

Sale and Transfer of Land.

compulsory registration of title; for a landowner could not venture to remain passive, lest some one else should procure registration to his prejudice. The presumptive completeness attributed to the freehold title would also tend to stir up dormant claims which might otherwise be settled by mere lapse of time. In the next place, the right which under such a system every freeholder would have to register his freehold, as implying, in the absence of, or subject to registered qualifications, a power to transfer the fee simple to a *bona fide* purchaser for valuable consideration, would confer on a person with a limited interest, a power which he does not and ought not to possess. The consequence must be, that claims without number would be sent in to the registrar; for the presumptive right which the freeholder might acquire would otherwise destroy the actual rights which the remainder men, or those who have interests in the property, are justly entitled to. In the next place, the facility with which claims might be made and allowed would lead to the introduction of a mass of documents—some real, some doubtful, some fictitious—which would have to be searched for, examined, and got rid of, before a purchaser could be advised to accept the registered title; and thus the evils already pointed out (a) as necessary incidents to a registration of assurances would here arise, and we do not see how they could well be avoided. Again, since all interests, other than that of the registered owner for the time being, are by this plan remitted to the head of “Charges and Notices,” it would often be ambiguous what extent of interest ought to be considered as represented by the registered ownership. In some cases the “claims” may be merely illusory, and in others they may relate to interests certain to take effect (at a future period). The certificate of ownership, however would be delusive, if it were not certain what measure or interest it represented, because the ownership would appear to be the fee, and yet might, in truth, be no more than a life interest. On the other hand, the proposed circulation of certificates of registered “claims” might lead to fraud when the claim covered merely an imaginary, a litigated or a doubtful interest. Once more, the sale of lands by registered owners would, during the period of provisional registration contemplated by this plan, be almost prohibited, inasmuch as, until the expiration of that period, modifications and limitations might be put upon the register in the shape of “claims.” Assuming, however, that these objections could be more or less overcome, still there would be the difficulty, the expense, and the delay of mapping the whole country, of settling the questions of disputed boundaries, of correcting errors which would constantly creep in, and of revising the map from time to time so as to make it correspond with the changes, in the various alterations and subdivisions of property, which would constantly take place.

Maps.—XXXIV. The importance of maps as forming the best basis for a scheme of registration has been long and often and ably discussed. In 1832 the Real Property Commissioners (b) reported against such a use of maps. In 1850 the Registration Commissioners reported (c) in favor of it; but two of that body, Mr. Humphry and Mr. Broderip, expressed their dissent. In 1850 a Bill for the Registration of Assurances, founded on the report of the last-mentioned Commissioners, which recommended maps, was brought into the House of Lords, and referred to a Select Committee. The Select Committee, admitting that maps were in theory to be preferred, came at length to the conclusion that, considering the occasional inaccuracy of the tithe maps, the insufficient scale of the then existing Ordinance maps, and the great delay and expense of a new survey, it would be inexpedient to propose their compulsory adoption in the first instance, but that means should be reserved of introducing them as opportunity occurred. The Bill, in consequence, came down to the House of Commons without that portion of it which was founded on the recommendation of maps by the Commissioners. In the House of Commons the question was slightly re-opened (d) in 1851, but no opinion was expressed. Under these circumstances we have felt it our duty to take further evidence on it; and we have arrived at the conclusion that a compulsory plan for mapping the whole country would not be attended with sufficient advantages to outweigh the inconveniences which must necessarily attend it. The first inconvenience would be the unavoidable delay that must occur in re-mapping the kingdom. There are no public maps now in existence which would be sufficient to answer all the purposes of registration (e). The present scale of the Ordnance maps in England would not be large enough for minute subdivisions of common fields, and for a clear delineation of town districts. The tithe maps would determine the question of parochial boundaries, but not the boundaries of individual proprietors. Such maps might certainly be useful to a considerable extent; but for registration purposes there must be new surveys; the revision of existing maps must be made, and it would probably require two years before the map for any one county could be got ready. Again, the expense would be very considerable. Mr. Blamire says (f) that the maps and references in the Tithe Office have already cost as much as £2,500,000; and Colonel Dawson (g) estimates at upwards of a million, the cost of compiling a map of the entire kingdom partly from maps scientifically constructed, and partly from the revision of other maps to be adopted for the purposes of registration. And this would be independent of the expense which would have

(a) See Sections XVII to XXIII.

(b) See 2nd Rep. p. 26.

(c) See the Report of the Registration and conveyancing Commissioners, p. 15.

(d) See Mr. Bullar's and Mr. Coulson's evidence, 692-694, 1000-7, 1073-75, before Committee of House of Commons.

(e) It should be remarked that this reasoning is applicable chiefly to England. In Ireland the Ordinance map on the scale of six inches to the mile is sufficient for the purposes of registration. See the evidence of Colonel Larcom, Mr. Griffith, Sir M. Barrington, Sir R. Kane, Mr. Brassington, and Mr. R. W. White.

(f) See evidence of Mr. Blamire.

(g) See Col. Dawson's evidence, pp. 4, 5.