INDEFEASIBILITY OF TITLE UNDER THE TORRENS SYSTEM
AND THE MALAYSIAN NATIONAL LAND CODE 1965

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DIPLOMA IN LAW

Submitted In Partial Fulfillment Of The
Requirements For The Diploma In Law Course
In MARA Institute Of Technology, Shah Alam.

JUNE 1986
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INTRODUCTION

The Torrens System of registration of land titles, with ideals of the liability, simplicity, speed and low cost, originated in the State of South of Australia in 1857 and become law there in 1891 by Sir William Maxwell and enacted as law for Singapore on 12th June 1956 with the passing of the Land Titles Ordinance. Beside the other states of Australia some of the countries where it is in operation are New Zealand, Canada, United States of America, Nigeria, Northern Ireland, Brunei and Fiji Island. Gradual transfer to this system is the aim in England and Wales where it is at present compulsory in certain areas and optional in others.¹

The Torrens System is a system arecord where the recognition of this record was done under the statutory provision. The provisions provides that the register is everything. It is where the titles to land rest and titles shall pass when a designated official of the State Register of Transfer which is made out and presented to the official on prescribed form. It is the state who can:effectively transfer the land, not the parties. The need for an indefeasible title springs from the main object of the Torrens System which is to save persons
dealings with registered proprietors from the trouble and expenses of going behind the register in order to investigate the history of their author's title and satisfy themselves of its validity.²

1. THE INTRODUCTION OF THE TORRENS SYSTEM IN THE 1890's AND SUBSEQUENT DEVELOPMENT TO THE PRESENT DAY

The Torrens System was introduced in the Malay States with the passing of the Registration of Titles Enactment in 1890's and it has been considered with respect to the matter of registration of titles to land as regards to its effect as between the state and the private landowners.

W.E. Maxwell was a person who was responsible of converting Australia Torrens System to Selangor, when he became the commissioner of land in the Strait Settlement. It did not actually take to the Torrens System, its only influence the establishment of a system for the recording of customary holdings in Malacca where the machinery of registration was used to settle claims and to record charges of ownership.

In 1891 W.E. Maxwell was appointed as the British Resident in Selangor where he passed the Registration of Titles Regulations (1891) and he introduced the system of the mukim register for