The Monetary Times

AND TRADE REVIEW,

With which has been incorporated the "Intercolonial Journal of Commerce" of Montreal, the "Trade Review" of the same city (in 1870), and "The Toronto Journal of Commerce."

ISSUED EVERY FRIDAY MORNING.

SUBSCRIPTION—POSTAGE PREPAID.

Canadian Subscribers.....$2 a year.
British " .....10s. sterling a year.
American " .....$2.50 U.S. Currency
Single Copies .....10 Cents.

BOOK AND JOB PRINTING A SPECIALITY

Office—Nos. 64 & 66 Church St., Toronto, Ont.

EDWD. TROUT, MANAGER.

TORONTO, CAN. FRIDAY, MAY 4, 1883

MUTUAL INSURANCE OF LAND TITLES.

A ponderous bill of sixty-six pages, entitled "an Act for the declaration of titles to land and to facilitate its transfer in the territories of Canada.," comes from Ottawa bearing the name of Mr. McCarthy. It is based upon what is known as the Torrens Act, and its object is to give indefeasible titles to real estate brought under its operation. The bill proposes to establish, in the North-West Territories, a system of mutual assurance, under which every owner of land will contribute to a fund to pay damages to persons who may be injured by the declaration of indefeasible titles. The fund out of which it is proposed to pay such damages, is properly called an "assurance fund."

The North-West, where titles are not many, removes from the crown, and most of the land is still ungranted, offers a favorable field for this kind of experiment. But even there, the titles to all lands brought under the bill, and on which instruments have been registered, would have to be quieted. This would be done before the Registrar-General, an official who would require to be appointed in addition to the County registrars, who would retain their offices. From the decision of this functionary an appeal would lie. It is not proposed to make the system compulsory; and this liberty of action may finally tell in favor of the measure; but it is not probable that it will be passed without many amendments, and there can be no chance of its being passed this session. The bill makes the most sweeping changes in the law of real property, changes to which no government could consent without the closest scrutiny. The bill contemplates two different kinds of title, absolute titles and possessory titles. In the process of quieting titles, such evidence as is receivable in cases for quieting titles under the laws of Ontario, would be admitted. Every title would have to be quieted before a certificate of ownership could be issued; and though the cost might be less than it is in Ontario—say $200 for each parcel quieted—it would, where titles were at all complicated, be considerable. The Registrar-General or Examiner of Titles might, after examination, declare that in his opinion there is no defect whatever in a title, and issue his certificate accordingly. Where either of these functionaries may be in doubt, he may refer any question to the Supreme or Superior Courts, and the opinion of such court is to be conclusive unless the court permits an appeal. But why should the opinion of a single court be conclusive as to rights of property? It is notorious that the courts constantly give adverse decisions, and to take away the right of appeal, on questions of title, is a proceeding of doubtful equity.

The elaborate provisions of this bill show that there is no royal road to indefeasible titles, though mutual insurance against defective titles is possible; and if any number of persons desire to form such an association there is, perhaps, no reason why they should not be allowed to do so. The certificate of title would be in possession of the owner, and it must frequently be liable to be lost, destroyed or stolen. The bill contemplates cases of forgery of certificates and provides penalties therefor. There are, too, provisions against personation.

But when all is done that can be done, the certificate of title does not show necessarily what the title is. There may come decrees, orders or executions against the owner, after the certificate is granted. The reservations in the original grant from the Crown, the certificate will not show; of taxes be over due it will take no account; there may be rights of way over the land, or other easements, of which it says nothing; there may be leases regarding which it is silent. All these are left to be enquired into.

Any person claiming any interest in land may register a *caveat* which will operate to prevent a transfer of the land; and the registrar is to send notice of such *caveat*, through the post-office, to the person against whose title it has been lodged. Any sort of claim whatsoever thus registered, may prevent sales being made for a time. The words of the bill are: "Any person claiming to be interested under any will, or trust deed, or any instrument of transfer or transmission, or under any unregistered instrument, *or otherwise howsoever*, may lodge a *caveat* with the Registrar General or Registrar," etc. Proceedings upon the *caveat* must take place within a reasonable time, or application for its removal may be made to the court, or the caveator may withdraw the *caveat*.

In some particulars, the bill is a model of precision; in other it is extremely vague and loose. It defines with a precision, wanting to our Ontario statute, what shall constitute registration; and it provides that "the Registrar General shall not, neither shall the Registrar, nor any person acting under their authority, or under any general rule made in pursuance of this Act, be liable to any action or proceeding for or in respect of any act *bona fide* done or omitted to be done in the exercise of the powers given to them by this Act, or any order or general rule made in pursuance of this Act." But when the bill directs the Registrar to do any act, it often uses such terms as these: he "shall enter a memorandum thereof in the Register book;" without saying in what form the entry shall be made.

Considered as a Registration Act, the bill is much more cumbrous than the simple law of Ontario. The Registrar is vested with *quasi* judicial authority and a great deal of discretion. But the great point is that, by creating a system of mutual insurance, it provides for granting to owners of land indefeasible titles. To the insurance fund is to be paid a contribution of one quarter of one per cent from all land brought under the operation of the bill. In an old settlement, the cost of introducing this system would be serious. The value of the real estate in Toronto is sixty million of dollars; and one quarter of one per cent. on this value would be $150,000. Besides this, there would be the cost of quieting titles which would be several times as much. But even in old settlements, there may be people who would prefer to place their land under the proposed system. In the new settlements, the quieting of titles would not be difficult; and there the best field for the experiment is offered. The contribution to the insurance fund would not be in proportion to the difficulty of the title; the owner of a property with a short and simple title would have to pay as much as a man whose title might require to be quieted, even under the laws of Ontario. This is contrary to the equities of insurance; it is the same as if the old and the young equally should pay the same premium on an insurance on their lives. But this would not in itself be a serious objection. If this system of mutual insurance against defective titles be adopted in the North-West Territories, its operation will be watched with interest in other parts of the Dominion.

CORNERS AND FUTURES.

The committee of the Senate of the State of New York on "Corners," spends most of its censure on minor offenders. It is specially hard on the "bucket shops;" transactions just as bad which take place at the Exchanges, it has passed over with a light hand. The majority report finds that "puts and calls and bucket shop transactions are gambling transactions and should be treated accordingly." The opinion of the committee seems to be that the law against gambling is sufficient to meet these cases. This is distinctly said to be true of corners, which are declared to be injurious to the public welfare. Dealings in futures, where no delivery takes place, are pointed out as a subject of legislation; the committee suggests that a tax be "laid on every sale for future delivery, to be collected at the time of settlement, in all cases where an actual delivery does not take place." The suggestion is in accord with the old English law, which imposed heavy fines on non-delivery; for the proposed tax can only be regarded in the nature of a fine. The English law was passed before the conquest of Canada, and unless it has been abrogated by special local legislation, is now the law of Canada. But it is never invoked and is to all intents and purposes a dead letter. But old statutes, which have long lain dormant, are sometimes called into activity; and it is impossible to say what Mr. Fenton's ingenuity might not do, if called to bear in this direction.

Sales for future delivery, when entered into in good faith, are as legitimate as any other commercial transaction. On the part of purchasers, they often imply that kind of foresight which gives certainty to his operations. It may be very important to the cabinet maker to know at what price he can buy walnut lumber for delivery, some months hence; and it may be just as important to the owner of the standing trees to