

A Short History of Land Registration
in England and Wales



Front Cover: Photograph of Lake Buttermere by Nicky Bryant
Overleaf: Land Certificate Cover designed by Eleanor Fortescue-Brickdale



LAND
REGISTRY.
LAND
TRANSFER
ACTS
1875 & 1897.



DISTRICT
LONDON.
PARISH
St Paul Spitalford
TITLE N^o
110658

LAND CERTIFICATE.

This is to certify that
the *Leasehold* Land in the
PARISH of *St Paul Spitalford*
and COUNTY of *London*
known as *106 Leawham High Road*

shewn and edged with red on the filed Plan
is registered with **POSSESSORY TITLE**
under the above Number.

Copies of the Entries in the
Register and of the filed Plan
are within.

Dated this *6* day of *May* 19*05*

E.O.B.

Charles V. Musgrave
Assistant Registrar



NOTE. Section 8 of the Land Transfer Act, 1897,
requires this Certificate to be produced to the Registrar on
every Entry in the Register of a Disposition by the registered
Proprietor of the Land and on every registered Transmission
or Rectification of the Register but not on a Transfer under
a Power of Sale conferred by a registered Charge.

A Short History of Land Registration in England and Wales

Early Beginnings

The need to prove ownership of land has always been of great importance - "Cursed be he that removeth his neighbour's landmark" says the book of Deuteronomy in the Old Testament (ch 27 v17), written some 3,000 years ago. It has also been suggested that the long barrows of the Neolithic era in this country are there to "prove" ancestral ownership of the land.

The Romans introduced a form of land registration to England and Wales. Regular censuses were held, similar to the one mentioned in St Luke's gospel, where the ownership and productivity of land was recorded. This formed the basis of a land tax called tributum soli. In the last century of Roman rule, a new land tax based on a variable land unit called a iugum was introduced. Land records in the "Book of Llandaff" show much of the Roman system of land units continuing in Wales, after the end of Roman rule. Roman Egypt went further with a full land registration system, requiring the registration of conveyances and mortgages.

Similarly the Anglo-Saxons had a land tax (Danegeld), which would have required details of land ownership. The culmination of this system was the Domesday Book (1086) - an unique and almost complete survey of landowners, at least at manorial level, it is the crowning achievement of the administrative system of Anglo-Saxon England. According to the Anglo-Saxon Chronicle, William the Conqueror "by his foresight ... surveyed so carefully that there was not a hide of land in England of which he did not know who held it and how much it was worth".

The Domesday Book was just about the last land register in this country for taxation purposes. For the most part, the history of land registration in England and Wales has been one of trying to improve the system of conveyancing.



The Domesday Book
(reproduced by permission of the Public Records Office)

“This Long Desired Registry”

Originally in English law the only way to transfer freehold land was by livery of seisin, that is the public transfer of the land by the vendor to the purchaser, this usually involved handing over a piece of turf in the presence of witnesses. This form of conveyance was not abolished until 1925, but lost favour after the Statute of Uses (1535) allowed conveyance by deed. But the legislators did not want to allow secret conveyancing, so the Statute of Enrolments of the same year made it compulsory to enrol deeds of bargain and sale with the keeper of the rolls of the county, or in one of the courts at Westminster. This act can be seen as the ancestor of the Land Registration Acts.

“But the invention of lawyers was at length too much for the precautions of Parliament”. The Statute of Enrolments, saying nothing of estates less than freehold, was simply avoided by a new deed called a “lease and release”, and thus the act had the wholly unintended result of making it even easier to transfer land without publicity. A situation that was not, in fact, finally resolved until 1990.

Many people were aware that the system did not work satisfactorily. The flexibility that English law allowed in the creation of settlements and future interests etc, made deduction of title lengthy and costly, and even such deeds that were enrolled were difficult to find. William Leach wrote in 1651 “there hath been many courts, and divers offices.... to search in; and very many records, books and remembrances, or rolls to turn over, view or read for every of the four terms of the year; and in some of such courts such ... incumbrances have been intermixed with others in such manner, as they have been very difficult to be found....”.

Seventeenth century writers looked to Holland for inspiration, the most successful country in Europe of the day. Holland had introduced land registration in 1529, and the result was that land values were higher and mortgages quickly arranged. In the Commonwealth era hopes were high that something could be done to remedy what Oliver Cromwell called “an ungodly mess”. Many pamphleteers advocated registration of deeds or land, and registration of deeds bills were introduced but talked out of parliament by the opposition of the judiciary in 1653 and 1656. William Sheppard collected many of the ideas for reform. He urged

a county registry, where everyone would register their land and the title to it, and anyone with a mortgage could “fasten” it to the estate. Deeds would be recorded in short standard forms. However Cromwell was to admit that he could not overcome the opposition of “the sons of Zerouiah” (lawyers). Protestant fears of Catholic King James II’s motives put paid to a registration bill in 1685.

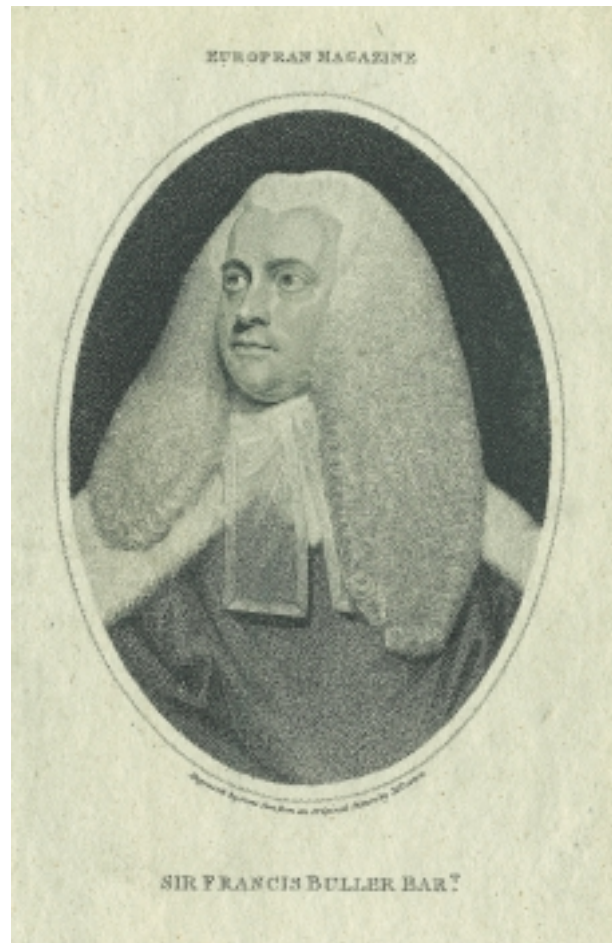
Probably the best thought out 17th proposals came from Andrew Yarranton. He proposed two sample acts to show how such a system would work. London houses would be registered at the Guildhall “And all such houses so registered, shall be a good title to the party registering such houses, and shall bar all persons whatsoever ... provided there be no claim entered within 6 months next after registering the same”. So a prospective lender would only have to check the register to discover ownership “and I give security.... by a mortgage put into the register of my house”. The suggested act for Salisbury was similar. So keen was he on the idea that he composed a 25 verse poem ‘A Plain Dealer’s Prayer for a Registry’ of which the following is just one verse:

“This is the judgement of sober men
Will be this long desired Registry
Upon whose fond none can be cheated when
They trade or trust on that security
Which if it pass as it is now fitted
The just are double blessed, the knaves outwitted”

Deeds Registration comes to England

All this agitation for reform did lead to deeds registries being established for the Bedford Levels (1663); Middlesex (1708) and Yorkshire outside the county town (1703-35) and General Registry Bills were narrowly lost in Parliament in both 1740 and 1758. Registration of title, of sorts, was introduced in 1715 in the aftermath of the Old Pretender's Rebellion, when Roman Catholics and Non-Juror Anglicans were compelled to register their estates for a tax which was levied once in 1723. This act was repealed in 1791.

The pressure for reform continued in the 19th century. The Real Property Commissioners Report of 1830 came down in favour of a general deeds registry, but it was at this time that the idea of a registry of titles rather than deeds was revived by London solicitor Mr J G Fonnerau. The idea that registration of title would be possible grew after the Merchant Shipping Act 1854, which established a register of title to ships - if ships then why not land?



Sir Francis Buller (1740-1800), said to be the youngest ever judge, lived at the Registry's future home of 34 Lincoln's Inn Fields, from 1779 to 1798. He was famous for some alleged eccentric judicial decisions.

Registration Achieved

The idea of registration of title finally came of age in the Royal Commission on Registration of Title (1857): “the classic on which the system of registration which obtains in England today is founded”, according to Sir John Stewart-Wallace (Chief Land Registrar 1923-41). The report first outlines the problems of the current system:

- Loss and suppression of title deeds
- No title is unimpeachable
- Title needs to be deduced on every dealing with the land
- Deeds require long recitals, which make them very protracted

It proposed a central registry in London with district offices. The freehold was the only estate to be capable of registration. Mortgages and leases could be registered against the estate, but all other interests could only be protected by caution. They did not think compulsory registration advisable.

First off the mark in respect of this report was Sir Robert Torrens, the Prime Minister of South Australia, who piloted land registration in that colony in 1858. The system he established was so successful that it has spread rapidly to much of the English-speaking world and beyond.

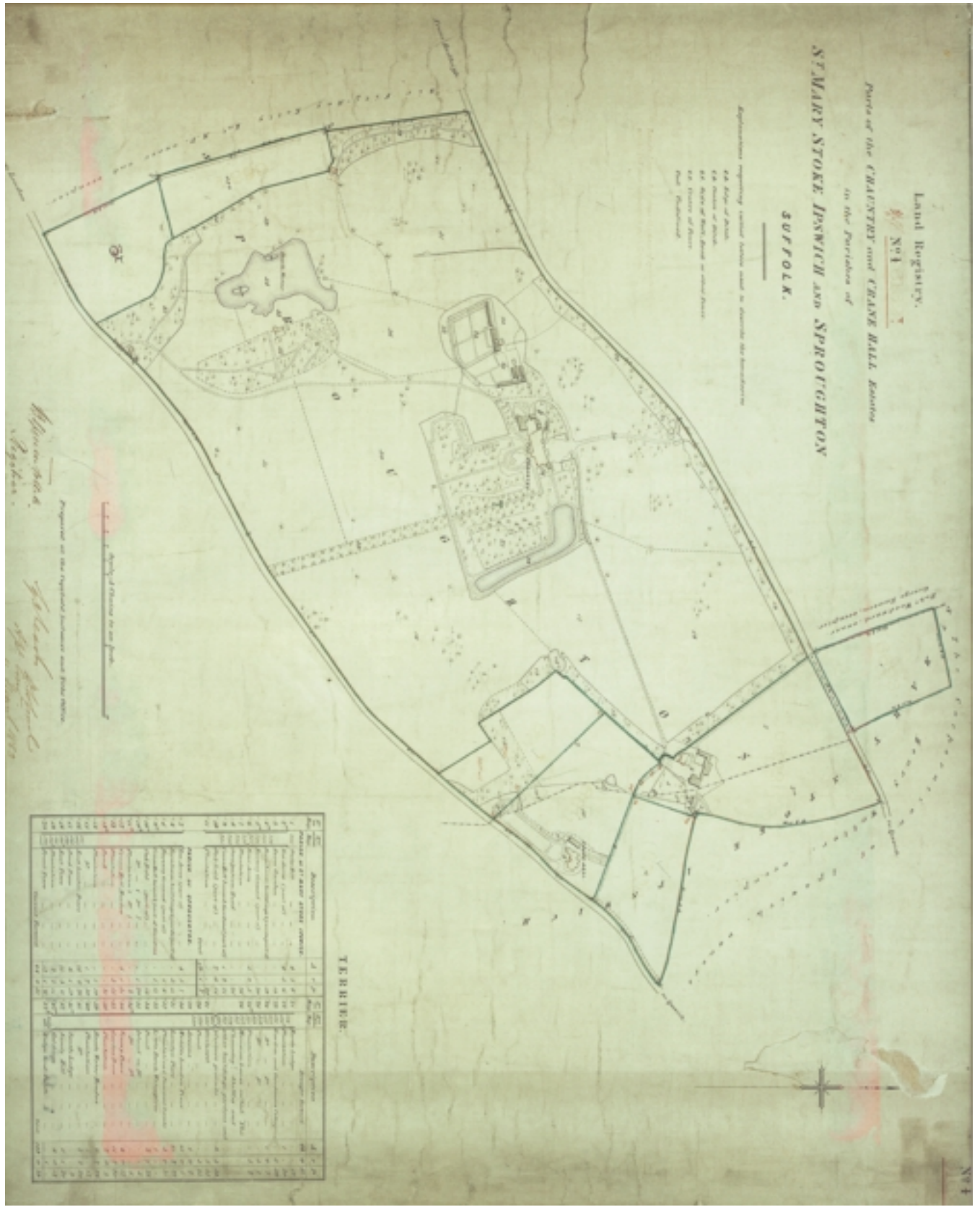
In England Lord Chancellor Westbury finally got land registration onto the statute book by the Land Registry Act 1862. The first Chief Land Registrar was Brent Spencer Follett, who was paid the then enormous sum of £2,500 pa; he had a staff of just 6. The office opened at 34 Lincoln's Inn Fields, London on 15th October of that year. There were high hopes for the Registry, the Times boldly stated “We shall shortly see the day when the Registrar's certificate of title will be the only proof recognised in business of a man being the owner of a landed estate”.



34 Lincoln's Inn Fields in about 1910 (reproduced by permission of the London Metropolitan Archives).



Brent Spencer Follett. (Photo: Brett Taylor)



Plan of Title Number 1

Registration Tottering

However, the 1862 act soon proved seriously flawed - only a few hundred titles had been registered, and there were complaints of high costs and excessive delay. In 1874 it was said "the weeds in the Registry courtyard grew as high as a man, making it as desolate a property as any that had fallen into the clutches of Chancery"

These faults were remedied by a Royal Commission of 1870, which led to the 1875 Land Transfer Act, which is in essence

the system in use today. But the lack of any compulsion to register meant that this act was no more successful than its predecessor. Indeed, analysis of the surviving registers of this period shows the Registry was very dependent on a few building estates. Opposition from the legal profession put paid to at least seven subsequent Registration bills.



How Linley Sanbourne of Punch magazine saw the failure of a Land Registration Bill in 1889. The second attempting to revive the bill is the Prime Minister, Lord Salisbury.

Registration Triumphant

However, the tide was turning. In 1888 Sir Charles Brickdale was appointed to the Land Registry; enormously talented, it is in no small measure due to him that the Land Registry survived and prospered. His 1896 report on registration in Germany was very influential. Finally Lord Chancellor Halsbury was able to get compulsory registration on the statute book in the 1897 Land Transfer Act, the legal profession having been mollified by the concession of a county veto.

Fortunately for the Land Registry, the London County Council were sympathetic and voted in favour, becoming the first compulsory area. Northamptonshire was keen to follow in 1902, but even with the support of the Chairman of the Council and Lord Lieutenant, the motion was voted down by the professional men on the council. Teething problems in the early years led to criticism, and although these were remedied by Sir Charles, a moratorium was placed on further extensions of compulsory areas in 1911.

The unregistered deeds system was given one last chance to prove itself by the property legislation of 1925, when government initiated extensions of compulsory registration were barred for 10 years. However, the assumption in the 1925 Property Law reforms was that all areas would be compulsory by 1955. This did not stop the county boroughs of Eastbourne and Hastings volunteering to become compulsory areas. Once the 10 years were up compulsory registration was extended to Middlesex - the Registry was back in business (almost 20 years after the Chairman of the Council had proposed it).

The principle of Land Registration faced one last battle, when the local law societies objected (as was their right) to the extension of compulsory registration to Surrey. A public enquiry held in 1951 found in favour of the registered system. But it had been a bruising battle; Sir George Curtis, then Chief Land Registrar, joked to a colleague "The ides of March (1952) will see a new compulsory area come into being. I only trust there is no Brutus among the Surrey solicitors waiting to assassinate me!".

After, there was a waiting list of authorities who applied for their areas to be made compulsory, and it was only a question of resources in the "stop-go" period of the 1960s and 1970s that slowed matters. Those in the legal profession

who opposed the Land Registry generally dropped their opposition and devoted their energies to improving the system. Although the opposition of lawyers has been noted in a number of places in this leaflet, many of their concerns about the operation of registered conveyancing were genuine. As the Estates Gazette of 7 March 1959 put it "it is not altogether fair to put the blame on the solicitors for not setting their heads on the block".

The last areas were brought into the registered system in December 1990. Although the day of the completion of the Land Register, hoped for by the Times over a hundred years ago, may still be some way off, new legislation in 1998 widened the instances of compulsory registration and voluntary registration has been further encouraged. Now all sales and other changes of ownership of land in England and Wales are registered and the residue of unregistered land slowly diminishes.

The Land Registry is a very different organisation from when it was founded in 1862. Now our 7,900 staff process some 3 million applications to change the register, and over 9 million enquiries and pre-completion searches. The department is expected to meet its operating costs out of its fee income of £239 million.



Sir Charles Fortescue Brickdale
(by his sister Eleanor Fortescue Brickdale)

Registration - The Future

Although the land register in England and Wales is one of the largest and most active in the world, completing it remains one of the challenges for the future. It is mainly the land holdings of central and local government and other institutions, which are unlikely to be registered under existing statutory provisions. However, measures to compel the registration of remaining land is likely to be the subject of further consultation in the years ahead. One of the few countries with the Common Law system to have achieved total registration is New Zealand, thanks to their Land Transfer (Compulsory Registration of the Titles) Act 1924.

One development that is easy to predict, as it increasingly touches all of our lives, is the use of information technology. At the time of writing the conversion programme of the card registers into computerised format is 94% complete, and a start has been made on the scanning of title plans and filed deeds (due to be completed in 2002).

Back in 1909 when the Valuation Office was set up, Sir Charles Brickdale suggested the setting up of a "Domesday Office" - a merger of the Land Registry, Valuation Office and Ordnance Survey. The ownership records being compiled by the Valuation Office would have then been used to create a land register for the whole country. The Chancellor David Lloyd George was in favour, but Lord Chancellor Haldane was opposed. Had the scheme been adopted, the Land Register would have been completed by now. However, since 1992 the same three departments have been co-operating in the Land Register of the future, the "National Land Information Service", which is currently at pilot project stage. Put briefly, this promises to be the one place to search for information held by both the public and private sectors about land.

One final point by way of epilogue. There can be little doubt that registration of title to land has been a great boon to the public. In 1956 it was reckoned that even with land registration fees, registered conveyancing represented a 30% saving for sellers and 20% for buyers. This represents a saving to the public of many millions every year, and the vast increase in home ownership has meant that the legal profession has not lost out in the long run either.



Leicester District Land Registry, (formerly a factory, it is one of the Land Registry's newest offices, but its oldest building).

Peter Mayer
Alan Pemberton
HM Land Registry, London 2000.

Twelve Chief Land Registrars



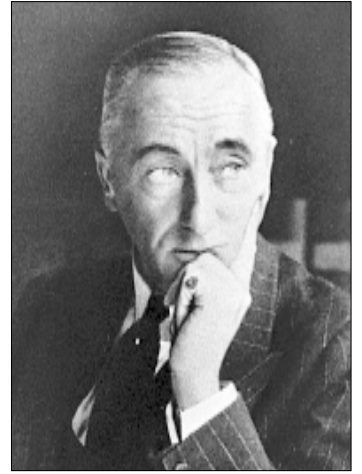
1. Brent Spencer Follett,
1862-1886



2. Robert Hallet Holt,
1886-1900



3. Sir Charles Fortescue Brickdale,
1900-1923



4. Sir John Stewart-Wallace,
1923-1941



5. Rouxville Mark Lowe,
1941-1947



6. Sir George Harold Curtis,
1947-1963



7. Theodore Burton Fox Ruoff,
1963-1975



8. Robert Burnell Roper,
1975-1983



9. Eric John Pryer,
1983-1990



10. John Manthorpe,
1991-1996



11. Stuart John Hill,
1996-1999



12. Peter Collis,
1999

Milestones in Land Registry History

- 1862 Land Registry Act: Land Registry opens
- 1875 Land Transfer Act
- 1888 Land Charges Registry begun
- 1889 Mapping Department set up
- 1892 Middlesex Deeds Registry becomes department of Land Registry
- 1897 Land Transfer Act
- 1899 Compulsory Registration introduced into first areas of inner London.
Typewriters introduced; first female employees
- 1913 New Lincoln's Inn Fields building completed
- 1925 Land Registration Act; Land Charges Act
- 1930 Official Searches introduced
- 1937 Middlesex becomes compulsory area
- 1938 Land Registry Benevolent fund started
- 1940 Land Registry moves to Marsham Court Hotel, Bournemouth, after bomb damage to Lincoln's Inn Fields Building
- 1942 Land Registry moves to Prudential Building, High Holborn, London
- 1945 Land Registry returns to Lincoln's Inn Fields
- 1948 Plans to move whole of Land Registry to Durham
- 1950 One millionth register completed
- 1951 Public Enquiry finds in favour of extending compulsory registration to Surrey
- 1955 Tunbridge Wells office opened



Broadcasting House, Portland Place, London W1: on part of the site once stood a pub called "The Devonshire Arms", the first property to be compulsorily registered on 9 January 1899, (Title Number 20001). (Photo: Ian Stone)

- 1956 Administration of Justice Act allows solicitors to become Chief Land Registrar
- 1957 Lytham St Annes office opened
- 1959 Nottingham office opened
- 1961 Manchester becomes compulsory area
- 1963 Two millionth register created; number of applications reach 1 million p.a.

- 1964 Gloucester and Stevenage offices opened
- 1965 Durham and Harrow offices opened; Lord Chancellor Dilhorne announces 8 year plan to extend compulsory registration
- 1966 Plymouth office opened; Birmingham becomes compulsory area
- 1967 Croydon and Swansea offices opened
- 1968 Study finds in favour of computerisation of register
- 1973 "Hiving off" bill, which would have turned LR into a public corporation, falls when Edward Heath calls a snap Election
- 1974 Computerisation of Land Charges
- 1975 Five millionth title created; plan to bring compulsory registration to 80% of population within 3 years
- 1977 Birkenhead and Weymouth offices opened; computerisation of Index of Proprietors' Names
- 1978 Peterborough office opened
- 1980 Housing Act: all "right to buy" deeds subject to compulsory registration
- 1986 Computerised processing of applications introduced at Plymouth. Telford office opened
- 1987 Coventry and Hull offices opened
- 1988 Leicester office opened
- 1989 Portsmouth office opened
- 1990 Last areas brought into compulsory registration; Register opened to public inspection; Land Registry becomes Executive Agency; Courts and Legal Services Act allows Chief Land Registrar to be non-lawyer
10 millionth title created



Some of the legal staff in 1902 (with traditional Civil Service tea and biscuits!).

- 1991 York office opened
- 1992 Land Registry one of first organisations to be awarded the Charter Mark
- 1994 Direct Access Service introduced
- 1995 First Property Price Report Published
Lincoln's Inn Fields building gets Grade II listing.
- 1997 Deed scanning project begun
- 1998 New "triggers" for compulsory registration introduced.
Fifteen millionth title created



A member of HQ staff today.

Further Reading

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Acknowledgements

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Headquarters Building today