

## QUIETING TITLES.

accepting a mortgage. Are the deeds and wills through which the title is traced, genuine instruments? or have any of them been forged or tampered with? Were they all duly executed? Have all the forms required by the Statute been observed in the registration of them? Were all the requirements of the Acts affecting married women complied with? Did every testator possess the requisite mental capacity at the time of his will? Was it read over to him? Did the witnesses subscribe their names in the presence of one another? Even in regard to these ordinary questions that occur on almost every title, examples of misinformation and misfortune have not been wanting.

But sometimes much more difficult questions than these have to be determined, as to the construction of wills. Occasionally difficulties of this class entirely escape attention when a Title is investigated, and at other times a wrong conclusion is come to in reference to them.

Then questions of identity and questions relating to possible claims for dower have sometimes been overlooked by former purchasers, and involve considerable perplexity in subsequent investigations.

Again, persons dealt with as legitimate, sometimes turn out not to have been legitimate; or a person who has conveyed as eldest son and heir under the old law, is subsequently ascertained not to have been eldest son and heir. So persons supposed to be all the children and co-heirs under the new law, may only be some of the children; persons may not be dead, who were supposed to be dead; or persons may not have been born at the dates supposed, and on which important rights depend; persons may have been aliens who were supposed to be British subjects, or may have been British subjects who were supposed to be aliens; and persons may have been absent from the country when the Statutes of Limitations were supposed to have commenced running against them, or may have been in the Province before the Statutes were supposed to have begun their operation in barring their rights.

There are even some causes of difficulty, delay and expense in the case of Canadian Titles, which do not exist to the same extent in England.

Thus we have not hitherto had any complete system for the registration of births, deaths and marriages, and the want of any has created much inconvenience.

Again, our population is less stationary than that of Great Britain, or of the old countries of Europe. A much smaller proportion of our people, than is the case in an old country, remain permanently in one place; and a much larger

proportion, after being concerned in the ownership of land, or being witnesses to transactions affecting the ownership, leave the part of the country where they were known at the time, and perhaps leave the country altogether. Native Canadians, or those who have lived for a time here, are to be found in British Columbia, Australia, New Zealand, and probably every state of the American Republic. The difficulty from this cause alone of tracing witnesses or former owners and of ascertaining and of proving the death of heirs and devisees, is sometimes found to be very serious.

Then again, Canadian Titles have, in many instances, to be traced through persons residing in Great Britain; through deeds and wills executed there; and heirs who were born there, and who married and died there.

So from time to time it happens that births, deaths and marriages which have taken place in the various State of the American Republic, or in the other British Provinces on this Continent, or in Australia, or in the countries of Continental Europe, form essential links in a Title. It is obvious that the difficulty of searching for such facts, and then of establishing them, must sometimes be very great, even when the events are comparatively recent; but when they occurred many years ago, the difficulty may amount to an impossibility. Every Title depending on such events, becomes less safe with every year that passes; and as the law stands now, no reasonable caution and no moderate expense can make such a Title entirely secure.

Again, in this country large blocks of farming land often depend on a single Title; or a farm lot is, in the formation of our cities, towns, and villages, divided into building lots; and a flaw in the Title of one of those who owned the property before the division of it, destroys the Title not of one person only or of one family only, but of many persons and many families.

It often happens too that the original Title is in such cases less carefully examined than if there had been no subdivision, and one person was buying all. Parties appear to think that a weak Title acquires strength by the number of persons who hold by it; or everybody assumes that his neighbour has examined the Title and found it correct, and he trusts to this supposed investigation in order to avoid the expense of an independent investigation of his own. Were there an easy method for obtaining an indefeasible Title, no one would think of sub-dividing his land without first obtaining a Certificate of Title.

Our Registry law has, beyond all controversy, been of immense advantage to the country; and