attract even sufficient attention to induce the commissioners to refer to it in the body of their report.

In 1844, Mr. Robert Wilson brought forward a similar suggestion, with more detail, in a publication very freely discussed in the law periodicals of the day. At this period it first attracted my own attention, and I have ever since taken a strong interest in the subject, reaching thus back twenty years before I could have anticipated my individual participation in it as a practical measure.

In 1846 it was considered in a very able article of the Westminster Review, and was about the same time taken up and reported on by a committee of the Law Amendment Society. In 1853 it was recommended by the report of a committee of the House of Commons, and in 1867 by that of the registration of Title Commissioners appointed by the Crown. The latter bears the signatures, among others, of Richard Bethel, Afterwards Lord Chancellor Westbury, and of Robert Lowe, the present Chancellor of the Exchequer, who had then returned from this colony to commence his brilliant career in England. The leading principle or registration of title is thereby unanimously affirmed, although some individual commissioners differed as to the precise method and extent of its application. The appendix to that report contains elaborate papers fully entering into all details bearing on the subject. These will be found, on careful perusal, to anticipate most of the questions which have since challenged the attention of either friendly or adverse critics, and from such perusal alone an enlightened despot might probably have organised a more perfect system than has hitherto been created by either of the Acts passed by the Imperial or Colonial Parliaments.
There are, however, many reasons why its introduction into British communities should be a much slower proceeding. Not the least of these must be confessed to be a very general opposition, either active or passive, of that profession whose co-operation is most required for its success. This co-operation could perhaps be hardly expected, unless through a superhuman disinterestedness, never looked for from any other profession or calling. Had the progress of railways been as dependent on coach proprietors, as that of land titles registration on lawyers, who can say how long it would have been retarded?

It may be, that in both cases the general stimulus of social activity consequent on the improvement, may yield effects compensating in the end even the class sustaining a present injury. Yet no such calculation can be expected materially to influence the present motives or actions of individuals. A few eminent lawyers, associated with lay members of the Law Amendment Society, may have battled stoutly for the measure, but the mass of the profession either opposed it, or yielded it only a reluctant submission.

I am happy, at the same time, to say that in this colony it has encountered much less of this opposition than elsewhere. Not only have several leading solicitors placed their own properties under the Act, but the profession in general have afforded a ready and courteous aid to the department in the conduct of all business which has brought them in contact with it.

In England and Ireland the adverse feeling of the legal profession is still very great, and it is there more effectual from the circumstance that the only properties there brought on the new register are those which are the subject of voluntary application from the respective owners, in the making or withholding of which the family solicitor (on whom Lord Westbury bestows the sobriquet of “the Old Man of the Sea”) exercises an influence nearly despotic.

In these colonies a large field for the operation of the new law is supplied, irrespectively of individual applications, by the continual issue of new grants under purchase from the Crown, which ipso facto render the lands therein comprised subject to all the conditions of the Act.

Apart, however, from any obstruction from those adverse to the new system, its effectual development has been considerably retarded by diversities of opinion among its advocates, in regard to the mode and extent of its application.

It was not until the year 1862 that any bill founded on the recommendation of the Commissioners of 1857 could be passed through both Houses of the British Parliament. During the interval Mr. Torrens was successfully pressing forward the measure which bears his name in South Australia, and a bill was
introduced by Lord (then Sir Hugh) Cairns, in the English Parliament. This although favourably entertained and adopted by a select committee, fell through without passing into law. Ultimately two separate bills were brought in by two eminent lawyers, the one Lord Westbury, then Lord Chancellor, and the other Lord Cranworth, his predecessor on the woolsack.

Instead of deciding between their relative merits,—the Parliament enacted both, and both are now a part of the law of England. That of Lord Cranworth is limited to the preliminary process of conferring a parliamentary title, indefeasible in virtue of a judicial declaration in favour of the applicant, but continuing under the operation of the old law in respect to all future dealings.

The Act of Lord Westbury establishes a new registry not only empowering the Registrar, with assistance of examiners, to investigate titles,—and grant indefeasible certificates,—but also to place them in a new register under provisions simplifying and regulating all future dealings, on a system not materially differing from that of the Torrens' Act of these colonies.

It is, however, an important distinction between Lord Westbury's measure and the one proposed by Lord Cairns that while the latter provided a Land Titles Court for presiding over the judicial business of the department,—the Act of Lord Westbury dispenses with this provision, and leaves all matters requiring judicial intervention beyond the limited powers conferred on the Register,—to the ordinary tribunals before existing. This distinction is the more deserving of our own attention, because it equally applies to the Act of New South Wales.

A measure substantially agreeing with that of Lord Cairns, and providing, as that did, for the establishment of an attendant land titles court, was in fact under consideration in this colony, in 1862, having been passed through a select committee of the Legislative Council, as a government measure. But while this was pending, favourable reports of the working of Mr. Torrens's Act in South Australia attracted attention in all the neighbouring colonies, and led to the passing of Acts framed on the same model in Queensland, Tasmania, and Victoria. My late colleague Mr. Dick visited Adelaide to investigate the details on the spot, and Mr. Torrens soon afterwards came himself to Sydney, where he delivered a lecture on the subject, and consented to give evidence before a select committee of the Legislative Assembly, to whom the bill introduced by Mr. Dick, and afterwards passed, had been referred for report. Under these influences, and consequently on the report of that committee, the Cowper Government of that day transferred its support from Lord Cairns' Bill to that of Mr. Torrens. As one of the members of the then Legislative Council I made a like transfer of my vote, mainly in consideration of the
fact, that as similar bills either had or were about to become law in four of the neighbouring colonies, it was highly desirable that the Lands' Transfer System of the whole group should coincide, and thus admit of co-operation in the consideration of improvements, and of the profiting by each of the experience of the others.

It certainly never entered my thoughts that the measure thus passed could be regarded as final. The history of all legislation of this nature shews that completeness can only be approached through a gradual application of the teachings of actual experience. Nor was it the least important recommendation of Mr. Torrens's plan that even in its then state, it had been largely subjected to this amending process. The South Australian Act of 1861 on which that of New South Wales was based, differed considerably from Mr. Torrens's original measure of 1857, and the nature and sources of amendment may be better described in his own words.

"The present bill," he says, "is the result of the adverse and friendly criticism of a great part of the legal profession in the colonies of South Australia, Tasmania, Victoria, and Queensland. The Attorney General and Solicitor General of Queensland went through all, and so did the Solicitor General. The Attorney-General and Solicitor-General of Tasmania have been through it, and so have our two Judges. Then we have had Mr. Allport, Mr. Fisher, Mr. Ireland, Mr. Fellowes, and all these legal gentlemen trying to pick holes in it, and pointing out whatever they could against it, and whenever there was any reasonable doubt or even colourable pretence almost, of an objection, we have altered it to meet their view."

Nothing could be more creditable to Mr. Torrens than the candour exhibited in his ready adoption of these amendments, and in the explanation he thus gives of the fact. Whatever it may detract from his claim to originality, it will add to his character for statesmanship. It ought to serve as an antidote to the jealousy of some lawyers who were disposed to resent the intrusion of a layman into the province of legislation peculiarly professional. It is true that all the colonial Acts bear the impress of Mr. Torrens' individuality so far as they carry out his peculiar view of applying the special machinery of shipping law. But in other portions of these Acts liberal use has been made of suggestions emanating from professional sources, and of the Parliamentary and other papers published in England in connection with the analogous proposals there under consideration. The result has been a measure which, with all its imperfections, may challenge comparison with many acts incubated in the most orthodox manner under lawyers sitting on law-amending or Parliamentary committees at Westminster; a large average of
which do not any the less require amendment when brought to the searching test of experience.

After this preface, I need hardly say that in pointing out what I consider the defects of the Act, as it now stands, I cannot be held chargeable with any disparagement of its author, or of those who aided in its preparation and enactment.

The strenuous opposition of the legal profession in Adelaide to the original measure is generally understood to be the reason why its machinery has been placed, with the exception of the two examiners appointed to investigate titles, in the hands of persons who either are or may be wholly unconnected with the law. The Registrar-General is placed at the head of the department assisted by two Commissioners, forming a board of which he is the president. These commissioners in Adelaide were merchants, and if at any time the office should be filled by a gentleman of legal education, it is a mere accident, and not a condition of appointment. The effect of this is to render many of its functions illusory, the examiners being of necessity the real commissioners in all matters requiring judicial investigation and decision and the nominal commissioners so far passive organs of their opinion. It is hardly to be imagined that this part of Mr. Torrens's plan was ever intended to be permanent.

Whether any advantageous plan be temporarily available intermediate between this and the creation of a Land Titles Court appendant to the department, may be matter for consideration.

Ultimately, I am convinced that nothing short of the establishment of such a court can give to any community the full advantages of a Land Titles Register under the new system.

The Commissioners of 1839, do not in their general report recommend the establishment of a special Land Titles Court, although to a certain extent the functions of the head of such a registry system as the report contemplates must be necessarily of a judicial character, and the office of registrar under Lord Westbury's Act is rendered, in view of this necessity, a professional appointment of £2500 a year, and its holder is entrusted, in conjunction with the Lord Chancellor, with the framing of all rules and orders for the conduct of the department. On this subject Mr. Vincent Scully, one of the Commissioners, differed from his colleagues, and subjoined to the report the following forcible remarks in support of his own view.

"It appears to me that a land tribunal of high position and character, with avowed judicial powers for deciding questions affecting registered land, and with equitable jurisdiction to enforce right or to prevent fraud or wrong, would, upon several obvious grounds, be preferable to a land registry office professing to be merely ministerial, but in effect exercising quasi-judicial functions, to confer and transfer indefeasible titles. . . . . The land
registry office will be in effect a land tribunal, but with inferior position and authority, and deficient in those high qualities which ought to accompany an office of such grave trust, and so important to the best interests of these countries."

These remarks of Mr. Scully are quite justified by experience, although they may not be fully appreciated during the earlier stages of the Land Titles system. But as the property under the Act becomes extended, a multitude of questions will be daily elicited, which can only be satisfactorily determined by judicial investigation. If there be no satisfactory means of effecting this within the department, and it be necessary to refer them all to a superior Court, they will either be disposed of without due enquiry, or will cause the parties a delay and expense that will be intolerable, and far outweigh, as a public burden, any that the creation of a special Court would occasion.

Messrs. Urling and Key, the learned editors of "The Manual of English Practice under Lord Westbury's Act," express in their preface a strong opinion that either a separate tribunal must be established, or additional powers conferred on the Registrar. This investigation, it will be observed, is not limited under our system to titles submitted to applicants, and which if not fully supported, may be rejected, and merely left to operation of the previous law. It applies also, and will every year be increasingly applicable to the investigation of claims of succession by will, or otherwise, to land already on the register, and in regard to which no case can be dismissed unadjudicated, without absolute denial of justice.

The New South Wales Act is especially defective in this particular. Not only is there a deficiency in judicial power, but some of the powers which it does confer, requiring legal knowledge and experience for their due exercise, are left to the Registrar-General, sometimes alone, and sometimes with the concurrence of two lay Commissioners, even without exacting a reference (as in the case of application for certificate) to their legal advisers.

A General power of amending errors on the register is for example, thus conferred. This may appear at the first glance a very simple matter, but it will be found on consideration to involve, in the absence of any criterion distinguishing errors merely clerical from those dependent on disputed questions of law or fact,—a virtual authority to decide these latter questions, however complicated, and also to execute summary judgment thereon by conferring or withholding a title to property of any value. And this without even professing acquaintance with the law or rules of evidence, or commanding any machinery for conducting a judicial inquiry. The claims of applicants to be registered by succession, under will, settlement, or otherwise, will also continually present features of the same character. In excluding or
undervaluing a judicial element in the organisation of the Land Titles Office, its duties are popularly regarded as if limited, to the dealings transacted through the simple forms attached to the Act. A mistaken countenance is thus given to the objection, which would be very serious if well founded, against the applicability of the system to the more complex dispositions of property by will or settlement. The fact is, however, that while, on the one hand, no transaction, even the most simple in its origin, is certain to remain so in the future dissolution of title thereunder, and thus to preclude the necessity of legal knowledge and judicial authority in the direction of entries on the register thence resulting, there is on the other hand, no limit, when this authority is once incorporated with the department, to the range of transactions within which the new plan of registry can be safely and conveniently applied. Upon this subject I will take the liberty of here reproducing some remarks of my own which have been already printed, both in a Sydney newspaper, and in Ireland in a publication issued by the Land Titles Association there formed, to which I have elsewhere alluded.

"The most complicated settlement ever made by deed or will cannot present, for the purpose of registration, any difficulties distinguishable in their own nature (or even in point of degree when taken singly) from those of ordinary titles. Every title is indeed virtually held under settlement, inasmuch as, by a law of nature, no owner can retain the property personally beyond his own life. Its subsequent destination is, in default of any other, governed by the law of inheritance, which is virtually a provisional settlement in the following form, viz., To A and his assigns for life, remainder as he shall appoint, and, in default of appointment, as the law of inheritance prescribes. If any private settlement be in force, this operates as a special law for the individual case; but it may be quite as easy—indeed, in the average of cases, much easier—to determine the party entitled, under the special provision than under the general law. As regards the power of overriding the settlement by transfer, this may exist alike in both cases. It exists always prima facie in the owner, but in making provision even for ordinary mortgages and other encumbrances this power is effectually shifted or modified as in the most complicated settlements, and gives rise to exactly the same difficulty, neither more nor less; requiring and obtaining precisely the same solution and precautionary arrangements. Wherever a power separated from ownership, is dependent on any preliminary condition for its proper exercise, whether default in payment of a mortgage debt, a wife's jointure, or a child's portion, or a mere individual discretion, it raises in regard to title the question—Who is to be responsible for seeing to the existence or fulfilment of these conditions?
"This question arises alike in all cases. It arises in every case of mortgage and encumbrance, and, as a general rule of conveyancing before the Act passed was to provide for the total exoneration of the purchasers from such responsibility, the effect was to render the power of sale, in point of title, really absolute; being conditional only as regarded the liability of the mortgagee for breach of trust in the event of his exercising it improperly.

"To exonerate the Land Titles Department from the same responsibility does not alter the case in any way or degree as regards the mortgagor or owner. But, if this be admitted, then it follows that the business of the department is (subject only to the restraint of caveats) reduced in all cases of transfer to this single question—Is the signature of the owner, or of the donee of the power (as the case may be) duly authenticated?

"Now there is, I will venture to say, no settlement, however complicated, that can give rise to any difficulty that is not capable of being met in the same way. Wherever the legal estate is vested in trustees having full powers of sale there is absolutely no distinction between the old and the new law, unless it be in favour of the latter, as respects the greater facility of checking fraud in trustees by obtaining time to apply to a Court of equity through a caveat, or by the entry of the 'No survivorship' memorandum. The legal title is for all purposes of registration precisely of the same simplicity as that of property unaffected by any trust, the ownership and the right of disposition being united in the same person, and both resting on the mere fact of registered ownership. But, even if trustees be not interposed for all the purposes of the settlement, and that there should be successive tenancies for life, powers of appointment, among children or charges of annuities or portions, still there is no special difficulty in ascertaining the person entitled to receive a certificate of title as tenant for life, merely because it is derived under a settlement which also creates by the same instrument either contingent or expectant interests in the property. And all those other interests must resolve themselves into estates in remainder, or into powers of sale, either direct or incidental to and in aid of charges of encumbrances. With regard to estates in remainder, these are quite as easily dealt with as an estate inherited or passing to a devisee. A tenancy in tail adds nothing to the difficulty in tracing the proper heir, and a strict settlement only prescribes a mode of inheritance or succession as easily traced as that of an ordinary fee. The settlement or will only strands in place of the law; nor does it necessarily render the inquiry any more complicated, but generally, on the contrary, simplifies it. So, with regard to powers and charges embodied in settlements, there is nothing which distinguishes them from every-day transactions for which provision is made, and for which
its adequacy is not in general questioned by the Act. All powers must be delegated to or vested in some named or ascertainable person. The only question that can arise, besides the ascertaining of the person and the authenticity of his signature, are the conditions (if any) under which the powers are delegated; but this is only the same difficulty, and is open to exactly the same solution as in the case of an ordinary mortgage or encumbrance. If the precaution of caveat be not resorted to, the condition on which any power is conferred must, for the purposes of title, be assumed to have arisen or been fulfilled, whenever the donee of the power chooses to exercise it.

"Powers are, indeed, in certain cases limited to special objects, such as a power of appointment among children or issue of a particular person. Here a somewhat different question presents itself, and it may not be possible to avoid the responsibility of ascertaining whether the appointee is within the limit of qualification before issuing to him a certificate of title. Even this, however, is nothing peculiar to settlements. If a testator devise his land to all his children, the issue of a certificate will involve the inquiry who such children are; and, when the applicants had proved their descent, it would further be requisite to ascertain that there were no other children. If a prior settlement had bestowed the land on such of the children of the same person as the testator should appoint it would only involve the easier inquiry whether the individual appointees were such children.

"From the above considerations, I conclude that the 'Torrens system' is not, as objected, in any special way inapplicable to settlements, trusts, or entails. If it only be once admitted that the system can adequately provide for the exigencies resulting from the ordinary legal succession of property, or the ordinary exercise of the powers in every-day mortgages or encumbrances, this must involve a virtual admission of its equal adequacy for all the purposes of settlements and trusts. These only differ from the other as a word of many syllables differs from a word of few syllables. They are resolved into the same elements, and only require to be separated to present the same degree of simplicity."

To recur, however, to the necessity of a judicial element in the administration of the Land Titles' Office, it should be remembered that in England, although there is not any formally established Land Titles' Court, the Registrar (Mr. Follett) is an eminent barrister, exercising powers above those of a mere Examiner. In Victoria, the two Lay Commissioners were abolished by an amending bill, in the first session after the passing of the original Act. The senior Examiner, being thereupon rendered sole Commissioner, and invested with some
additional powers of a judicial character, he is thus placed somewhat on the same footing as the Registrar at the head of the department under Lord Westbury’s Act.

By means of powers thus created, it may, perhaps, be possible to administer the system for some years longer, without initiating a formal Land Titles’ Court like that of Ireland.

But, hitherto, it is only in Ireland, that having regard to the preceding consideration, the new system of registration can be regarded as in complete operation. The Landed Estate Court of that country originally established in 1858, for merely disentangling titles or encumbered estates for the purposes of sale, has lately been supplemented by the Record of Titles’ Act, creating a system of transfer similar to that of our Act. The motive for instituting this Court was indeed exceptional, and might have been fully justified, having regard to the peculiar exigencies of Ireland, even without any regard to any novel theory of registration. When, however, the advantages of such a Court were proved by its results to exceed the most sanguine expectations, public opinion became greatly influenced in favour of the entire system of which this was only an introductory instalment. It became an obvious question, whether the simplicity of title once acquired by a judgment of The Landed Estates Court, should not be kept on foot by a permanent register on the same plan.

The existence of the Court afforded an excellent opportunity for placing the new register under its control.

An Act effecting this was accordingly passed in the year 1865. This was partly founded on the English Act of Lord Westbury, and partly on suggestions derived from Mr. Torrens, then residing in England. It was carried, in the face of considerable opposition, through the exertions of a powerful association, of which Mr. Dix Hutton, a Dublin barrister, was the secretary, and he was in frequent correspondence with my late colleague Mr. Dick and myself regarding its details during its progress through Parliament.

If this Act be properly carried out in Ireland, in conjunction with the Landed Estates Court, it will admit of a more perfect administration than any of the corresponding measures in England or Australia. If it fail, this can only be through professional influence, and the apathy of the public in permitting its operation. Mr. Dix Hutton complains of much obstruction from this source, both in his published reports and addresses, and in letters to myself.

There is yet another distinction between the Australian and Imperial Acts which demands observation.

The supervision of the department in England by a registrar of eminent legal attainments, and in Ireland by a Court of
Record already established, admitted, to a great extent, of the limitation of the Imperial Acts to general principles, leaving numerous subsidiary details to be embodied in rules and orders issued under judicial or ministerial authority, on merely laying the altered rules before Parliament pro forma, whenever experience may suggest.

It is very unfortunate that this separation between legislative and judicial elements has not been found practicable in regard to Mr. Torrens's Acts. The result has been to add greatly to the labour of revision. The details are thus not only rendered more prolix, but the necessity for completeness in each is more imperative in consequence of its inflexibility as a legislative enactment. To this very difficult task, I have, nevertheless, directed my earnest attention ever since I entered on office. Even as early as August, 1863 (seven months after the Act came into operation), I had prepared in conjunction with my late lamented colleague, a draft of numerous amendments which we deemed advisable. These were submitted to the Government of that day, but circumstances do not appear to have hitherto allowed of their being considered. In 1866 the New Irish Bill became law, and our correspondence with the secretary of the society formed for its promotion had so strongly impressed us with the importance of creating a Land Titles Court as an adjunct to the Property office that we resolved, even without any sanguine hope of our views being at once adopted, to submit a further draft or amendment embodying provisions for this purpose. Numerous further amendments were also introduced, partly from our own experience since submitting our former draft in 1863, and partly suggested by the actual amended legislation in Victoria during the same interval in reference to the corresponding Act of that colony. The whole Act was also recast, and its provisions analytically arranged. This latter draft was submitted with a letter to the Colonial Secretary dated 10th April, 1866, entering with rather more detail into the amendments proposed than would suit the object of the present paper. Most of them might be, however, classed under one or other of the following heads, with the enumeration of which I will close this paper:—

1. The separation of the Land Titles Department from that of the Registrar-General, whose other duties are quite distinct; and the recognition of the present Deputy Registrar-General (who is already solely charged, in point of fact, with the general conduct of the Ministerial business of the new system), as a separate officer, under the name of "Recorder of Titles." This designation, which is borne by the corresponding officer in Ireland and Tasmania, is convenient for the purpose of avoiding confusion between the new and old Registers, and the separation of duties will promote the efficiency of both departments.
2. The establishment of a Land Titles Court as nearly on the Irish model as local circumstances and a regard to economy will admit.

In the apprehension that expense might be an objection to this improvement, my late colleague joined me in offering to perform the judicial duties of such a Court so far as they could be linked with our present functions, even though for the present no additional emolument should be attached to the higher office. Although no such arrangements may now be possible it may be open for consideration how far the end in view may be partially attained by vesting some additional powers in the Senior Examiner as (under the name of Commissioner) is already done in Victoria.

3. The relief of transferees holding titles under the Act from claims to dower. The necessity of requiring evidence in every case to meet the exceptional contingency of a marriage before the year 1837 is a drag upon the whole system, not warranted by any imperative claim of justice, on the part of the very small and daily diminishing number of persons it affects. I entered into a correspondence with one of the Examiners in Victoria on this subject immediately after the passing of the Act, and an amendment in this particular was there introduced and passed, among others, as long since as the year 1863.

4. Caveats are made the subject of many important amendments.

5. Special Limitations—such as separate estates in married women, &c.—are facilitated by provisions rendering their creation by settlement or will more convenient and compatible with the principle of the system.

6. Trusts are relieved from the total and inconvenient prohibition, from all reference or allusion on the Register, adequate provision being at the same time made for excluding all risk of the injurious interference of notice with the claims of purchasers and others derived under the recorded title.

7. Securities are more fully provided for, embracing those operating by way of indemnity, in addition to those of mortgage and fixed pecuniary charges.

8. Certificate of Title.—The indefeasible title thereby conferred is more accurately defined.

9. Assurance Fund.—Amended rules are introduced in respect of the indemnity thereby afforded, augmenting the contribution in special cases, where the title although fairly admissible, is not absolutely perfect, and limiting or extinguishing the claim under given circumstances, in which justice appears to authorise or require such a course, and protect the fund or the revenue from an unfair measure of liability.

10. Some clauses of doubtful construction have been rendered clear by more definite provisions. When more than one inter-
pretation has been admissible, the Examiners have naturally leaned towards that which has been deemed most conducive to public convenience. It is not impossible that in so doing they may sometimes have taken a more liberal view, than the rigid letter of the law might be found to authorise, if disputed. Not only the possibility of such a dispute, by appeal to the Supreme Court, but that also of diversity of opinion arising between successive Examiners appointed to conduct the Act, and consequent alterations of practice at different periods, confusing to the public, equally render it desirable that all such questions should be set at rest.

With this observation I conclude. To enter more fully into the details of the amendments suggested would be beyond the scope of the present paper, which has already reached a length by no means contemplated in commencing it. My object has been to convey to any intelligent person interested in the subject, whether professional or lay, sufficient information to enable him to understand its general bearing and to appreciate its value, not in the light of a completed measure, but of a system which has so far vindicated by experience its capacity for usefulness, as to require and to deserve all possible exertion and aid towards rendering it more perfect.

Art. II.—Analytical Solution to Sir William Hamilton's Problem on the Inscription of closed N'gons in any Quadric, by Martin Gardiner, Esq., C. E., Member of the Mathematical Society of London.

[Read before the Society, June 2nd, 1869.]

To inscribe in any quadric a closed n'gon (or polygon of n sides) whose sides will pass in order through n given points in space.

Let $S = 0$ be the equation of the quadric in reference to four fixed planes; let $k_1k_2...k_k$ be any n'gon, open or closed, inscribed in $S$ whose sides $k_1k_2, k_2k_3, ..., k_k$ pass in order through the n given points whose co-ordinates are $a_1\beta_1\gamma_1\delta_1, a_2\beta_2\gamma_2\delta_2, ..., a_n\beta_n\gamma_n\delta_n$.

Now putting $S, S, ...$ for the values of the function $S$ in which the variable co-ordinates are replaced by those of the given...

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