

Sale and Transfer of Land.

2. Every such lease shall also be entered under some proper sanction, such as the consent of the registered owner, or the order of a competent Court decreeing or directing the same to be registered.

3. On registering such lease the registered ownership will be subject to the legal rights incident to the lease, and either may be transferred independently of the other.

4. A certificate of the lease will be given by the registrar to the party applying for the registration of the same.

LXXVIII. The mode of transferring registered charges and registered leaseholds will be similar in all respects, *mutatis mutandis*, to the mode of transferring the registered ownership. And on the death of the registered owners thereof, their representatives will be entitled to be registered in their place. Transfer of incumbrances and leases.

LXXIX. There are some cases in which provisions, in connection with the proposed register, may be made to facilitate the sale and transfer of land, though not provisions which can be said to be indispensable to the system as a system of registration. It has been suggested to us (a) that means might be devised by which the conversion of land into money could be effected at once, with the concurrence only of the person having possession and enjoyment of the land, if care were taken to provide a safe and independent place of deposit for the money for division among the parties having pecuniary claims on it. Facilities, it is said (b), might be given in some cases to allow the transfer of the land to proceed, impounding the consideration for the transfer, and fixing it with the equities under notice. This, it is urged, would be specially desirable in cases of pecuniary claims or charges on the land the title to which charges may be embarrassed. Extension of powers of sale of Court of Chancery.

We have adopted these views, and propose to vest in the Court of Chancery certain powers for the purpose suggested.

LXXX. A provision which it is most important to attend to is the mode of indexing the property registered. This must be left to a great extent to the determination of the registrar. But since there are three matters more or less distinct from each other, yet more or less connected together, which would have to be entered in different ways, namely, registered ownerships, registered charges, and registered leases, there must be also three sets of indexes corresponding therewith; namely, first, an index of registered owners; secondly, an index of incumbrancers; and thirdly, an index of lessees; and these indexes should so far refer to each other that the registered ownership should always show by a distinct reference whether such ownership was subject or not to any existing charge or lease. Indexes.

LXXXI. With regard to some miscellaneous questions as to the machinery of the proposed registry, we think that the title-deeds should not be required to be delivered up to the registrar; that the registrar should have a general power of determining conflicting claims by consent, or of putting them in a course of judicial determination that no tenancy in common should be allowed in a registered ownership; that a general power should be given to the registrar of making necessary regulations; and that there should be a difference of fees for large and small transactions. Miscellaneous provisions.

LXXXII. With regard, however, to the powers to be entrusted to the registrar, we conceive that, as a general principle, his authority should be ministerial and executive in its nature, and not judicial. We agree in an observation contained in the evidence before us (c), that there is no feeling more strongly rooted in the public mind than dislike of official interference with their private affairs, and any system must be considered practically impossible, however theoretically perfect, which would render the approval or sanction of a registrar necessary for the completion of transfers, or would give him any discretionary power to prevent them. Authority of Registrar.

Conclusions in favour of, and Answers to Objections against, the plan recommended.

LXXXIII. This measure, so novel in its character and so difficult in detail, demanded from us, and has received the most careful and searching examination. The best means, in fact, of testing its practicability were afforded to us before this report was drawn up, by the labours of one of the Commissioners, who prepared the sketch of a Bill (d), with the requisite provisions and machinery for the practical working of the measure. This Bill, which will be found in the Appendix, was examined by us in detail, and from it we derived much valuable assistance in framing this report. In some respects it differs from the recommendations which have here been made; in principle, it agrees with them altogether. Novel, therefore, and difficult as the measure may be, we see no reason to doubt its practicability, and we can consequently recommend it with more confidence, and in the belief that while it would obviate all the difficulties which are likely to spring from a registration of assurances, it would provide those benefits in the transfer of land which registration is intended to confer. On the one hand it will be found, that the expense General conclusions in favour of the measure.

(a) Mr. Bartle J. Frere's evidence.

(b) Mr. J. Meadows White's evidence.

(c) Mr. Kettle's evidence.

(d) See Mr. Lewis's Bill, App. B.