

otherwise; but, subject to the registration of any caution or inhibition, such owner may deal with the land or charge as if such description had not been inserted.

I take it that these provisions apply only to the Land Titles Act and are enacted in furtherance of the general policy of that act, namely:—that the transfer of land shall be rendered absolutely simple, and shall not be encumbered by anything that would have had the effect of encumbering it under the old system. I do not think the enactment in question can be urged as a sufficient reason for doing away with the obligation to make inquiry which was imposed by the words in question, under the old system.

No doubt on the one hand, it might be argued that by analogy, with the provision in the Land Titles Act, the Court would proceed on the same lines in the case of titles under the old system. On the other hand it might be argued with equal or perhaps greater force, that the Legislature enacted this provision in the case of the Land Titles Act exempting purchasers under that Act from making inquiry as to the trusts, knowing that if they did not do so, the obligation to make inquiry would rest upon the purchaser. In other words, it might, it seems to me, be very forcibly argued that the Legislature in passing the section to which you refer (95, 2) quite admitted that, except in the particular instance they were exempting, namely, a conveyance under The Land Titles Act, the description of the owner of the land under a conveyance as trustee, would undoubtedly impose upon any person dealing with such owner the duty of making inquiry as to the power of the owner in respect of the land, etc.

The point is undoubtedly one of great interest and also of very considerable importance both to the public and to the legal profession and I am much obliged to Mr. Whiting for drawing attention to this section."