

Sale and Transfer of Land.

It has, on the other hand, been urged (*a*) that the registrar ought to be charged with the duty of ascertaining the accuracy of the description and identity of the land, and that to ensure this a local register would be indispensable, and that a union of the two systems would be at once practicable and desirable.

With reference, therefore, to the question whether the office should be a single metropolitan office, or whether it should be subdivided into various provincial offices, our opinion is, that both suggestions may be combined with great advantage. The principal office should be situated in London; but local or district registries should be also established.

We now proceed to state the leading particulars of the registration we recommend.

As to Registration of Title. Leading particulars of the Plan recommended.

LII. A land register and transfer office for England and Wales will be established in London The Office. under the management of a Registrar-General; and branch offices will be also established in different districts throughout the kingdom, subject to the orders and regulated by the authority of the Registrar-General.

LIII. The registration will extend to all corporeal hereditaments, except copyholds, and to advow- The kinds of property, sons and rentcharges, except perhaps tithe rentcharges.

LIV. After the establishment of the office, all owners or proprietors of land who have the right General right of owners in fee simple to obtain registration. of possessing or the power of disposing of it in fee simple, will be at liberty to apply for the registration of the ownership thereof; so that such ownership, or the title to the land which is the subject of the same, may thenceforth be manifested by the register alone.

Supposing this to be accomplished safely and with prudence, the effect of the register, when in complete operation, will be to render it unnecessary, in dealing with land, which has so been registered, to look beyond the last ownership appearing on the register, and thus the expense of long investigations of title—of deducing that title through numerous assurances, pedigrees and devolutions—of requiring covenants for the production of deeds in the hands of third parties—of lengthened abstracts, recitals, and conveyances—will, on the occasions of future alienation, as the register advances, be gradually diminished, and eventually be altogether avoided.

Two difficulties, however, here arise: the one, in first bringing titles on the register; the other in protecting the different interests and incumbrances which may now be derived out of or charged on, the fee simple of land, and connecting them with the registered ownership. We have endeavoured to remove both these difficulties.

LV. Registration of title is proposed to be twofold; one which shall at once enable the regis- Two kinds of registered ownership, tered owner to transfer the estate with a present or immediate statutory title; the other, registration of actual ownership, without the power to transfer an immediate statutory title.

LVI. In the second of these cases, that is, in the case of registration unattended with immediate statu- Prevention of improper attempts at registration. tory title, the parties applying will be required to produce before the registrar a declaration on oath stating that they are in the actual enjoyment of the rents and profits, and that they believe themselves to be absolutely entitled to the land in fee simple free from all incumbrances, or subject only to such incumbrances, as are distinctly specified; and they will also be required to produce, where it can be done, the last instrument of conveyance of the fee simple, or such other evidence as the registrar may find it necessary to require, with the view of excluding fraudulent claims. Powers will also be conferred on the registrar to give such public and other notices as he may deem necessary of the intention of the parties to have the property registered, in order that they may not wrongfully procure a registration which may be detrimental to other persons.

But where the title to lands has been ascertained by decree or judgment of any Court whose jurisdiction is competent to determine the right, there the production of such decree or judgment by the person in whose favour it may have been made, or the order of the Court consequent thereon, will alone be sufficient to authorize the registrar to register the ownership of such person, subject to the necessity of making such declaration and serving such notices as above adverted to.

LVII. Registration with immediate statutory title will take place in those cases where the owner Registration with warranted title. of land desires, not only to obtain a title which, with regard to the future, will be manifested and established by the register alone, but a title which with regard to the past cannot be disturbed. We have already adverted to this part of the subject, and we have stated, for reasons which we need not repeat, that the suggestion of a guarantee or warranty of title is in our opinion most valuable. In this class of cases (*b*) See paragraph XXX. it will be lawful for the parties seeking registration with the benefits of a warranted ownership to apply to the registrar to have the title investigated with that object. In such cases, it will be right the registrar should cause the title to be fully investigated, at the expense of the parties, by counsel and solicitors; and

(*a*) Mr. J. Meadows White's evidence.

(*b*) Mr. Headlam objects to the system of warranty. See his paper at the end of this Report.