

SUPPLEMENT
—OF—
THE RECORD AND GUIDE.

FEBRUARY 20, 1886—No. 936.

LAND TRANSFER REFORM.

ARGUMENT IN FAVOR OF THE BLOCK PLAN OF INDEXING LAND RECORDS IN THE CITY OF NEW YORK, PREPARED AND SUBMITTED TO THE LEGISLATURE BY DWIGHT H. OLMSTEAD, SUPPLEMENTARY TO HIS REPORT AS ONE OF THE COMMISSIONERS OF LAND TRANSFER.

TO THE LEGISLATURE OF THE STATE OF NEW YORK.

The undersigned respectfully represents that at the last session of the Legislature, as one of the Commissioners of Land Transfer, he presented to the Legislature his report as such Commissioner, together with a bill prepared by him to provide for indexing on the Block plan of local indexes the land records of the city of New York.

That such report owing to differences of opinion between the Commissioners upon the subject of Lot and Block indexes was not prepared until late in the session, and the undersigned having been able to give further deliberation to the subject now desires to present to the Legislature such other suggestions as have occurred to him.

The subject will be considered under the following heads:

- I. *The present law of this State relating to indexing land records, and the mischief resulting therefrom.*
- II. *Local Indexing.*
- III. *The plan of so-called Lot Indexing as proposed by the majority of the Commissioners of Land Transfer.*
- IV. *Objections to the proposed Plan of Lot Indexing.*
- V. *The Plan of Block Indexing as proposed by the undersigned.*
- VI. *Advantages of the proposed Plan of Block Indexing.*
- VII. *Other reform bills proposed by the Commissioners.*
- VIII. *Further reforms advised.*
- IX. *Beneficial effect of the contemplated reforms.*

I. THE PRESENT LAW OF THIS STATE RELATING TO INDEXING LAND RECORDS AND THE MISCHIEF RESULTING THEREFROM.

Under the present law by which deeds, mortgages and other instruments affecting land are recorded in the city of New York, as well as elsewhere in this State, the instruments recorded are indexed against the names of the parties to such instruments, and thus constructive notice is given of their contents.

Not less than 20,000 instruments are now recorded annually in the Register's office in said city, about one-half of which are deeds and the other half mortgages and other instruments. The instruments to be recorded in the Register's office within the next five years will number not less than 100,000; and this without taking into account the rapid growth of the city, or the great mass of instruments already recorded.

The index used for indexing the instruments forms no part of the record (*Bedford vs. Tupper*, 30 Hun. 174 and cases there cited); and the availability of the recording acts for the purpose for which they were designed, namely, to prevent fraudulent transfers and dealings, is practically of little moment, it being much more likely that an instrument will be improperly indexed, or not indexed at all, or that it will be overlooked in examining the index, than that a fraudulent transfer will be attempted.

Of course, the fact of a public record, however imperfect it may be, is a check upon fraudulent dealings; but, on the other hand, the imperfections of the present system, and the results to which it has led, more than counterbalanced its advantages, and require its speedy abandonment unless some change is made and a safer and more convenient plan adopted. Not only are the present nominal indexes inaccurate, but the names entered in them have accumulated to such an extent as to entirely defeat the purpose of the recording act, which was to establish a public record, that is, a record which can be examined by, and be advantageous to, the public, for the purpose for which it was established.

For the last quarter of a century, both in the cities of New York and Brooklyn, the land records in the Register's offices in those cities have been entirely under the control and at the mercy of the official searchers, who have adopted for their private use different methods of indexing from that provided by law, and, by the aid of their so-called private indexes, they have the entire monopoly of the business pretty much to the exclusion of the public.

In a report made by a Special Committee of the Association of the Bar of the City of New York in 1882, it was stated as follows: "Your committee are of the unanimous opinion that without the aid of the private indexes which are claimed and controlled as their private property by the searchers in the offices both of the County Clerk and Register of Deeds in this city, searches practically could not be made at the present time in those offices."

At least twice within the past twenty years the searchers in the New York Register's office have carried away from that office their private searches and indexes, and stopped further searching, and in each case they have compelled the Register to accede to their terms.

Searching in that office is now, and has been for many years past, wholly at their mercy.

Only very recently, the chief searcher in the office of the New York County Clerk removed his so-called private indexes, and completely stopped the business of searching in that office, until he was prevailed upon by the agreement of the city authorities to purchase his indexes for a large

sum, stated to be \$30,000, and by the offer of other pecuniary compensation to restore the indexes to the office and to continue the searching.

Besides, the researching of titles which this system compels imposes an inexcusable tax upon the property owners of the city. The searching which has once been done by a public official should inure to the benefit of all subsequent holders of the property, as is the case in Scotland.

The condition of the land records in New York City is so bad and unsafe as to have recently induced the formation of a Title Guaranty Company, which now insures titles in that city. It is understood that this company has been for some time past engaged at considerable expense in reindexing in local indexes, on the block plan, all the land records in the offices of the Register and County Clerk; and the company is, in fact, through its attorneys and agents, one of the most hostile and vigorous opponents to the passage by the Legislature of the bill for the block plan of indexing; since, should this plan come into use, considerable of the capital of the company will have been wasted, and its business would be substantially at an end. It is now proposed by the adoption of the block plan to accomplish for the benefit of the public what this company has been endeavoring to do for itself and the exclusive benefit of its stockholders.

In the city of Brooklyn a combination of all the searchers in the offices of the Register and County Clerk, or, as it is understood, a corporation organized under the general laws of this State has been formed, which owns all the private indexes of the members of the association, and also patented indexes which have been purchased; and for a considerable time past these persons have been engaged in preparing a block index of the entire city, and in reindexing in such indexes all previous land records; and the undersigned has been credibly informed that it is the intention of this association, whenever their business as official searchers is interfered with by the Legislature, to open an office across the street, opposite the Court House, take all their private indexes and records there, and thus control the entire business of searching titles in Kings County. And in case of the failure of the Legislature to enact a bill for block indexing the interests and aims of the Brooklyn company and the New York Title Company, as well as of a few conveyancers in those cities, would be identical.

Enough has been said to show the workings of the present system and its outcome. Such a state of things as exists in the large and important cities of New York and Brooklyn would be incredible were it not notorious.

Now comes the question, What is to be done about it? And this question is presented to the Legislature squarely this present session.

Can the Legislature reply that it will do nothing and give no relief because the few members of the Commission appointed by the Governor to consider and report upon this matter have failed to agree, or because the members of the Legislature from the two districts most interested fail to agree upon the proper bill to be enacted?

The solution of the difficulty does not interest the two principal cities of the State alone, but Albany, Utica, Syracuse, Rochester, Buffalo, and the other cities as well where the same condition of the records is fast coming to pass as exists in New York and Brooklyn.

Any plan of relief or of reform now determined on must be such that it can, if necessary or desirable, be applied to all the cities of the State.

For example, if by the adoption of any new plan of indexing the fundamental law of the State is to be made different in the city of New York from what it is throughout the rest of the State, then the Legislature must be prepared to extend the same form of relief to Brooklyn and the other cities; and in such case we will have one law and method of recording for the city of Brooklyn and another entirely different for the residue of the county of Kings, one for the city of Utica and another for the residue of the county of Oneida, and so on, with different offices and officials for the two methods in the cities and counties respectively to the great inconvenience and expense of the public.

Therefore it may be said respecting the matter under consideration, that the whole State is equally interested with the city of New York; and although the bills prepared by the Commissioners of Land Transfer upon the main subject of indexing relate only to the city of New York, it follows as a matter of course that only such a bill should be enacted for that city as would be proper and expedient to enact for Brooklyn and the other cities of the State.

Something has already been done towards remedying the evils complained of. The Chamber of Commerce, the West Side and other real estate associations, the Bar Association, the Real Estate Exchange and the Land Transfer Reform Association of the City of New York, have all denounced the present condition of things in that city.

In 1854, the Legislature passed an act for the appointment by the Governor of five Commissioners, to be called Commissioners of Land Transfer, whose duty it should be "to prepare and report to the Legislature a bill to facilitate and lessen the expense of the transfer of land and dealing therewith in certain cities of this State," and said Commissioners were permitted to confine the operation of the bill to be prepared by them to the city of New York. Upon the passage of the bill the Governor appointed five Commissioners, all lawyers, who took the subject into consideration. Owing to differences between the Commissioners respecting the reforms to be recommended, they did not report to the Legislature until nearly the close of the last session and too late for further action by the Legislature that session.

The Commissioners agreed at the outset upon three things: (1) That immediate reforms in indexing were necessary; (2) to confine the bills to be prepared by them to the city of New York, except as to the bill for short

forms which they recommended should be made applicable to the entire State; (3) that the records should be indexed under what are called local indexes.

As to the form of local indexes, which was deemed to be a vital matter, the Commissioners, early in their deliberations, disagreed. The majority decided to recommend indexing upon the single lot plan, while the undersigned advocated the block plan. The Commissioners were unable to come to an agreement, and the result was the presentation to the Legislature of a report and bill by the majority providing for a lot plan, and another report and bill by the undersigned providing for the block plan of indexing.

The arguments for and against the several methods are to be found in the respective reports to the Legislature of the Commissioners. They are both elaborate and together very fully present both sides of the question. That the Commissioners, who must have given much time and study to the subject should have differed upon what at first sight appears to be a somewhat trivial matter, and should have prepared such elaborate reports to sustain their respective views, is sufficient evidence not only of the difficulty, but of the importance of the subject.

It is indeed the main question upon which, in the judgment of the undersigned, turns the possibility of all subsequent reforms in the method of land transfer in this State. Can those whose interests are adverse to these reforms being carried out prevent or deflect them? This is now the substantial issue.

The subject when fully explained is not likely to be misunderstood even by those who are not lawyers, and there is scarcely a possibility that when the Legislature shall have fully considered the subject it will pass a bill for lot indexing, especially such a law as has been proposed or that the courts would permit such a law to go into operation if enacted.

The undersigned believes the arguments adduced by him in his report to be conclusive against lot indexing; but he proposes now to state in a concise form and more orderly way those and other objections which have occurred to him against the adoption of that method of indexing.

The public discussions of the majority of the Commissioners to uphold their proposed plan have only served to convince the undersigned of the extreme fallacy of their position, and to confirm him in his opinion that block indexes for indexing land records are the only form of local indexes suitable or even possible in this State.

II. LOCAL INDEXES.

A local index for public records in a land registry office is one in which the instruments recorded are grouped in the index under specified areas of land. Thus, if a single lot heads the index, all instruments which are filed or recorded affecting any portion of that lot must be indexed under it; or, if a city block be taken as the area of the index, all instruments in any way affecting such block must be indexed under that block. This, it will be observed, is different from indexing exclusively against the names of the grantors or grantees, as is done at present throughout the State. The object of local indexing is primarily to limit the area of search.

And since the principal use of a public land record is not to furnish "an easy and accurate method of finding the papers," as stated in the report of the majority of the Commissioners, but to give public notice of transactions, it is requisite in case where the instruments recorded are many, that notice of all papers affecting any parcel of land taken as the area of search shall be given by the index; and in order to accomplish this result every instrument affecting in any way such area must be indexed under it. Thus, if a deed affects lots No. 1 and No. 2, it must be indexed under both lot numbers; while, on the other hand, that indexing is faulty, unscientific and misleading which permits anything to be indexed against a lot number not affected.

This is plan if the local index is to serve the purpose of notice which, with the great and increasing number of our records, it must do if the doctrine of notice is to continue. If dealers in land are not by some proper system to be notified, then the recording acts may as well be repealed at once, and we be relegated to the English method of the retention and delivery of the title deeds. It is the indispensable condition of a local index that it shall give notice of all dealings, and that there shall be ranged under every diagram of a lot or parcel taken as the unit of the index whatever instruments affect the property included in the diagram.

Having made this obvious, we now pass to the consideration of the so-called plan of lot indexing as proposed by the majority of the Commissioners, and to a statement of some specific objections to that plan.

III. THE PLAN OF SO-CALLED LOT INDEXING AS PROPOSED BY THE MAJORITY OF THE COMMISSIONERS OF LAND TRANSFER.

It is now in order to show the theory upon which the bill for lot indexing with its singular provisions was drawn.

The bill provides that a Land Register's Index copied from the tax maps in the tax office of the city and changed once a year to conform to such maps shall be kept in the Register's office and shall furnish the diagrams of the lots which are to be used for local indexing, and that the lots as shown on said land map shall furnish the headings for the several lot indexes.

Now, it must be admitted that while the tax maps of the city are sufficiently accurate for the purpose of taxation and assessment, they are exceedingly inaccurate for the purpose of being used for lot indexing, especially for the purpose of giving notice under the recording act. The city blocks being bounded by streets and avenues, and being, so to speak, insular, are particularly adapted for the areas of indexes, because whenever any instrument affecting any single lot in a block is indexed under that block we are sure that the indexing is correct, and, inasmuch as the block numbers would be permanent, an instrument indexed on the block plan could not be indexed under the wrong block number without inexcusable neglect both on the part of the Register and the grantee.

But, inasmuch as the actual ownerships of the several lots does not coincide with the diagrams on the tax maps (or as it is never certain that they do), the person recording a deed or mortgage, if it be indexed under a diagram taken from the tax map, can be never sure that it is correctly indexed, or that the property intended to be conveyed does not infringe upon the

diagram of the adjoining lot; it may be by running to the centre of a party wall, or in some other way. The Register knows no more about the matter than the grantee, and even a survey is not conclusive or in any way authoritative on the subject. This was the first objection made by the undersigned to the plan of the majority of the Commissioners for lot indexing, according to the lots shown on the tax maps.

It was laid down by the undersigned as a general proposition, that in a community in which the common law modes of conveyancing have prevailed for a considerable period, the local indexing of land records by diagrams of single lots which are contiguous to other lots cannot be accomplished for the purpose of giving reliable notice of dealings without prior surveys and judicial determinations whereby actual ownerships are made conformable to such diagrams, as is customary in all systems of single lot indexing, such as the Torrens. The objection was at once admitted by the majority of the Commissioners to be valid, and two novel contrivances were inserted in their bill to meet such objection.

The first is the mandatory provision, requiring every grantee recording an instrument with the Register to record with it a separate statement (if the statement is not inserted in the instrument in chief), under seal, signed and acknowledged by him of what lot or lots on the Register's land map (being a copy of the tax map) such grantee claims that the instrument in chief affects; that is to say, a statement of what such grantee claims to take or own under or by virtue of such instrument, and the Register is directed to index accordingly against all the lots on the Register's land map affected by such claim. The following is the form prescribed by the bill for this notice of claim:

"This instrument is claimed to affect lots 6 (six) and 7 (seven) in block or plot 10 (ten) or block or plot 10 (ten) on the land register of the city of New York, and the indexing of this instrument is to be against those lots or that block or plot." (Section 6 of bill.)

The bill also provides that as to any land not claimed or indexed under such a notice as the foregoing, the effect is to be "that of an unrecorded deed." In other words, the notice of the record of the deed or mortgage is to be limited by the claim of ownership and the notice to be filed by the grantee, and the notice of the record is to run in all cases not against what the grantee actually takes or owns under or by virtue of his deed or mortgage, but only against what he claims to take or own thereunder pursuant to the statement so to be made and filed by him.

He may record the conveyance to him and have such recording operative in respect of the whole or any portion of the property conveyed to him as he chooses. The recording may constitute notice as to one-half of the property conveyed and not as to the other half, according as the grantee claims or fails to claim either by design or by mistake, such, for example, as by reference to the wrong lot number of his lot.

The unfairness and injustice of compelling a grantee to rely wholly upon a survey which might or might not be accurate being represented to the majority of the Commissioners, they then virtually abandoned the whole scheme of the proposed indexing by single lots with which they set out, by expressly providing in their bill that a purchaser or mortgagee might, either at the time of recording the instrument, or at any time thereafter, serve a notice on the Register directing him to index the instrument against "any adjoining lot or lots, plot or plots," and the Register is required to index accordingly. The original instrument is to be recorded with a notice to index if it can be produced, but if not the notice may be given according to a form prescribed by the bill, which is rather a formidable paper, and the Register is to index according to the direction contained in the notice.

Again, on representation being made to the majority of the Commissioners respecting the constant changes going on in the size and area of the city lots on the tax maps, especially by the erection of buildings usually with a much smaller frontage than twenty-five feet, which is the common size of vacant lots on the tax maps, the Commissioners still admitting the difficulties named, provided by their bill for the appointment of two permanent officials in the Register's office, one a lawyer to be called the "Superintendent of the Land Register of the City of New York" with a yearly salary of from seven to ten thousand dollars, and the other a city surveyor, to be called "Deputy Superintendent of the Land Register" with a yearly salary of from five to seven thousand dollars; the duty of these expert officials being to prepare and keep in order the maps and indexes to be used in the Register's office. A limited number of special clerks are also to be appointed.

The foregoing three provisions, namely, for (1) the notice of claim, (2) the notice to index, and (3) the appointment of experts, were all rendered necessary by the difficulties legal and mechanical attending lot indexing, as suggested by the undersigned at the various meetings of the Commissioners. At the outset no trouble as to indexing by single lots appeared to the majority of the Commissioners; everything was to be sunny; all that was to be done was to make a diagram of a lot and enter all instruments under it. But we have seen the difficulties and how it is proposed to obviate them. By much the larger portion of the majority bill is devoted to wrestling with the difficulties of lot indexing and the endeavor to surmount them, but this latter has not been accomplished.

The effect of the logic of the bill upon an unprejudiced mind is an absolute demonstration of the futility of attempting lot indexing in the city of New York and the other cities in this State regardless of mechanical impediments, which alone would prevent it.

Some specific objections to the plan of lot indexing as proposed by the majority of the Commissioners will now be stated.

IV. OBJECTIONS TO THE PROPOSED PLAN OF LOT INDEXING.

First Objection.

The first objection to the plan of lot indexing of the majority of the Commissioners of Land Transfer is, that it is wrong in principle, for the reason that the immediate grantee should not be permitted to interfere with or to limit the effect of the record of his conveyance; such record being intended to be a public record for the benefit and protection of all subsequent dealers in the property as well as of himself.

It is with this view and for this reason that the best authorities of modern times upon the subject of land transfer go so far as to say that as a matter of public policy, the registration of land transfers should in all cases be made compulsory. And they recommend it to be accomplished by the adoption of the rule that there shall be no actual transfer except on the registry books as ordinarily done in the case of registered personal securities.

In an exhaustive report of a Select Committee on Land Titles and Transfers of the British House of Commons made in 1879 (which held its sittings for two years), the committee say :

"Your committee believe it to be essential to the success of every system of registration that, in the absence of actual fraud on the part of the party registering, every instrument affecting land should, as is the case in Scotland, rank according to the date of its entry on the registry. The indirect effect of such an enactment would be to make the registration of all such instruments practically compulsory," and they unanimously recommend "the enactment that (except in cases of actual fraud on the part of the party registering) every instrument shall rank in priority according to the date of its registration."

The object being that in order to prevent fraud, the transfer of the whole title and the registration of the whole title for the purpose of public notice shall be simultaneous. Any other rule than that of notification of the whole transaction at the time of the registration defeats the object of registration or recording. The idea that the notice of the recording shall run only against what a grantee claims or as he directs is fallacious. If he makes a mistake and does not include enough in his claim, either as to the area of land conveyed or the title conveyed, the object of recording is not accomplished; and if he does include sufficient in his claim, such claim is unnecessary as the record shows for itself.

This right or option which is given by the bill of the majority, to the immediate grantee or any subsequent grantee, to limit the effect of the original record as a public notice of the whole conveyance, shows an entire misapprehension of the first principles of recording land records, and even of the theory of the method now in use.

The proper title for this bill of the majority would be "An Act to provide for partially recording deeds and other instruments relating to land," since that is what it is.

Second Objection.

If the lot plan as proposed is carried out it will prevent the adoption hereafter in this State of the very important principle of the registration of titles, which is, that public notice of the whole record shall be given simultaneously with the actual transfer, and which must therefore be made on the books. If the notice of the record is to be limited in any way it defeats that reform which is by far the most important of all the reforms connected with the transfer of land. The use of lot indexes under the provisions of the bill, therefore, will prevent the transfer of land like stocks and other registered personal securities. For it is the essential element of a stock transfer that the whole transaction shall be made public for the purpose of notice contemporaneously with the transaction itself.

To permit anyone to limit the effect of such notice either in land or stock transfers, or to say that the notice of the record shall not apply to any portion of the property intended to be transferred is destructive of the principle.

Third Objection.

The lot system requires a change in the fundamental law of the State in the cities where such indexes are to be used.

As the law now stands throughout the State the record runs against whatever is contained in the deed of transfer both as to the title and the area of property conveyed, but the lot plan as proposed requires the record to run against only the property covered by the notice of claim.

This makes one law for the cities where the lot index may be used and another law for the rest of the State. If the index is to be used in other cities than New York, we will have one law for the city of Brooklyn and another for the rest of the county of Kings, one law for Utica and another for the rest of the county of Oneida, etc.

It will also require different staffs of officials, different sets of books, and different modes of procedure for the cities than for the residue of the counties in which the cities are located at great inconvenience and expense.

Nothing of this kind would occur under the block plan.

Fourth Objection.

From the nature of the case it is impossible to introduce lot indexing in this State; and the bill of the majority of the Commissioners does not in fact provide for lot indexing.

The reason why single lot indexing is impossible in this State is, that under the common law modes of conveyancing, which have always prevailed, it is never certain (and never can be certain except by a judicial decree) that the actual ownership of lots corresponds precisely with diagrams of such lots, no matter how carefully they may be surveyed. A survey is only evidence on the subject and not conclusive.

The city maps, while sufficiently accurate for the purpose of taxation, are notoriously inaccurate for the purpose of notice under the recording acts. This is admitted by the majority of the Commissioners, and their bill is framed expressly to meet this difficulty. They have inserted in their bill the two singular provisions before mentioned for that purpose.

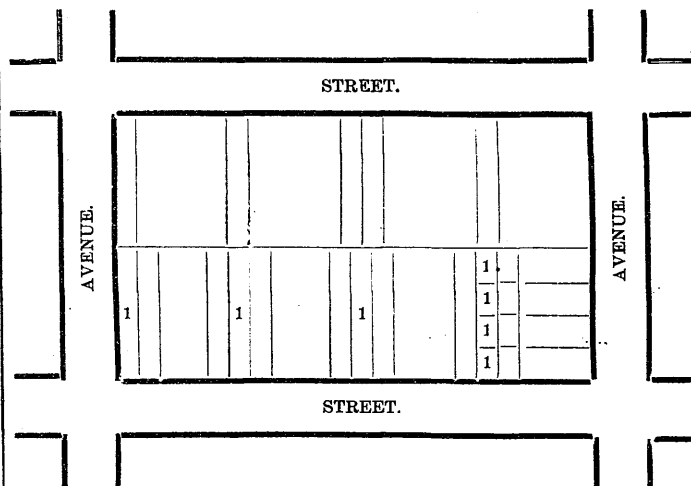
The first is that when a grantee records his deed or mortgage he shall file and record with it a separate statement (if it is not included in the instrument in chief), signed, sealed and acknowledged by him, of what property he claims to take under the instrument and that as to all property not included in such statement of claim the effect is to be that "of an unrecorded deed." The second provision is that the grantee may also, at the time of recording his deed, or at any time afterwards for greater safety, direct the Register to index the deed against any adjoining lots. This is an admission that the single lot index cannot be used with safety to give notice under the recording acts.

The right which is given to a grantee to index against all adjoining lots being for his benefit, as well as necessary for his protection, he will of course avail himself of it.

And so in all cases each deed will be indexed not only against the lot supposed to be conveyed, but against all adjoining lots as well; that is to say, against not less than four lots in all in case of inside lots, and not less than three lots in all in case of corner lots, but always against more than a single lot.

It is substantially a block index without the obvious and safe form for such index, namely, the entry under the block of each instrument in the order in which it is presented for record. Another peculiarity of the majority bill is that with the right given to a grantee to index his deed of conveyance against all adjoining lots the provision for the mandatory notice of claim is useless. Both provisions are intended wholly for the benefit of the grantee, and naturally he will avail himself of the one which protects him best, which is the notice to the Register to index against the adjoining property. It is impossible to understand why both provisions were inserted in the bill.

The following diagram will show the method of indexing under the lot plan. In each case the lot supposed to be conveyed is represented by No. 1, and the diagram shows what lots would be indexed against,



Thus the left hand corner lot No. 1 will be indexed against itself and two adjacent lots, three in all; the inside lots No. 1 will be indexed in all against not less than four lots and often five lots. If two houses are built across the rear of avenue lots, as shown on the diagram, the lot No. 1 must be indexed against one inside lot adjoining it on the left, one lot in the rear and four fractions of four avenue lots adjoining it on the right.

Fifth Objection.

The bill for lot indexing is inequitable and is probably unconstitutional, in that it permits an owner to be deprived of his property without compensation. A law compelling a purchaser to survey his property for his protection and then providing that he shall run the risk of losing it unless the survey be accurate is a very unjust law to say the least. Every grantee is in the position of Shylock. He is to claim what he owns under his deed, but no more. If he claims less he loses what he does not claim; if he claims more he is confronted by the majesty of the law for slandering his neighbor's title, and mulcted in damages and costs.

This bill bears no relation to our present recording acts. Under them a grantee may or not record his deed as he chooses; but under this bill he has no choice. He is compelled to file his claim, but if he makes a mistake as to the number of his lot or its area, no matter how careful he may be, he runs the risk of losing his property.

Sixth Objection.

The filing of the prescribed notices of claim against lots not owned by the persons filing them would create clouds upon the titles to the lots which would be removable by a Court of Equity.

But whether a court would or would not interfere is immaterial, inasmuch as the disadvantage of such claims against titles is obvious. What owner of land in this State is there who would wish his property to be even presumptively affected by such notices? No notice should be filed against any lot which does not in reality affect it. Any other rule would lead to inextricable confusion and difficulty. If the index is to be a lot index, then let us accept the Torren's system in full and provide courts and the necessary machinery to establish titles according to diagrams; and then let it be declared to be a punishable offence, as it is now, for a person to file any notice to affect injuriously the title to any lot of land which does not belong to him and on which he has no claim.

Seventh Objection.

It is a serious objection to the plan of lot indexing that, under it, dealers in real estate must on taking title either by deed or mortgage protect themselves by surveys at great expense and risk.

With the large number of such instruments recorded annually in the city of New York this is a strong bid for the support and approval of the lot system by the surveyors of the city.

Eighth Objection.

The lot plan requires experts to understand and keep the indexes in order and such indexes cannot be made use of by the public, but only by conveyancers, official searchers and persons familiar with them.

If we are to adopt local indexes at all it must be in the direction of a simple and not of a complex method. This latter is what we are now trying to escape. As time progresses the lot system, instead of growing more

simple, would become more complicated, and it would finally gravitate into the block plan.

This is what the Select Committee of the British House of Commons above mentioned say on this subject: "It is admitted on all hands that a land index, if it is to be really useful, should be local as well as nominal, that is it should refer to property as well as to persons. * * * In the opinion of your committee, a really good index is the first essential to the success of every system of land registration. Such an index ought to be at once so simple that anyone consulting it might at once be referred to every instrument affecting the property in which he is interested, and so accurate and complete that any person exercising ordinary care and endowed with ordinary intelligence might feel sure that no information to which he ought to have had access had escaped him."

Ninth Objection.

The many entries and cross entries which will be required to be made in the indexes under the lot plan.

It is to be presumed that every grantee will protect himself by notice to the Register to index against all adjoining lots and thus, instead of 64 entries for the conveyances for a block under the block plan, we will have under the lot plan at least 252 different entries, and for the 3,000 blocks of the city at least 756,000 entries in case a deed is made for each lot.

Tenth Objection.

The legal complications which will arise under the operation of the lot plan.

There will be questions of priority of notice and of liens, of the claims of adjoining owners, of vested interests, of the effect of a partial record, and many others too numerous to mention. General laws which have been established for a long period cannot be unsettled in the manner proposed without long and expensive litigations to the great disadvantage of the people of the State.

Eleventh Objection.

The impossibility in examining titles, of comparing the notices to be filed with the constantly changing areas and numbers of the lots on the tax map.

The bill provides that the maps in the Register's office shall be changed on or as of September 1st of each year to correspond with the tax maps. There are as before mentioned, about 20,000 deeds and mortgages recorded yearly in the city of New York. This means the filing of that number of notices of claim, without regard to the notices to index. These notices must refer to the maps and to the lot numbers on the maps. Now, even if the maps are to be changed only once a year, how is it possible to examine titles under such a system, the effect of the recording of which titles is to depend upon accurate or inaccurate claims and notices filed through a series of years? Of course it is impossible.

Twelfth Objection.

That entries of notices are allowed to be made on the local indexes against lots not affected by such notices.

As before remarked, in local indexing no entry should be made under any plot taken for the area of the index which does not in some way affect such plot.

This is a principle of local indexing which is violated in the plan of lot indexing proposed, by permitting, indeed making it indispensable that notices shall be filed against lots not affected by such notices. Such a method will necessarily create great confusion and trouble in examining the indexes. Does any one suppose that any person, except a lawyer or one skilled in the bookkeeping, so to speak, of such indexes, can make any use of them?

The bill contains no provision for showing under the index of a lot whether it is indexed under any other lot, nor whether the notices indexed under it are intended to refer to actual transactions affecting it, or only precautionary notices filed in respect of other lots. Indeed, any statement of this latter kind would be in derogation of the notice.

Thirteenth Objection.

The lot system is unsafe for notifying dealers.

The necessity of experts to manage the indexes is sufficient evidence of this. If the indexes cannot be taken care of and the entries made therein by the Registers and County Clerks who may be elected for the respective counties throughout the State it is pretty certain that such indexes are not convenient, safe, or reliable for use by the general public.

The style of index which the public want and can make use of, without the intervention of conveyancers and experts, is the one which should be given to them by the Legislature.

Fourteenth Objection.

The unavoidable accumulation of instruments and notices in the register's offices under the lot plan.

This is the great objection to the Torren's Act, and it was only got rid of by the guarantee of each transfer by the government and the adoption of the theory of the surrender of the title to the government on each transfer and the issue of a new title issued by the government to the new owner; and thus was obviated the accumulation of papers which otherwise would have been inevitable under the lot plan without the guarantee and an insurmountable objection to its introduction. The governmental guarantee is indispensable to the lot plan. We are endeavoring to get rid of the accumulation of real estate records in the Register's offices, and this majority bill is a step in the wrong direction. It is useless to adopt short forms of deeds, if other instruments are to be multiplied.

Fifteenth Objection.

That the lot plan takes the arbitrary and variable areas of city lots for the indexes instead of the block, which is a well-known unit.

Lots in the city of New York, especially in the up-town wards, after being improved are usually less than twenty-five feet in width; the width and

area of the lots being exceedingly variable. If building in the western and northern portions of the city continues with the same rapidity as at present, the business of taking care of lot indexes on the plan projected would be enormous, and indeed impossible. It was early predicted that the present recording system would at last break down of its own weight. The same prediction may be made respecting the method of lot indexing, should it ever be adopted.

Sixteenth Objection.

The great number of volumes of indexes required for lot indexes.

At least 1,280 volumes of indexes of 250 pages each will be required at the outset, while in the block plan only 192 volumes of the same size will be necessary.

In the city of New York there are at present about 3,000 blocks of land and about 160,000 city lots separately taxed. Not only is the great number of indexes required a very serious objection to the lot plan, but they will accumulate much faster than those prepared on the block plan, and their preparation and use will be attended with much greater expense and trouble.

Seventeenth Objection.

An erroneous notice of claim cannot be rectified.

Under the provisions of the bill for lot indexing, a deed is to be deemed recorded only as to such part of the property conveyed by it, as is embraced in the notice of claim; but as to the residue of the property, the effect is to be "that of an unrecorded deed." Apart from the inconvenience and absurdity of such an hermaphrodite mode of recording, as to the portion of the land omitted from the notice, it will be impossible to file a subsequent notice so as to cover the hiatus. If the first taker, either designedly or by mistake of the lot numbers or otherwise, fails to give the proper notice he and all owners who come after him lose the benefit of the record to that extent up to the time when a new and correct notice is filed.

Under the existing law search can be made against a record down to the time of the next valid record; but the required notice of claim is personal, and the notice of the recording depends upon it, and not upon the record itself.

Eighteenth Objection.

Under the lot plan all searches, whether for transfers or liens, must be made with reference both to the notices of claim as filed and to the deeds as recorded; because, whether a deed is recorded or not and to what extent depends upon what the notice of claim covers, and not upon the record of the deed. If the notice includes only a part of the property contained in the deed through a mistake in the lot numbers or otherwise, then the deed is not recorded as to such part. This makes requisite a careful comparison of the notices with the deeds, as well as with the numbers and areas of the lots shown on the maps on the examination of titles, and would render the examination of titles very complex. If the notices are to be substituted for the recording of the deeds, they must necessarily sustain an important relation to the validity of the titles.

Nineteenth Objection.

The land map to be kept in the Register's office cannot show all the changes on the tax map as required by the bill for lot indexing.

The provision of the bill is that the said map shall conform to the changes "made as of and on or before the first day of September in each year" and "shall embrace all such changes in the tax maps made during the twelve months ending on the first day of June next preceding such first day of September." (Sec. 2 of bill.)

This is mechanically impossible, and at any rate is of no value unless the date of every change also appears. No record can be made of such changes and their dates as would enable titles depending upon them and upon the notices to be filed to be intelligently or safely examined.

Twentieth Objection.

The presumption would arise that even precautionary notices affected the titles of the lots against which they were indexed.

This, if not a legal, would be a moral presumption, which would interfere seriously with the values of clear and unincumbered titles, and probably in many cases judicial determinations would be required to remove such presumptions, and titles could not be passed until such determinations were had. But, in any event, a law producing such results would be detrimental to the value of real estate in the city of New York or elsewhere, where it should be put in operation. If we are to adopt any improved form of land transfer, we wish by it to enhance the value of land and not to depreciate it.

Twenty-first Objection.

The areas of single city lots are too small for a local index.

The only use of a local index being to limit the area of search, such area may be too small as well as too large. The majority of the Commissioners seem to have entirely misapprehended the purpose of a local index. A single lot system is never necessary or desirable except under the guarantee system; and even then, while indispensable, it is not desirable. Too small an area is a disadvantage; requiring too many instruments, too many entries and too much work in detail. Were not our city blocks bounded by streets, and for that special reason excellent for the purpose, a larger area than a city block would be preferable. If, for instance, four of our present city blocks were comprised in a single block bounded by streets with a single block number, it would furnish a better local index than the block of the present size. The idea that single lots would be better areas for indexes than blocks is not worthy of consideration to those who properly understand the purpose of a local index. The ideal system is not that of a single lot area for the index, but of such an area as is suitable and convenient for the purpose intended.

Twenty-second Objection.

For the proper working of the lot plan as proposed the register must be a judicial officer.

The following testimony of Mr. Joshua Williams upon that point before the British Commission above referred to illustrates this objection:

"Q. I understand you to say that you would not correct the map itself?
A. What I mean is this: here is a parcel of land, number 200, and a man sells a quarter of it; all I would enter upon the register would be 'part of 200.' I would not make him specify what part and I would not have the map altered so as to show the exact portion that he conveys, because if you once begin to alter the map, every day a deed is brought in to you conveying only a portion of one of the numbers, you will get a book. The fact is that then the office ceases to be ministerial. In my mind the great principle is this; let the office be ministerial purely and not judicial. If the office is to be judicial you must make it an efficient office, and you will never get an efficient judicial office unless you have a very large number of thoroughly educated men employed."

Twenty-third Objection.

Before a system of lot indexing could be introduced into the city of New York, at least 160,000 titles of lots would require to be examined by a court to be constituted for the purpose. For it cannot be supposed that the State will guarantee titles without preliminary examinations, even were it otherwise desirable. Therefore that method cannot be used here.

Many other objections to lot indexing can be stated, but the foregoing are sufficient. Not a single argument of any sort worthy of consideration can be or has been adduced in favor of the plan of single lot indexing in this State. It is intrinsically wholly and irremediably bad.

A correct decision upon this subject by the Legislature is of the utmost importance to the people of this State, especially to the cities of New York and Brooklyn, and a mistake in the direction of lot indexing will be greatly detrimental to their future prosperity and to the value of real estate in those cities.

V. THE PLAN OF BLOCK INDEXING AS PROPOSED BY THE UNDERSIGNED.

Reference to the report of the undersigned as one of the Commissioners of Land Transfer and to the bill prepared by him and introduced into the Legislature the present session, entitled, "An Act to establish the use of local indexes for public records relating to land in the city of New York," and especially to the forms of the local block indexes accompanying the bill, to which particular attention is called, will fully inform the Legislature as to the mode of indexing proposed by him.

VI. ADVANTAGES OF THE PROPOSED PLAN OF BLOCK INDEXING.

1. No change is required by the plan, or is incorporated in the bill for block indexing, in the general laws of the State, except the single provision to make the index a part of the record whenever the local index is used.

2. Each city block, being practically an island, by the use of the block as the area of the index, all the difficulties and dangers of the lot plan, legal and otherwise, are wholly avoided; it is as if a sponge were wiped across the whole of the objections against the lot plan.

3. Block numbers are permanent for all time, while lot numbers are not.

4. The areas of the blocks are permanent, while the lot areas are variable.

5. The entry of instruments relating to any particular parcel of land in chronological order assists in the convenient and safe use of the block indexes. Some inconvenience must attend the use of any index; but with a block index the inconvenience is reduced to a minimum.

6. The block indexes as proposed, are of simple form, easily understood by Registers, County Clerks and the public, and can be used in any city without confusion to the other records. They are inexpensive to make, convenient to use and conform to the ordinary methods of conveyancing in this State.

7. Block indexes will be absolutely safe for the purpose required—that is, of giving public notice of transactions; a mistake in indexing being impossible without the grossest carelessness on the part both of the Register and the person offering the instrument for record.

8. Under the block plan only one entry is made on each transfer; under the lot plan several entries are made on each transfer. This great amount of indexing is entirely unnecessary.

9. The argument of simplicity is wholly in favor of the block plan. Even were the lot plan feasible, it would not be as convenient as the block plan. Moreover, under the block plan, as proposed, dealers can by entering the numbers of the lots on the index secure all the advantages possible of a lot index.

10. If we desire to approach lot indexing, the use of block indexes in the manner suggested is the best way to accomplish it. To begin with a lot index is to begin at the wrong end.

11. If the block plan is adopted, all former deeds and mortgages can be reindexed on that plan; and we shall thus have an uniform system for all papers in the Register's office, both those previously and those hereafter recorded; but under the lot plan this is not possible.

12. In the city of New York, as before stated, are about 3,000 city blocks. At the rate of 15,000 deeds recorded each year, this would average five deeds to each block yearly. And with twenty entries on each page of the local index a page would last for four years, and eight pages (the minimum number provided for by the bill) for thirty-two years. After that the lexicographical indexes will answer for all purposes of reference, and a short statute of limitations may also be passed in favor of all possessory titles on the index.

13. The block indexes will be few in number for the city of New York, as compared with the lot indexes. Probably ten times as many indexes of equal size will be required on the lot as on the block plan; and the expense of preparing block indexes will be much less than lot indexes, and the maps showing the block numbers would also be inexpensive.

14. By the use of the block indexes as proposed, liens are kept separate from the chain of title, and the lien indexes are so arranged as to provide for the ultimate filing of all liens on land in the city of New York in the Register's office, which should be immediately done.

15. Both the index of transfers and the index of liens are distributed at

glance, and can be used by the Registers and examined by the public intelligently.

16. A Register or County Clerk in using the block indexes remains purely a ministerial officer.

17. Lot indexing requires expensive and accurate surveys to be made by purchasers and mortgagees on each transfer, while the block plan does not require any survey.

18. The form of the local index of transfers provides for certificates of search, which is adopted from the Scotch plan; and this to prevent the continual researching of the records. The plan of having the searches inure to the benefit of subsequent owners is also copied from the Scotch law. Under the latter law the certificate of search is presumptive evidence of title.

19. The advocates of the lot plan claim that such plan does away with searching, but this is an error; for the searching of local lot indexes will become in a brief period more elaborate, difficult and expensive than the present method.

20. The statement which has been made that the various entries in the block indexes would be made in a confused manner is not correct, as anyone can see by inspecting them. The instruments are to be entered in the block index in the order in which they are recorded; and under the system proposed the deduction of the title to any parcel in the block for a century can be traced in a few moments. A mere inspection of the certificates of search will give the chain of title complete, as shown on the index.

21. Finally, all needed reforms in aid of the index can be grafted on a good system of block indexing, but on the lot system they cannot.

VII. OTHER REFORM BILLS PROPOSED BY THE COMMISSIONERS OF LAND TRANSFER.

1. The bill for short forms should be passed at once. The undersigned is of the opinion that it would be better to retain the provision for the short forms for leases as it was in the bill as originally drawn by him. But the most material part of the bill is that relating to short forms of deeds and mortgages.

2. None of the other bills of the Commissioners, in the opinion of the undersigned, should be considered until the method of indexing to be adopted be settled.

3. In the judgment of the undersigned the cause of land transfer reform will not be promoted by a continuance of the recent Commission.

4. In the bill presented to the Legislature at its last session, by the undersigned, for block indexing in New York city it was provided that the new indexes should be prepared under the direction of the Mayor and Corporation Counsel. In the amended bill introduced this session it is provided that two Commissioners shall be appointed by the Governor, who, together with the Corporation Counsel, shall form a board to see to the printing of the new indexes, and also to reindex the old records, that being deemed advisable; besides the term of office of the present Mayor expires this fall. This board is also charged with the duty of preparing for the action of the Legislature such further bills as may be thought desirable.

5. The local indexes prepared by the undersigned were copyrighted by him in order to prevent their unauthorized alteration and use. At the time of the introduction of his bill into the Legislature he delivered to the Judiciary Committee of the Assembly a license to the people of this State forever to use the indexes and all improvements thereof free of any charge or royalty, and he will consent to such alterations and amendments of them as the Legislature may choose to make.

VIII. FURTHER REFORMS ADVISED.

After the indexes for block indexing are put in operation and found to work satisfactorily, their use should be extended to Brooklyn, and such other cities of the State as may desire them. This should be followed by the careful consideration of such other reforms as are referred to in the report of the undersigned.

One of the first bills to be passed should be one requiring all specific liens on land in the city of New York to be filed in the Register's office and indexed in the local index of liens and the general lien of judgments should be abolished, as has already been done in England.

IX. BENEFICIAL EFFECT OF THE CONTEMPLATED REFORMS.

1. Greater safety to titles to land.
2. The avoidance of researching.
3. Less use than at present for the services of conveyancers and professional searchers in examining and passing titles.
4. The cheapness, certainty and quickness of transfers.
5. The capitalization of land and its enhanced value, especially in the cities of the State.

DWIGHT H. OLMSTEAD.

Dated, New York, February 4, 1886.

BILL FOR BLOCK INDEXING PREPARED BY MR. OLMSTEAD.

STATE OF NEW YORK.

No. 11.

IN ASSEMBLY,

JANUARY 13, 1886.

Introduced by Mr. VAN ALLEN—read twice and referred to the Committee on the Judiciary—reported from said committee for the consideration of the House and committed to the Committee of the Whole—ordered, when printed, to be recommitted to the Committee on the Judiciary.

AN ACT TO ESTABLISH THE USE OF LOCAL INDEXES FOR PUBLIC RECORDS RELATING TO LAND IN THE CITY OF NEW YORK.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Governor is hereby authorized, within sixty days after the passage of this act, to appoint two Commissioners, who shall be counselors at law of this State, having practiced (at least ten years in the city of

New York, who, and their successors, together with the Corporation Counsel of said city for the time being, shall constitute a board to be known as the Board of Commissioners of Land Records in the city of New York, whose powers and duties shall be as prescribed by this act.

§ 2. The said Board of Commissioners shall continue in office for three years after the time of their appointment, and for such additional time as the Governor may, from time to time, by his order, in writing, filed in the office of the Secretary of State, direct and appoint.

§ 3. In case of the death, resignation, or refusal to serve of any Commissioner appointed by the Governor under this act, the Governor shall appoint another Commissioner in his stead, who shall have the same powers and compensation during his term of office as the other Commissioners so appointed.

§ 4. The acceptance or resignation of any Commissioner so appointed may be signified by his filing his acceptance or resignation, in writing, in the office of the Secretary of State.

§ 5. The said Commissioners, in the performance of their duties, shall have free access to all public records and papers in this State, and be permitted to examine and copy the same free of charge.

§ 6. The said Commissioners so to be appointed by the Governor shall each receive for his compensation a salary at the rate of not less than seven thousand dollars and not exceeding ten thousand dollars per year, to be determined within said limits by the Board of Estimate and Apportionment of said city, and to be provided for and paid by the city of New York in the same manner as the fixed salaries of the officers of said city are provided for and paid.

§ 7. It shall be the duty of said Board of Commissioners, in addition to the other duties devolving upon them under this act, to prepare and report to the Legislature, from time to time, such bill or bills as in their judgment will further carry out the purpose and intent of this act.

§ 8. The said Commissioners are hereby required and directed, immediately upon entering upon their duties, to cause to be prepared, under their direction, by competent surveyors and draughtsmen, a map or plan of said city, on which map shall be shown and delineated all the streets, avenues, roads, boulevards and parkways of said city, and also all blocks or parcels of land bounded by said streets, avenues, roads, boulevards and parkways.

§ 9. The said Commissioners shall also cause the said blocks or parcels of land shown on said map of said city to be numbered thereon from number one consecutively upwards, for as many blocks or parcels of land bounded by streets, avenues, roads, boulevards and parkways as shall appear on said map, provided, however, that in cases of small blocks or parcels, more than one such block or parcel of land may be included in a single block number, whenever in the judgment of said Commissioners the same is advisable; but they may cause the parcels of land in said city lying north and east of the Harlem River, including the Twenty-third and Twenty-fourth Wards of said city, to be divided and numbered or designated on said map in such way as they may think best in order to carry out the general intent of this act.

§ 10. The said Commissioners shall also cause said map of said city to be subdivided into convenient land sections for the use to which said map is to be put as by this act provided, and shall cause said sections to be numbered on said map from number one consecutively upwards, for as many sections as shall appear on said map, and shall cause the division lines of said several sections to be exhibited on said map. The numbers of said sections and blocks shall commence at the southerly part of said city and shall thence be continued northerly as near as may be.

§ 11. Four originals of said map shall be made, and when completed said originals shall be marked as the official land map of said city, and shall be certified as such by the said Commissioners, and one original thereof shall be filed in each of the offices of the Register of the city and county of New York, and of the County Clerk of said city and county, and of the Receiver of Taxes in said city, and of the Comptroller of said city, and upon said maps being so certified and filed they shall be and become public records, and shall be known and designated as the land map of said city. Said Commissioners may cause as many copies of said map to be made as they shall deem necessary for use in the public offices of said city.

§ 12. The said Commissioners are hereby directed and required, immediately on the completion and filing of said land map in said offices, to cause to be prepared, in book form, indexes for indexing instruments affecting land in said city, recorded or filed in the office of said Register, on and after the date when this act shall go into operation, which indexes shall be prepared for use in accordance with the plan or system known as that of local indexing by blocks, and under the blocks and block numbers shown on said map; and the areas, numbers and descriptions of the blocks shown on said indexes and heading the same, shall correspond with the areas, numbers and descriptions of the blocks shown on said map.

§ 13. Said indexes so to be prepared shall be both nominal and local, and in form substantially the same as the forms of the schedules hereto annexed, marked, respectively, schedule A and schedule B, which schedules are to be deemed and taken to be a part of this act. The index so to be prepared similar to said schedule A, shall be designated the local index of transfers, and the index so to be prepared similar to said schedule B, shall be designated the local index of caveats. There shall be appropriated in each index to each block or parcel of land shown thereon, not less than eight blank pages, including the heading of such index, which pages shall be properly ruled and prepared for future entries therein, according to the plans shown on said schedules.

§ 14. The local index of transfers shall be made separate and distinct from the local index of caveats. All instruments and notices relating to or affecting land indexed in the local index of caveats other than discharges of liens may be termed caveats.

§ 15. Said indexes shall, on their completion, be certified under the hands of said Commissioners and be deposited in the office of the said Register in said city; and shall, upon such certification and deposit, be and become public records, and shall be used in accordance with their form, and, so far as practicable, for indexing instruments affecting land and interests in land recorded or filed in said Register's office on and after the date when this act shall go into operation. Additional like maps and indexes shall afterward in like manner be prepared, certified and filed by and under direction of the said Register and the Corporation Counsel of said city from time to time as may be required by the growth of said city.

§ 16. There shall also be prepared and kept in the office of said Register, besides said land map and indexes, books to be known as follows, to wit: A register's journal of transfers, a register's journal of caveats, a book of land transfers, a book of caveats, a book of mortgages, a book of leases, a book of powers of attorney, a book of discharges of caveats, and a book of register's certificate of search.

§ 17. Said indexes and books shall be used for the following purposes, namely:

(1. In the Register's journal of transfers shall be entered a memorandum of all instruments filed or recorded in his office, which, by this act, are to be indexed in the local index of transfers. Such memorandum shall state the date of the registration of the instrument, the names of one or more grantors named in such instrument, and the number of the land section and the number of the land block under which said instrument is directed to be indexed as hereinafter provided.

(2. In the Register's journal of caveats shall be entered a memorandum of all instruments filed or recorded in the office of said Register, which, by this act, are to be indexed in the local index of caveats. Such memorandum shall state the date of registration of the instrument, the name of the caveator or lienor named in such instrument, the name of the person or persons against whom the caveat or lien is filed, and the number of the land

section and block under which said instrument is directed to be indexed. Said memoranda shall be made in said journals immediately upon the said instruments being received in the order of their receipt by said Register for record or filing.

(3. In the local index of transfers shall be indexed all conveyances and transfers of freehold interests in land in said city other than mortgages, and all covenants affecting and running with such interests, and all judgments and decrees, or certified copies thereof vesting or declaring such interests, and all last wills and testaments, or certified copies thereof, duly proved in this State or authorized by law to be recorded in this State affecting such interests, and all other instruments in writing received for record by said Register whereby or by virtue whereof any right or title in or to a freehold interest in lands in said city shall have been or purports to be conveyed, transferred or transmitted.

(4. In the local index of caveats shall be indexed all instruments in writing and papers received by said Register for record or filing, other than those by this act directed to be indexed in the local index of transfers, including mortgages, leases for years, notices of liens and claims, executory contracts and powers not executed; but after a title to a freehold interest shall have been transferred by operation of law through or by virtue of any such instrument, such instrument may then be recorded in the book of land transfers and indexed in the local index of transfers.

(5. In the book of land transfers shall be recorded at length, in the same manner as conveyances of land are now recorded in said Register's office, all conveyances and other instruments by this act directed to be indexed in the local index of transfers.

(6. In the book of caveats shall be bound all caveats, liens, notices, claims, executory contracts and transcripts of judgments affecting specifically land in said city, which may be recorded or filed in the office of said Register, other than mortgages.

(7. In the book of mortgages shall be recorded at length, in the same manner as mortgages of land and assignments and releases thereof are now recorded in said Register's office, all mortgages of land in said city, and all assignments and leases thereof received for record.

(8. In the book of leases shall be recorded at length, in the same manner as leases and assignments thereof are now recorded in said Register's office, all leases of land in said city and assignments thereof received for record, and said Commissioners, in their discretion, may establish separate books of record for leases for terms of five years and upwards.

(9. In the book of powers of attorney shall be recorded at length, in the same manner as powers of attorney are now recorded in said Register's office, all powers of attorney to deal with land in said city received for record.

(10. In the book of discharges of caveats shall be bound all discharges of caveats and of mortgages, liens, claims, judgments and transcripts of judgments authorized by law to be recorded or filed in said Register's office.

(11. In the book of Register's certificates of search shall be entered at length under the hand of said Register original certificates of search made by him affecting land in said city as hereinafter provided.

§ 18. No instrument shall be received by said Register for record or filing in his office unless the same be acknowledged by the grantor, claimant or person signing or executing such instrument, or proved in the manner required by law to entitle deeds to be recorded; and the recording or filing in said Register's office of said instruments and notices, by this act or by any other act of the Legislature required to be so recorded or filed, shall be of the same force and effect as to land and interests in land proposed or intended to be charged or affected thereby as is now the case in respect of the recording and filing of like instruments and notices in any public office in said city, except as is in section thirty-one of this act otherwise provided.

§ 19. For the purpose of notice under this act, or any act which may be in force, each block or parcel of land so to be separately numbered with a block number as aforesaid, and also each lot of land in a block shall be deemed to extend to the middle line of the streets, avenues, roads and boulevards then or thereafter laid out on said land map fronting and adjoining such blocks and lots respectively, and also to include all rights of dockage and water rights fronting said blocks and lots respectively within the lines of the streets and avenues as extended.

§ 20. Said books and indexes shall be made of such convenient form and size as said Commissioners shall determine, and each of said books and indexes shall be indorsed with its appropriate title and volume, and with the date of its commencement, and also with the number on the land map of the land section to which the entries therein relate; and no record or entry in any volume of any of said books or indexes shall be made, except such as relate to land located in the same land section, except in the Register's journals; but which journals may be kept separate for the different land sections, if thought desirable by said Commissioners.

§ 21. All instruments in writing relating to or affecting land in said city, or any interest in such land, recorded, filed or entered in the office of said Register on and after the date when this act shall go into operation shall be entered in said books and indexes as provided by this act; but no entries shall be made in said books and indexes, except in respect of such instruments recorded, filed or entered on or after that date; and all the maps, books and indexes and the entries in, and contents of, said maps, books and indexes at any time to be made or prepared under this act, shall be public records.

§ 22. The said Commissioners are also hereby required and directed, immediately upon entering upon their duties, to cause to be prepared by competent surveyors and draughtsmen, an index to be used in the office of the Clerk of Arrears in said city, for the purpose of entering therein unpaid taxes, assessments and water rates on lands in said city, and sales for such unpaid taxes, assessments and water rates. Said index shall be known as the local index of unpaid taxes and assessments, and shall conform to the same general plan of the local index of caveats to be used in said Register's office under this act, with such modifications as said Commissioners may determine; and the sections and blocks, and the numbers of such sections and blocks, shall correspond with the local indexes in said Register's office. It shall be the duty of the Clerk of Arrears in said city to enter upon said index of unpaid taxes and assessments under each block or parcel of land shown on said index, all unpaid taxes, assessments and water rates affecting such block or parcel, or any part thereof, which shall be confirmed on or after the date when this act shall go into operation; which entry shall be made after the expiration of three months from the time of the confirmation of a tax or assessment if the same shall then remain unpaid, and within six months from the date of such confirmation. The entries to be made by said clerk in respect of such unpaid taxes, assessments and water rates shall consist of the name of the then owner of the said land assessed appearing upon the tax books, the date of the confirmation of such unpaid tax or assessment, the principal amount thereof, and a brief memorandum of the work for which the assessment was laid, the ward number, or lot number of the property taxed or assessed, as appearing upon the tax maps, a reference to the volume and page of the tax or assessment book where such tax or assessment is entered, and the date of the payment of such tax or assessment when made. If any tax, assessment or water rate confirmed prior to the date when this act shall go into operation shall then be in arrears, or any lot shall then have been sold for an unpaid tax, assessment or water rate and not have been redeemed, a note thereof shall be entered on said index.

§ 23. The said Clerk of Arrears in said city shall, upon the requisition in writing of any person, and upon the payment to him of a fee of one dollar, make under his hand, and deliver to such person, his certificate, in writing, of all the unpaid taxes, assessments and water rates then upon, or sales, for unpaid taxes, assessments and water rates of any lot or parcel of land, or contiguous lots of land, in said city claimed to be owned by such person, and particularly described or shown upon a diagram in such requisition, and

upon the payment of all such unpaid taxes, assessments and water rates appearing upon such certificate, and the redemption from such sales as shall appear upon such certificate affecting any such lot or parcel of land, the owner thereof, and any subsequent owner thereof, shall be forever thereafter free and exempt, and said land shall thereafter be free and exempt from the payment and lien of any taxes, assessments or water rates theretofore laid or levied on such land. No sale for any unpaid tax, assessment or water rate laid or levied in said city, after this act shall become operative, nor any lease on such sale shall be of force or valid unless the entries of such unpaid taxes, assessments or water rates shall have been made in said local index of unpaid taxes and assessments as required by this act. All fees received by said clerk under this act shall be paid by him to the Comptroller of said city monthly.

§ 24. All the aforesaid maps or plans, books and indexes shall be completed, certified and deposited for use as aforesaid in the said offices on or before one month prior to the time when this act shall go into operation.

§ 25. Said Register, upon the requisition in writing of any person, shall make a search in his office for any period for entries on either the said index of transfers or the index of caveats affecting any parcel of land or contiguous parcels of land described in such requisition, and upon the completion of such search, which shall be within ten days after the making of such requisition, said Register shall, if required to do so, in writing, by said person, enter in the book of Register's certificates of search kept in his office in substantially the form of schedule C, hereto, which is to be deemed and taken as part of this act, the certificate of search made by him thereupon. Each original of said certificate so entered shall be signed by the Register or his deputy, and a reference to the volume and folio of such certificate shall be made on the local index of transfers opposite to the entry of the last transfer of the property searched against. Said Register shall be entitled to receive and collect from any person making such requisition the sum of five cents for each and every return made on any certificate of search. Provided, however, that when a search affecting any parcel of land has once been made and entered in the book of Register's certificates of search, said Register shall not enter in said book another search affecting the same parcels of land, against the same persons, for the same periods and for the same transfers or liens as the previous original search entered in said book; but any unauthorized entry by him shall not affect his liability under this act for searches actually entered by him in said book.

§ 26. A certified copy of any such original certificate of search, so entered in the book of Register's certificates, shall be issued by said Register under his hand and official seal to any person requiring the same, upon the payment to the Register of the sum of five cents for each and every return appearing on such certificate, which certified copy so issued shall be of the same force and effect, and shall be received as evidence in all courts the same as the original thereof kept in the office of said Register, and such original certificate shall constitute a warranty on the part of the Register signing, or causing to be signed by his deputy, such original certificate of the truth of the facts therein stated to any person then or subsequently owning or having an interest in said land or any part thereof who shall rely upon such certificate or certified copy, and shall suffer loss or damage thereby, to the extent of such loss or damage; provided, however, that no action shall be brought on any such certificate after the lapse of ten years from the date thereof.

§ 27. Said Register shall be liable for any loss or damage to any person interested by reason of his failure to index an instrument as required by this act, or by reason of an erroneous entry made by him or by his direction, or by any deputy or clerk appointed by him, in any book or index to be kept in his office as required by this act, the amount of which loss or damage may be recovered by a suit at law; provided, however, that said Register shall not be liable for an erroneous entry arising from an erroneous indorsement of an instrument or notice presented to be recorded or filed by the person presenting the same.

§ 28. Whenever any instrument affecting land in said city, duly acknowledged or proved so as to entitle the same to be recorded and indorsed as by this act provided, shall be presented to said Register for record or filing, he shall immediately indorse thereon the date, hour and minute of its receipt by him, and shall immediately thereupon enter a note of the same in his journal as by this act provided, and he shall, within ten days thereafter, enter said instrument on the proper local index in his office in the order of its receipt by him under the block within which the land affected lies in the manner provided by this act. All instruments shall be deemed to be registered when left with said Register for recording or filing.

§ 29. All instruments presented to said Register for recording or filing under the provisions of this act shall be legibly indorsed with the names of one or more of the respective parties thereto, the number of the land section and of the block in which the land affected by the instrument is situated, the index in which the same is to be entered, whether of transfers or of caveats, and the name of the person or his attorney offering such instrument for record or filing, together with his residence and postoffice address, and the Register may, in his discretion, refuse to receive an instrument unless the same be so indorsed; provided, however, that the omission of any required indorsement, or an erroneous indorsement, shall not render an instrument invalid nor prevent the recording or filing of such instrument from constituting notice, if the same be recorded or filed; and provided also, that such indorsement and entry in any index or under any block, pursuant to such indorsement, shall be at the risk of the person offering such instrument for record or filing. Such instrument may also be indorsed with the lot or ward number of a lot affected by the instrument, and in such case the Register shall enter such lot or ward number on the local index. All assignments of mortgages and of leases, and all releases, satisfactions and agreements respecting mortgages, to entitle the same to be recorded or filed under this act, shall state in the body thereof the block number of the property affected by the original instruments to which such assignments, releases, satisfactions and agreements respectively relate, and said Register need not receive such instruments for record or filing unless they contain such statement.

§ 30. Every instrument recorded or filed by said Register under this act shall be stamped or indorsed by him with the number of the land block under which such instrument is indexed in the local index in his office, stating whether such indexing is in the index of transfers or index of caveats, and any certificate by him of the record of filing of any such instrument, in addition to the matters now required by law to be stated, shall state the number of the land block under which such instrument was indexed, and said Register shall be liable to any person for any loss or damage occurring to him by reason of an erroneous certificate of said Register in that behalf.

§ 31. The indexes hereinbefore by this act directed to be made and kept in the office of said Register and the entries made in said indexes shall for the purpose of notice be deemed and taken to be a part of the record of the instruments to which such entries respectively refer or relate, and such indexes and entries shall be deemed and held to be constructive notice to all subsequent purchasers, mortgagees, encumbrancers and dealers in the land affected of the instruments to which such entries respectively refer or relate, and of the record of filing thereof, and of the execution and contents of such instruments, in the same manner and to the same extent as the recording or filing of such instruments now is or may be notice; provided, however, that the recording or filing of any instrument under this act shall not be deemed to constitute notice of any kind unless and until such record or filing shall be entered in the Register's journal and in the proper local index under the block in which the land affected by such instrument is situated, in accordance with the provisions of this act.

§ 32. Whenever a judgment or decree shall have been made and entered by any court changing, declaring or establishing the freehold title of any person in land in said city, upon the production of a certified copy of said

judgment or decree to and leaving the same with said Register for record, it shall be the duty of said Register to record said judgment or decree in the book of land transfers, and to enter a reference to the said judgment or decree in the local index of transfers under the block in which said land is situated; and whenever a mortgage or other lien upon a freehold interest in land in said city shall be foreclosed and a title to such interest shall have been transferred or transmitted to any person by virtue of an order, judgment or decree, it shall be the duty of said Register, upon the production to him of certified copies of such mortgage or other instrument creating such lien and of such order, judgment or decree, and the deed of conveyance made thereupon, to record such certified copies and deed in the book of land transfers in his office, and also to enter the same in the local index of transfers under the block in which the land affected is situated, and to note the fact of such foreclosure on the margin of the originals of said instruments in his office, and on the local index of caveats where they are entered, if entered on such local index.

§ 33. Any devisee, heir at law or grantee of a freehold interest in land in said city, under and by virtue of a will which has been duly proved in this State, or is authorized by law to be recorded in this State, or grantee of such devise or heir at law, may have a certified copy of such will and the probate thereof recorded in the office of said Register and entered on the local index of transfers in case he shall file and record with such certified copy of such will his affidavit, stating that he is such devisee, heir or grantee, his place of residence and relationship to the testator, if any, and containing a description or diagram of the property claimed by him under or through such will, together with the land block number thereof. And such record may be had on the application of a trustee or guardian.

§ 34. Satisfactions, assignments and releases of mortgages which shall have been recorded prior to the date when this act goes into operation, and also assignments of leases which shall have been recorded prior to that date, and also instruments offered to said Register for record or filing, changing the effect or interpretation of instruments which shall have been recorded or filed prior to that date, shall be recorded, entered and filed in the same offices and in the same manner as is now authorized by law for the recording and filing of such satisfactions, assignments, releases and instruments, to the intent that the entries of all such satisfactions, assignments, releases and instruments which relate to instruments filed or recorded prior to the above last-mentioned date shall be entered in the same offices, and in the same books and under the same system of recording, entry and indexing as at present, but if such instrument so recorded or filed shall refer to an instrument entered on a local index in said office of said Register, a note thereof shall be made on such local index opposite to the entry of such last-mentioned instrument.

§ 35. Said Register shall, on and after the date when this act shall go into operation, keep in his office nominal indexes in lexicographical form, containing a list of the names of all grantors and grantees of land entered from time to time on the local index of transfers in his office, referring after each name to the numbers of the blocks of land in the index under which such name is entered. Said Register shall also keep in his office similar separate lists of mortgagors and mortgagees whose names appear upon the local index of caveats. He shall also keep in his office a similar separate list of registered caveators and owners other than mortgagors and mortgagees, whose names appear upon the local index of caveats. Such lists shall be made up complete every three months from the time said local indexes are commenced and shall be printed at the expense of said city as often as the Board of Estimate and Apportionment of said city may direct.

§ 36. Whenever after the making of said land map any new or additional blocks of land shall be formed in said city by the opening or closing of any street, avenue, road, boulevard or parkway, it shall be the duty of the then Register and Corporation Counsel of said city to cause such new blocks to be numbered consecutively upwards from the last number then upon said land map, or to be designated in some other convenient way, and to cause maps of such new blocks to be made, and to certify and file said maps in the same manner and in the same offices as the previous land maps. And the separate maps of such new blocks may be consolidated into one or more maps, and also said new blocks may be subdivided into land sections whenever in the judgment of said Register and Corporation Counsel it shall be advisable to do so; and upon said maps or any of them being certified and filed as aforesaid, they shall constitute land maps of said city and become public records. The land blocks and land sections and the numbers and designations of said blocks and sections shall not be changed after they have been once designated and entered on said maps.

§ 37. Whenever, in the judgment of said Commissioners, and after their term of office in the judgment of said Register, the hereinbefore-mentioned form of local indexes authorized by this act cannot, in exceptional cases, for any reason be conveniently and safely used for indexing transfers of land, caveats, liens and instruments as provided by this act, and the use of such indexes is not in fact in any such case practicable, said Commissioners may, during their term of office, and afterward said Register may with the approval in writing of the Corporation Counsel of said city, in such cases substitute such other methods of indexing or entering in said Register's office such transfers, caveats, liens and instruments as they shall deem advisable, and may in like manner establish sub-indexes or sub-records in cases where the circumstances warrant, and the methods as substituted and put into operation in the office of said Register shall be of the same force and effect as any other method authorized by this act.

§ 38. In case where there shall have been an erroneous indexing of any instrument in the office of said Register under the wrong block or otherwise he shall, on being satisfied thereof, reindex such instrument in the proper index, and he shall at the same time make a note of such reindexing upon the index in which the instrument was so erroneously indexed opposite the entry thereof, and also upon the instrument recorded, if the same be in his possession, or produced to him for the purpose.

§ 39. No entry in any book or index in said Register's office shall be erased so as to be illegible, but in case of any correction the same shall be made without destroying the original entry by drawing a line through such original entry.

§ 40. Any person presenting to said Register an instrument for record or filing under this act shall pay to said Register, in addition to the fees required by law for recording or filing like instruments, the further sum of one dollar for the entry of such instrument on the local index.

§ 41. Whenever an instrument transferring land or any interest in land has been entered on the local index of transfers, and the next succeeding instrument transferring the same land or any part thereof is executed by a person other than the last preceding registered owner, said Register shall not place such last instrument on the local index of transfers unless such instrument shall contain or be indorsed with a statement of the name of the last preceding registered owner of said land as indexed, signed by the grantee named in such last-mentioned instrument, or by his attorney, and such instrument shall thereupon be indexed according to such statement; but the omission of such statement shall not impair or render invalid the effect of indexing such instruments if the same be indexed.

§ 42. The said Commissioners shall also, immediately after their appointment, cause to be prepared, under their direction, two sets of indexes other than those hereinbefore mentioned, to be known respectively as the local index of reindexed conveyances and the local index of reindexed mortgages, which indexes shall be both nominal and local, and substantially the same in form as those contained in said schedules, A and B hereto annexed. The said indexes provided for by this section shall be properly ruled and prepared for entries therein according to the plans shown on said schedules, and shall be properly indorsed for identification, and so as to indicate the periods of time covered by them respectively.

§ 43. Upon the completion of said last-mentioned indexes, said Commis-

sioners shall proceed to cause to be reindexed therein, subject to their direction under the blocks and block numbers, and, so far as practicable, upon the same general plan as the other said local indexes, all conveyances, mortgages unsatisfied of record, and instruments other than satisfied mortgages and the satisfactions thereof which shall have been recorded in the office of said Register up to the time when this act shall go into operation.

§ 44. If in the opinion of said Commissioners it shall in particular cases be impracticable, or for any reason not advisable to reindex some of the instruments mentioned in the last above section upon the plan therein mentioned, then they may in their discretion in such cases as to such instruments adopt and carry out any other plan of reindexing which they shall think best in order to accomplish the general purpose of this act.

§ 45. After the completion of said reindexing in the indexes so to be prepared therefor, said indexes shall be certified by said Commissioners and be deposited by them in the office of said Register.

§ 46. Said Commissioners at the time of reindexing said instruments as aforesaid, if they think it expedient to do so shall prepare nominal indexes in lexicographical form of the parties to such instruments, similar to the other lexicographical indexes hereinbefore mentioned and cause said indexes to be printed and copies thereof to be deposited in the office of said Register; but such printing and the cost thereof shall be subject to the approval of the Board of Estimate and Apportionment of said city.

§ 47. The said Commissioners shall also immediately after their appointment cause to be prepared under their direction other local block indexes of the same general form as said schedule B, hereto annexed, to be used for reindexing therein notices of lis pendens, notices of foreclosure by advertisement and certificates of sheriff's and marshal's sales recorded or filed in the office of the clerk of the City and county of New York.

§ 48. Said Commissioners shall, on the completion of said last-named indexes, proceed to reindex therein all said notices of lis pendens, notices of foreclosure by advertisement and certificates of sheriff's and marshal's sales recorded or filed in the office of said Clerk of said city and county of New York up to the date when this act shall go into operation.

§ 49. The said Commissioners may vary the form of the indexes mentioned in the last section of this act whenever, in their judgment, the prescribed form cannot conveniently or safely be used; and they may also index the said notices and certificates together or in separate volumes as they shall think proper.

§ 50. In the performance of their duties in reindexing the instruments and records directed by this act to be so reindexed, the said Commissioners shall have free access, at all reasonable hours, to the said instruments and records, and be permitted to have and control the same, subject to the right of the public, and of said Register and County Clerk, to have access thereto; and all proper facilities shall be furnished to said Commissioners to perform the duties imposed upon them by this act.

§ 51. The said Commissioners, for the purpose of facilitating the work which they are required to do under this act, may, if they shall think it expedient to do so, for and on behalf of the Mayor, Aldermen and commonality of said city, and subject to the approval of the Board of Estimate and Apportionment of said city, acquire and purchase any records, searches, minutes, maps and indexes claimed to be private, which have been made by any person or persons in the course of or connected with his or their official employment in any public office in said city or otherwise, and the consideration to be paid on such purchase or purchases shall be provided by said Board of Estimate and Apportionment, and paid by said Comptroller in the same manner as other moneys are provided and paid for the expenses of said city; and said Board may at any time act with reference thereto, and appropriate said moneys on the request of said Commissioners.

§ 52. Such records, searches, minutes, maps and indexes so purchased by said Commissioners may be used by them in the same manner and with the same effect as if prepared under their direction, so far as they shall deem expedient, and when so acquired, said records, searches, minutes, maps and indexes shall be properly indorsed by said Commissioners, and be deposited in said Register's office, and thereupon shall become public records.

§ 53. In case it shall be determined by said Commissioners that the present hall of records in said city is not a safe or convenient place for the keeping and public use of said maps, books and indexes directed by this act to be prepared, then in such case the Comptroller of said city, subject to the approval of the Board of Estimate and Apportionment of this city, on being notified thereof, shall provide another room or rooms for the safe-keeping of such maps, books and indexes, and for their convenient use by the public, and the rent, furnishing and maintenance of such room or rooms shall be provided for and paid in the same manner as the other expenses of carrying out the provisions of this act. Such room or rooms where such records are kept and used shall be known and designated as the office of the Register of the city and county of New York, notwithstanding said Register may have another place for the transaction of the business of his office.

§ 54. For the purpose of procuring and preparing the maps, indexes and books directed by this act to be procured and prepared and putting the same in use, and otherwise carrying out the directions and intent of this act, said Commissioners, in the name and on behalf of said city, may hire rooms, purchase stationery and material, and employ surveyors, draughtsmen and such other expert persons, assistants and clerks as they may in their judgment require or think proper for such purpose, and may agree with the persons so employed for their compensation; and such work or any part thereof may be done by public or private contract, as said Commissioners shall elect, and the compensation to such surveyors, draughtsmen and other persons so employed and the cost of such material and work and of putting said system of indexes and books in use and operation in the offices where they are to be used as provided by this act, and the other expenses authorized and to be incurred under this act shall be provided and paid in the manner directed by the next section of this act.

§ 55. The Board of Estimate and Apportionment of the city of New York is hereby authorized and directed, from time to time, to determine the amounts of money which may be required to carry out the provisions of this act, and to appropriate said moneys therefor, which said amounts, so from time to time appropriated, shall be included in the final estimate made by said Board for the next succeeding annual tax levy, and shall be certified by the Comptroller of the city of New York as a part of the said estimate; and the said Comptroller is authorized and directed to pay, out of the amounts so determined and appropriated, the expenses authorized by this act. And said Comptroller is authorized to raise such money, from time to time, by the issue of revenue bonds of said city, which bonds shall be paid out of said moneys to be appropriated and raised as aforesaid.

§ 56. If it shall be determined by said Commissioners that this act cannot for any reason go into operation at the time herein designated therefor by reason of the non-completion of said maps or indexes, or for any other reason, thereupon said Commissioners by notice published in the *City Record* in said city of New York, for thirty days prior to the expiration of said time, may extend the time for said act to go into operation not exceeding six months from the time herein designated therefor; and said act upon such publication shall thereupon go into operation at the time designated in said notice by said Commissioners.

§ 57. The word "land," as used in this act, shall be construed to include lands, tenements and hereditaments and all estates of every description in land.

§ 58. This act shall be construed liberally by all courts, according to the true intent and purpose thereof, which is declared to be to establish the use of local indexes for public records relating to land in the city of New York; and, in case the construction of said act, or of any part thereof, shall

be doubtful, the courts are hereby directed to give such construction thereto as shall carry out the general purpose, meaning and intent of this act, as herein declared; and said act is hereby declared and shall be deemed and taken to be a general and public act and not a local act.

§ 59. All acts and parts of acts inconsistent with this present act are hereby repealed; but all existing acts, so far as this act is not inconsistent therewith, shall be deemed to remain in force.

§ 60. This act shall go into operation on the first day of September, in the year one thousand eight hundred and eighty-six, except as is by this act otherwise expressly provided.

SCHEDULE A.

FORM OF LOCAL BLOCK INDEX FOR INDEXING TRANSFERS OF LAND AND CERTIFICATES OF SEARCH.

NINTH STREET.

1420.

EIGHTH STREET.

Section IV., Block 1420.

GRANTORS.	GRANTEES.	TRANSFERS.		DATE OF REGISTRATION.	WARD OR LOT NO.	CERT. OF SEARCH.	
		VOL.	FOL.			VOL.	FOL.
John Doe.	Richard Roe.	1	4	1886, January 2.	3	2	6
Richard Roe, by Geo. Sharp, Sheriff.	William Black.	10	8	1886, March 1.	3		
James White.	Robert Moore.	21	9	1887, April 20.	10	16	62
William Black, by Joel Young, Executor.	John Young.	40	11	1890, Sept. 19.	3		
Robert Moore, by Mary Moore, Heir.	Frank Hart.	77	3	1891, May 1.	10	84	34
Frank Hart.	Thomas Scott.	101	5	1892, Novem. 1.	10	112	86
Henry Brown.	Ira Smith.	200	10	1892, Novem. 5.	6	140	7
Ira Smith, by Charles Clute, Attorney.	Lewis Green.	220	8	1893, March 4.	6	145	3

SCHEDULE B.

FORM OF LOCAL BLOCK INDEX FOR INDEXING LIENS ON LAND AND CAVEATS.

NINTH STREET.

1420.

EIGHTH STREET.

Section IV., Block 1420.

REGISTERED OWNERS.	CAVEATORS.	NATURE OF LIEN OR CLAIM.	BOOK.	VOL.		WHEN REGISTERED.	WARD OR LOT NO.	WHEN DISCH'RGD.	DISCH'S.	
				VOL.	FOL.				VOL.	FOL.
Richard Roe.	James Dunn.	Mortgage.	Mortgages.	4	3	1886, Jan. 6.	3	1887, Mar. 2.	10	8
Rob't Moore.	Emil Smith.	Lease.	Leases.	20	4	1888, April 1.	10			
Wm. Black.	Amos Wright.	Attachment.	Caveats.	5	12	1889, Oct. 1.	3	1890, May 1.	14	1
Frank Hart.	Sam. Jones.	Notice of action.	Caveats.	6	4	1891, June 2.	10			
Ira Smith.	Chas. Clute.	Power of att'y.	Powers.	1	8	1892, Nov. 7.	6			
Ira Smith.	Henry Burke.	Execution.	Caveats.	14	3	1893, Feb. 2.	6	1893, Mar. 1.	18	9
Thos. Scott.	John Flint.	Mechanics lien.	Caveats.	15	2	1893, Mar. 4.	10			

SCHEDULE C.

FORM OF REGISTER'S CERTIFICATE OF SEARCH.

Office of the Register of the city and county of New York, State of New York, land section four, block one thousand four hundred and twenty, lot ten:

I hereby certify that I have, on the requisition of *Thomas Scott*, searched

the local index of transfers of land, and also the local index of caveats in my office for all entries of instruments thereon since [insert date] affecting the following premises, to wit:

[Insert Description or Diagram.]

Such search being against the names of the following persons, to wit: James White, Robert Moore, Frank Hart and Thomas Scott; and that the underwritten are the only said entries on either of said indexes to the date of this certificate, except of such caveats on the local index of caveats as appear thereon to be satisfied.

ON LOCAL INDEX OF TRANSFERS.

James White to Robert Moore, book of transfers, volume twenty-one, folio nine, registered April twentieth, eighteen hundred and eighty-seven, lot number ten.

Robert Moore, by Mary Moore, heir, to Frank Hart, book of transfers, volume seventy-seven, folio three, registered May first, eighteen hundred and ninety-one, lot number ten.

Frank Hart to Thomas Scott, book of transfers, volume one hundred and one, folio five, registered November 1st, eighteen hundred and ninety-two, lot number ten.

ON LOCAL INDEX OF CAVEATS.

Robert Moore to Emil Smith, lease, book of leases, volume twenty, folio four, registered April first, eighteen hundred and eighty-eight, lot number ten.

Frank Hart ads. Sam. Jones, notice of action, book of caveats, volume six, folio four, registered June second, eighteen hundred and ninety-one, lot number ten.

Thomas Scott ads. John Flint, mechanics' lien, book of caveats, volume fifteen, folio two, registered March fourth, eighteen hundred and ninety-three, lot number ten.

Witness my hand and seal of office this _____ day of _____, in the year _____

(Official seal.)

Register of the City and County of New York.

BILL FOR SHORT FORMS OF DEEDS, MORTGAGES AND LEASES.

STATE OF NEW YORK.

No. 13.

IN ASSEMBLY,

JANUARY 13, 1886.

Introduced by Mr. VAN ALLEN—read twice and referred to the Committee on the Judiciary, when appointed—reported from said committee for the consideration of the House and committed to the Committee of the Whole—ordered, when printed, to be recommitted to the Committee on the Judiciary.

AN ACT TO PROVIDE FOR SHORT FORMS OF DEEDS, MORTGAGES AND LEASES.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. In grants of freehold interests in real estate the following or similar covenants shall be construed as follows:

(1.) A covenant that the grantor is seized of the said premises described in fee-simple, and has good right to convey the same, shall be construed as meaning that such grantor, at the time of the execution and delivery of the conveyance, is lawfully seized of a good, absolute and indefeasible estate of inheritance, in fee-simple, of and in all singular the premises thereby conveyed, with the tenements, hereditaments and appurtenance thereto belonging, and has good right, full power and lawful authority to grant and convey the same by the said conveyance.

(2.) A covenant that the grantee shall quietly enjoy the said premises shall be construed as meaning that such grantee, his heirs, successors and assigns, shall and may, at all times thereafter, peaceably and quietly have, hold, use, occupy, possess and enjoy the said premises, and every part and parcel thereof, with the appurtenances, without any let, suit, trouble, molestation, eviction or disturbance of the grantor, his heirs, successors or assigns, or any person or persons lawfully claiming or to claim the same.

(3.) A covenant that the said premises are free from incumbrances shall be construed as meaning that such premises are free, clear, discharged and unincumbered of and from all former and other gifts, grants, titles, charges, estates, judgments, taxes, assessments, liens and incumbrances, of what nature or kind soever.

(4.) A covenant that the grantor will thereafter execute or procure any further necessary assurance of the title to said premises shall be construed as meaning that the grantor and his heirs or successors, and all and every person or persons whomsoever lawfully or equitably deriving any estate, right, title or interest of, in or to the premises conveyed by, from, under or in trust for him or them, shall and will at any time or times thereafter, upon the reasonable request, and at the proper cost and charges in the law of the grantee, his heirs, successors and assigns, make, do and execute, or cause to be made, done and executed, all and every such further and other lawful and reasonable acts, conveyances and assurances in the law for the better and more effectually vesting and confirming the premises hereby granted, or so intended to be, in and to the grantee, his heirs, successors and assigns forever, as by the grantee, his heirs, successors or assigns, or his or their counsel learned in the law, shall be reasonably advised or required.

(5.) A covenant that the grantor will forever warrant the title to the said premises shall be construed as meaning that the grantor and his heirs or successors, the premises granted and every part and parcel thereof, with the appurtenance unto the grantee, his heirs, successors and assigns against the grantor and his heirs or successors, and against all and every person and persons whomsoever lawfully claiming or to claim the same, shall and will warrant and forever defend.

(6.) A covenant that the grantor has not done or suffered any thing whereby the said premises have been incumbered in any way whatsoever shall be construed as meaning that the grantor has not made, done, committed, executed or suffered any act or acts, thing or things whatsoever, whereby or by means whereof the above-mentioned and described premises, or any part or parcel thereof, now are, or at any time hereafter shall or may be, impeached, charged or incumbered in any manner or way whatsoever.

§ 2. In any grant or mortgage of freehold interests in real estate, the words "together with the appurtenances and all the estate and rights of the grantor in and to said premises" shall be construed as meaning together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and also all the estate, right, title, interest, dower and right of dower, curtesy and right of curtesy, property, possession, claim and demand whatsoever, both in law and in equity, of the said grantor of, in and to the above-granted premises and every part and parcel thereof, with the appurtenances.

§ 3. In any deed by an executor or of trustee under a will the words "together with the appurtenances and also all the estate which the said

testator had at the time of his decease in said premises, and also the estate therein which said grantor has, or has power to convey or dispose of, whether individually or by virtue of said will or otherwise," shall be construed as meaning together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, both in law and equity, which the said testator had in his life-time, and at the time of his decease, and which the said grantor has, or has power to convey or dispose of, whether individually or by virtue of the said last will and testament or otherwise, of, in and to the above-granted premises and every part and parcel thereof, with the appurtenances.

§ 4. In mortgages of real estate and in bonds secured by such mortgages the following or similar covenants shall be construed as follows:

(1.) The words: "And it is hereby expressly agreed that the whole of the said principal sum shall become due at the option of the said mortgagor or obligee after default in the payment of interest for days, or after default in the payment of any tax or assessment for days after notice and demand," shall be construed as meaning: And it is hereby expressly agreed that should any default be made in the payment of the said interest, or of any part thereof, on any day whereon the same is made payable as above expressed, or should any tax or assessment which now is or may be hereafter imposed upon the premises hereinafter described and become due or payable, and should the said interest remain unpaid and in arrear for the space of days, or such tax or assessment remain unpaid and in arrear for days after written notice by the mortgagee or obligee, his executors, administrators, successors or assigns, that such tax or assessment is unpaid, and demand for the payment thereof, then and from thenceforth, that is to say after the lapse of either one of said periods, as the case may be, the aforesaid principal sum, with all arrearage of interest thereon, shall at the option of the said mortgagee or obligee, his executors, administrators, successors or assigns, become and be due and payable immediately thereafter, although the period above limited for the payment thereof may not then have expired, any thing thereinbefore contained to the contrary thereof in anywise notwithstanding.

(2.) A covenant that the mortgagor will pay the indebtedness as provided in the mortgage, and if default be made in the payment of any part thereof, the mortgagee shall have power to sell the premises therein described according to law, shall be construed as meaning that the mortgagor for himself, his heirs, executors and administrators, or successors, doth covenant and agree to pay to the mortgagee, his executors, administrators, successors and assigns, the principal sum of money secured by said mortgage, and also the interest thereon, as provided by said mortgage. And if default shall be made in the payment of the said principal sum, or the interest that may grow due thereon, or of any part thereof, or of any tax or assessment, the payment whereof is, by said mortgage covenanted for, that then and from thenceforth it shall be lawful for the mortgagee and his executors, administrators or successors to enter into and upon all and singular the premises granted or intended so to be, and to sell and dispose of the same, and all benefit and equity of redemption of the said mortgagor, his heirs, executors, administrators, successors or assigns, therein at public auction, according to the act in such case made and provided, and, as the attorney of the mortgagor for that purpose duly authorized, constituted and appointed, to make and deliver to the purchaser or purchasers thereof, a good and sufficient deed or deeds of conveyance in the law for the same in fee-simple (or otherwise as the case may be), and out of the money arising from such sale to retain the principal and interest which shall then be due, together with the costs and charges of advertisement and sale of the said premises, rendering the overplus of the purchase money, if any there shall be, unto the mortgagor, his heirs, executors, administrators, successors or assigns, which sale so to be made shall forever be a perpetual bar, both in law and equity, against the mortgagor, his heirs, successors and assigns and against all other persons claiming or to claim the premises or any part thereof by, from or under him, them or any of them.

(3.) A covenant that the mortgagor will keep the buildings on the said premises insured against loss by fire for the benefit of the mortgagee shall be construed as meaning that the mortgagor and his heirs, successors and assigns will, during all the time, until the money secured by the mortgage shall be fully paid and satisfied, keep the buildings erected on the premises insured against loss or damage by fire to an amount and in a company to be approved by the mortgagee, and will sign and deliver the policy or policies of such insurance to the mortgagee or his executors, administrators, successors or assigns, so and in such manner and form, that he and they shall at all time and times, until the full payment of said moneys, have and hold the said policy or policies as a collateral and further security for the payment of said money; and in default of so doing that the mortgagee or his executors, administrators, successors or assigns may make such insurance from year to year in a sum not exceeding the principal sum for the purposes aforesaid, and pay the premium or premiums therefor, and that the mortgagor will pay to the mortgagee, his executors, administrators, successors or assigns, such premium or premiums so paid, with interest from the time of payment on demand, and that the same shall be deemed to be secured by the mortgage, and shall be collectible thereupon and thereby in like manner, as the principal moneys, and in default of such payment by the mortgagor, his heirs, executors, administrators, successors or assigns, or of assignment and delivery of policies, the whole of the principal sum and interest secured by the mortgage shall, at the option of the mortgagee or his executors, administrators, successors or assigns, immediately become due and payable.

(5.) A covenant that the mortgagor will execute any further necessary assurance of the title to said premises, and will forever warrant said title, shall be construed as meaning that the mortgagor shall and will make, execute, acknowledge and deliver in due form of law all such further or other deeds or assurances as may at any time hereafter be devised or required for the more fully and effectually conveying the premises above described and hereby granted, or intended so to be, unto the said mortgagee, his executors, administrators, successors or assigns, for the purposes aforesaid, and unto all and every person or persons, corporation or corporations deriving any estate, right, title or interest therein under this indenture, or the power of sale herein contained, and the above granted premises against the said mortgagor, and all persons claiming through him, will warrant and defend.

§ 5. In leases of real estate the following or similar covenants shall be construed as follows:

(1.) A covenant that the lessee will pay the rent shall be construed as meaning that the lessee, his executors, administrators and assigns, will pay to the lessor, his executors, administrators and assigns, the rent by the lease reserved at the times therein mentioned, during the continuance of the lease.

(2.) A covenant that the lessee will keep the premises in good repair shall be construed as meaning that the lessee, his executors, administrators and assigns, will keep and yield up to the lessor the demised premises in good and tenantable repair, damages by the elements excepted, and will not commit waste.

(3.) A covenant that in case the rent shall be in arrear or default be made in any covenant for (a stated number of) days, the lessee may re-enter, shall be construed as meaning that in case the rent, or any part thereof, shall be in arrear for the space of a certain number of days (as stated), or in case default shall be made in the fulfillment of any covenant in such lease on the part of the lessee, and shall be continued for the space of such number of days (as stated), it shall be lawful for the lessor to re-enter upon and take possession of such demised premises.

(4.) A covenant that the lessor may affix a notice of "for sale" or "to

let," and show the premises three months prior to the expiration of the lease, shall be construed as meaning that the lessor, his heirs, legal representatives or assigns, may fix on said premises bills or notices of "for sale" or "to let" three months prior to the expiration of the lease, and may enter upon said premises, and exhibit the same between the hours of ten in the morning and five in the afternoon to intending purchasers or lessees.

(5.) A covenant that the lessee will not, without leave, use the premises other than as a private dwelling, without the consent of the lessor, shall be construed as meaning: That the lessee, his legal representatives or assigns, shall not use or occupy, or permit the premises, or any part thereof, to be used or occupied, during the continuance of the lease, as a hotel, boarding house, shop, or otherwise than as a private dwelling house, without the consent in writing of the lessor, under the penalty of forfeiture of the lease and damages.

(5.) A covenant that the lessee will not carry on offensive trades shall be construed as meaning: That no noxious or offensive art, trade, business or occupation or calling shall, at any time during said term, be used, exercised, carried on, permitted or suffered, in or upon the said premises, and that no act, matter or thing whatsoever shall, at any time during the said term, be done in or upon the said premises, or any part thereof, which shall or may be or grow to the annoyance, nuisance, grievance, damage or disturbance of the lessor, his lessees, assignees or grantees.

(7.) A covenant that the lessee will not, without leave, assign or sub-let shall be construed as meaning: That the said lessee shall not, nor will, during the term of such lease, assign, transfer, demise, sub-let, or set over or otherwise by any act or deed procure or permit the lands or premises therein mentioned, or any of them, or any part thereof, to be assigned, transferred, demised, sub-let or set over unto any person whomsoever without the consent, in writing, of the lessor first had and obtained to each assignment or sub-letting, under penalty of forfeiture of the lease and damages.

(8.) A covenant that in case of the partial destruction of the premises by fire, or otherwise, the rent shall be apportioned, and that in case of a total destruction the lease shall cease, shall be construed as meaning: That in case the building or buildings erected on the premises leased shall be partially destroyed by fire, or otherwise, the same shall be repaired as speedily as possible at the expense of the lessor; and in case damages shall be so extensive as to render the building untenable the rent shall cease until such time as the building shall be put in complete repair, but in case of the total destruction of the premises by fire, or otherwise, the rent shall be paid up to the time of such destruction, and then and from thenceforth the lease shall cease and come to an end; provided, however, that such damage and destruction be not caused by the carelessness, negligence, or improper conduct of the lessee, his agents or servants.

§ 6. All covenants contained in any grant, mortgage or lease of real estate shall bind the heirs, executors, successors, administrators and assigns of the grantor, mortgagor or lessor, and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the grantee, mortgagee or lessee, in the same manner and to the same extent, and with the like effect as if such heirs, executors, administrators, successors and assigns were so named in such covenants, unless otherwise in said grant, mortgage or lease expressly provided.

§ 7. The schedule hereto contains forms of instruments such as are authorized by this act, and shall be taken as a part thereof, but nothing herein contained shall invalidate or prevent the use of other forms.

§ 8. (The Register in and for the city and county of New York) shall be entitled to charge for the recording of any instrument containing the above-mentioned covenants, or any of them in full, instead of the short forms thereof in this act contained, the sum of five dollars in addition to the fee chargeable by law for such recording.

§ 9. This act shall take effect ninety days after its passage.

§ 10. All existing acts and parts of acts inconsistent with this act are repealed.

SCHEDULE.

DEED WITH FULL COVENANTS.

This Indenture, made the day of _____, in the year one thousand eight hundred and _____, between _____ of [insert occupation and residence] of the first part, and _____ of [insert occupation and residence] of the second part:

Witnesseth, That the said party of the first part, in consideration of _____ dollars, lawful money of the United States, paid by the party of the second part, doth hereby grant and release * * * unto the said party of the second part, his heirs and assigns, forever,

[Description]

together with the appurtenances and all the estate and rights of the party of the first part in and to said premises.

To have and to hold the above-granted premises unto the said party of the second part, his heirs and assigns forever.

And the said party of the first part doth covenant with said party of the second part as follows:

First. That the party of the first part is seized of the said premises in fee-simple and has good right to convey the same.

Second. That the party of the second part shall quietly enjoy the said premises.

Third. That the said premises are free from incumbrances.

Fourth. That the party of the first part will execute or procure any further necessary assurance of the title to said premises.

Fifth. That the party of the first part will forever warrant the title to said premises.

In witness whereof, the said party of the first part hath hereunto set his hand and seal the day and year first above written.

In the presence of

SCHEDULE.

EXECUTOR'S DEED.

This Indenture, made the day of _____ one thousand eight hundred and _____, between _____ as executor of the last will and testament of _____ late of _____, deceased, of the first part, and _____ of the second part, *Witnesseth*:

That the said party of the first part, by virtue of the power and authority to him given in and by the said last will and testament and in consideration of _____ dollars, lawful money of the United States, paid by the said party of the second part, doth hereby grant and release unto the said party of the second part, his heirs and assigns forever,

[Description]

together with the appurtenances, and also all the estate which the said testator had at the time of his decease in said premises, and also the estate therein which the said party of the first part has, or has power to dispose of, whether individually or by virtue of said will or otherwise.

To have and to hold the above-granted premises unto the said party of the second part, his heirs and assigns forever.

And the said party of the first part covenants with said party of the second part that the party of the first part has not done or suffered anything whereby the said premises has been incumbered in any way whatever.

In witness whereof, the said party of the first part has hereunto set his hand and seal, the day and year first above written.

In the presence of

SCHEDULE.

MORTGAGE.

This Indenture, made the day of _____, in the year one thousand eight hundred and _____, between _____ of _____, party of the first part, and _____ of _____, party of the second part:

Whereas, the said _____ is justly indebted to the said party of the second part in the sum of _____ dollars lawful money of the United States, secured to be paid by his certain bond or obligation bearing even date herewith, conditioned for the payment of the said sum of _____ dollars on the day of _____ one thousand eight hundred and _____, and the interest thereon to be computed from _____ at the rate of _____ per cent. per annum, and to be paid

It being thereby expressly agreed that the whole of the said principal sum shall become due after default in the payment of interest, taxes or assessments as hereinafter provided.

Now this indenture witnesseth, that the said party of the first part for the better securing the payment of the said sum of money mentioned in the condition of the said bond or obligation, with interest thereon, and also for and in consideration of one dollar paid by the said party of the second part, the receipt whereof is hereby acknowledged, doth hereby grant and release unto the said party of the second part, and to his heirs (or successors) and assigns forever.

[Description.]

Together with all the appurtenances and all the estate and rights of the party of the first part in and to said premises.

To have and to hold the above-granted premises unto the said party of the second part, his heirs and assigns forever.

Provided always, that if the said party of the first part, his heirs, executors or administrators, shall pay unto the said party of the second part, his executors, administrators or assigns, the said sum of money mentioned in the condition of the said bond or obligation and the interest thereon at the time and in the manner mentioned in the said condition, that then these presents and the estate hereby granted shall cease, determine and be void.

And the said party of the first part covenants with the party of the second part as follows:

First. That the party of the first part will pay the indebtedness as herein-before provided, and if default be made in the payment of any part thereof the party of the second part shall have power to sell the premises therein described according to law.

Second. That the party of the first part will keep the buildings on the said premises insured against loss by fire for the benefit of the mortgagee.

Third. And it is hereby expressly agreed that the whole of said principal sum shall become due at the option of said party of the second part after default in the payment of interest for _____ days, or after default in the payment of any tax or assessment for _____ days after notice and demand.

In witness whereof, the said party of the first part hath hereunto set his hand and seal the day and year first above written.

In the presence of

SCHEDULE.

LEASE.

This Lease, made the day of _____ in the year _____ between _____ [insert occupation and residence] of the first part, and _____ [insert occupation and residence] second part:

Witnesseth, That the said party of the first part does hereby remise and lease unto the said party of the second part,

[Description]

for the term of _____ at the rent of _____ payable _____ subject to the following covenants, conditions and restrictions:

1. That the lessee will pay the rent.
2. That the lessee will keep the premises in good repair.
3. That in case the rent shall be in arrear, or default be made in any covenant for _____ days the lessor may re-enter.
4. That the lessor may affix a notice of "for sale" or "to let," and show the premises three months prior to the expiration of the lease.
5. That the lessee will not, without leave, use the premises other than as a private dwelling.
6. That the lessee will not carry on offensive trades.
7. That the lessee will not, without leave, lease, assign, or sub-let.
8. That in case of the partial destruction of the premises by fire, or otherwise, the rent shall be apportioned, and in case of a total destruction the lease shall cease.

The said party of the second part hereby accepts this lease of the above-described land, to be held by him as tenant, and subject to the covenants, conditions and restrictions above set forth.

In witness whereof said parties have hereunto set their hands and seals the day and year first above written.

In the presence of