

Sale and Transfer of Land.

of establishing title, and if this title could no longer be evidenced, even *prima facie*, by the possession of deeds, transactions by deposit of deeds would be seriously impeded. The knowledge of such deposits, ascertained by publication through a general register, would be repugnant to the feelings of most depositors, and the process of search and consequent delay would stop or limit this species of dealing just at the time when facility and despatch are the chief things needed. These are results which cannot be contemplated in a great commercial country without apprehension and alarm. And we may confidently conclude, that any system of registration which did not provide for arrangement equal in convenience to the deposit of deeds would fail to meet with general acceptance. To obviate this objection as much as possible, the principal Bills of late years, introduced for the Registration of Assurances, directed certificates of registration to be granted. Upon the faith of these it was supposed that parties could obtain loans in the same way as they can now obtain them on the deposit of deeds. But we doubt whether the same confidence would be given to such certificates as that which is given to the deeds themselves, unless they were considered, not only as certificates of the fact of registration, but also as certificates of the fact of ownership. In the latter case, however, it is perfectly evident that the register would become a register of title rather than a register of instruments and assurances.

Sixth objection considered.

XXII. Another objection to registration of assurances is, that it would tend to render less secure possessory titles—those titles, namely, which depend more upon the fact of quiet and long-continued enjoyment, than the technical sufficiency and accuracy of the various deeds which may have contributed to form the stages and steps of the title. The evidence of defects and slips in limitations and conveyances would by the register be perpetuated; and that possession, which might have continued undisturbed if the possessor had been allowed to keep his deeds in his box, would be made to invite criticism and attack, by presenting a public record of some frailty by which, or notwithstanding which, historically, the possession might have been acquired.

Seventh objection considered.

XXIII. Lastly, we are not satisfied that any mode of classification of deeds or of titles, for the purpose of furnishing the requisite indexes to a register of deeds, and affording the necessary facilities for search, has been or can be devised so as to be sufficiently free from complication. Without the means of ready, accurate, and complete searches, a system of registering deeds would only be a snare to purchasers. It cannot be doubted, we think, that everything has been done which learning and ingenuity could devise, toward providing efficient and complete indexes, in the Reports of the Real Property Commission, and the Commission on Registration and Conveyancing. But we concur in thinking (a) that the system of classification adopted by those Commissioners mixes up the technicalities of the law of real property, with the process of registration in a greater degree than would be compatible with the objects now generally sought to be attained by registration.

Yorkshire and Middlesex Registers.

XXIV. We have not overlooked the fact that the local registers of Yorkshire and Middlesex (as remarked by the Real Property Commissioners (b) “are generally considered to be, on the whole, productive of good, and that no attempt has been made to abolish them,”

As, however, these local registers have furnished a lengthened experience on the subject of the registration of deeds, we think it not unimportant to remark that they do not afford any answer to the observations we have found it necessary to make as to the insufficiency of a registry of assurances for removing the existing impediments to the free transfer of land, or as to the positive objections which may be opposed to the institution of such a registry.

Objections to them considered.

1. In the first place, these registers are signally defective, in not presenting at one view all the documentary evidence which a party investigating a title may have occasion to see. There is no guide to the searches which on a sale ought to be made in the register, except a previous investigation of the documents which may happen to be included in the vendor's abstract of title. When the names of former grantors or owners of the land have been ascertained from the documents to which the purchaser obtains access, then (but not till then) he can search the register in the names of those former owners for any assurances which may have been executed by them. These searches must be repeated in new names as new light is from time to time thrown upon the title; whereas a register of deeds, in our opinion, ought itself to furnish consecutive information of the dealings with the land which have taken place, when once a reference to the proper head in the index has been obtained. The defects of the existing registers in this respect are pointed out by the Real Property Commissioners (c), and we concur in their opinion.

2. These

(a) See Humphrey on Registration of Assurances Bill.

(b) 2 Rep. p. 19.

(c) “We may here mention as an important inconvenience belonging to the existing registers, and from which a system founded on classification would be exempt, that where registered deeds are indexed by names, several searches of the register at successive times are often necessary. The deeds produced to a purchaser indicate the searches required so far only as the title is shown by those deeds. It is obvious, that every document relating to the title must have been under consideration before the extent of the searches required can be ascertained, and that frequently searches will become necessary with reference to interests which are brought into view by the result of a former search. The consequence is, that in almost every case something is left undone; the purchaser, to escape from inquiries so indeterminate, foregoing the protection which the register would have afforded him. But if the deeds relating to a particular title are brought together in the index, a reference to the class enables the purchaser to ascertain at once whether all the documentary evidence has been produced to him, and to call for any instruments which may appear by the register to be wanting.” And again—

“The purpose of a repertory of documents of title is not answered, in a perfect manner, by any of the existing registers in this country. Whenever the ownership of lands is shown by a deed to which the purchaser has access, a