



Ontario

Ministry of
Consumer and
Commercial
Relations

Property
Rights
Division

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DATE: June 26, 1975

TO:
ALL LAND REGISTRARS

THE CRIMINAL CODE R.S.O. 1970
CHAPTER C.33 SECTION 297

DUTY TO DELIVER ORIGINAL
INSTRUMENTS

Section 297 of the Criminal Code states:

"Everyone who being or having been employed in the service of Her Majesty in the right of Canada or in the right of a province, or in the service of a municipality, and entrusted by virtue of that employment with the receipt, custody, management or control of anything, refuses or fails to deliver it to a person who is authorized to demand it and does demand it, is guilty of an indictable offence and is liable to imprisonment for fourteen years."

This provision is applicable to Land Registrars. However, anyone demanding delivery of an original instrument should be required to produce for the Land Registrar his authority for so demanding. Normally that authority will take the form of a court order.

Section 17 of The Registry Act states that a Registrar shall furnish a certified copy of an instrument or memorial deposited, registered or filed in his office on request of any person. A judge of a court in Ontario may, for the purposes of a hearing, order a Land Registrar to produce any instrument or document in his custody where, in the opinion of the judge, a certified copy thereof is not sufficient.

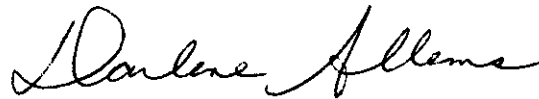
According to Rule 273 of the Rules of Practice, a subpoena for the production of an original record or of an original document from any land registry office shall not be issued, but an order for its production or transmission may be made which shall be obeyed by the officer in whose custody it is.

In addition to the duty to deliver an instrument as set out in a court order, there are certain statutes that authorize a search and seizure of documents, books, records, etc. The Income Tax Act empowers

persons authorized by the Minister of National Revenue to demand production of any book, letters, accounts, invoices, statements or other documents for any purposes related to the administration or enforcement of that Act. Persons so empowered under a statute should be required to identify the source of their authorization.

When a Land Registrar delivers an original document to an authorized person, he should make and retain a certified copy of the document for his files.

This replaces Bulletin No. 74082.



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DA:pc