

(No. 64.)



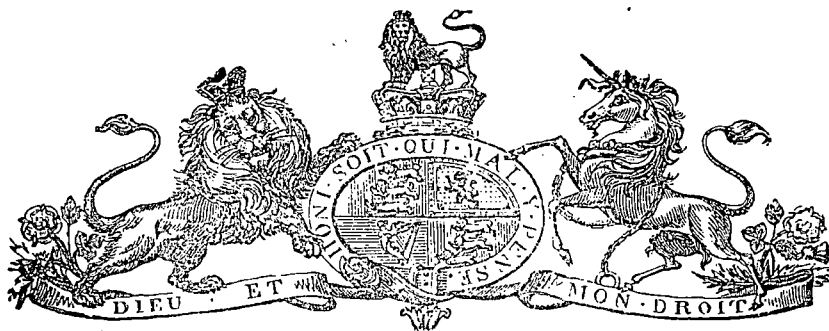
1889.

PARLIAMENT OF TASMANIA.

RECORDER OF TITLES:

REPORT FOR YEAR ENDING JUNE 30, 1889.

Presented to both Houses of Parliament by His Excellency's Command.



Lands' Titles Office, Hobart, 25th July, 1889.

SIR,

I HAVE the honor to submit the Annual Report on the working of this Department for the year ending 30th June last.

The usual particulars of the transactions which have been dealt with by the Office for the past six months and the then five preceding years will be found in the annexed Return.

The income of the Department for the year under review amounted to £3570 7s. 2d., being £646 17s. 2d. in excess of the amount voted by Parliament for its service for that period.

As Collector of Stamp Duties I have received the sum of £3102 5s. in cash, exclusive of amounts not exceeding £1 paid by adhesive stamps cancelled in my presence.

It must be remembered that since January, 1887, the Estimates of Expenditure have been burdened, and unnecessarily so, I think, with the costs of advertising notices of Applications, amounting to £250 or thereabouts. The moneys received from the applicants to defray such costs are credited as revenue, although I do not see how they can properly be considered as such, seeing that they are amounts fixed by contract with the newspaper proprietors, and received by me for the specific purpose only of being disbursed to them. A misleading item would be swept from the estimates of the Department, and a considerable amount of circumlocution would be saved, by a return to the system which obtained prior to 1887, when the Recorder received and dealt with the advertising fees without paying same into the Treasury. Any unappropriated balances, however, might, say annually, be paid thereinto.

The Assurance Fund amounts to the sum of £7406 4s. 4d., and no call has up to the present time had to be made upon it.

During the year 1075 Transfers have been registered, 1034 new Certificates of Title (in duplicate) have been prepared, and 231 Titles by endorsement, on the same principle as that adopted with a Ship's Register on a change of ownership, have been issued. The increase in the last item is accounted for by the more general acceptance of this form of title in applicable cases, but it must be remembered that thereby the number, which the first item would otherwise have attained is reduced.

3188 Memorials (in duplicate) have been entered in the Register Book during the year.

The total number of transactions registered in the Office for the year ending 30th December, 1888, is 3380, affecting 7023 acres of Town and 252,795 acres of Country Land, of the value of £989,577. The tabular statements at foot will furnish in detail, I think, all further statistical information which may be required. In reading these it must be borne in mind that in the experience of the Office the figures attained in the first six months of the year are never so high as those of the last.

Those having business to do with the Department are constantly complaining of the height at which the offices are situated, and the consequent arduousness of the "climb" to reach them. The exigencies of the case are such, therefore, that I venture to submit that there should be no delay in proceeding with the erection of the "Elevator." The Department has been self-supporting since 1885, and during the past two years has been enabled to yield a fair proportionate contribution to the Revenue. That contribution must yearly increase. Taking this into consideration, and the comparatively trifling cost of the convenience required, I feel justified in urging the Government to give this matter the early attention which, small though the work is, its importance as a matter of convenience to the public warrants.

The difficulties arising from Road deviations have for a considerable time been brought prominently under my notice. Roads are seldom constructed on the same lines as those reserved in Crown Grants. The consequences are that in many cases the grantee is in possession of the whole or some portion of the original reserved line of unmade road, which is still Crown land, while the road or some part of it as actually constructed runs over land which, having been granted by the Crown,

has become private property. It frequently happens that the difficulty is not discovered until the owner wishes to deal with his land—perhaps by sale in allotments—in which case vexatious difficulties and delays unavoidably arise, through his having no title to small strips of land, being portions of the reserved road included in the subdivision lots. Where on the construction of a road any deviation occurs, both parties (the Crown and the subject) should, I think, be in all cases placed at once in their true and proper legal positions as to the portions of reserved road exchanged for those as actually made. Personally I consider that in future the question can be easily dealt with by inter-departmental arrangement without the intervention of legislation; and that in all known cases of deviation which have occurred in the past there should at once be an exchange of titles.

It is satisfactory to note that the provisions of "The Real Property Act, No. 5," (50 Vict. No. 8), are now generally availed of, and that much benefit has arisen from the powers which were conferred on credit purchasers from the Crown of giving valid security before their Grant deeds actually are prepared, thus enabling them to complete their purchases and make improvements, when they would not otherwise have been able to do so until a later date. The powers conferred on purchasers to give and have registered a valid mortgage of the land purchased contemporaneously with the transfer to themselves have also been found to work well, and have proved very beneficial. It frequently happens that one portion of a property which it is desired to bring under "Torrens' " system is held under an old Location Order and the other under a Grant as separate roots of title. This necessitates the filing of two applications, in fact, duplicates the whole of the work, and consequently the expense attending it. This difficulty could be got over by making the Location Order for the purposes of the application legally equivalent by Statute to a Grant, proper precautions, of course, being taken at the Crown Lands' Office, similar to those now adopted in Grant applications, to ascertain that the fee simple at law is still ungranted. One application only would then be necessary, and the applicant would receive one Certificate of Title instead of a Certificate and a Grant.

In my Annual Report in 1884 I had the honor to submit that "The principles and practice of Conveyancing under the Torrens' system should form part of the Conveyancing curriculum in future Law examinations." In my yearly Reports since that date I have taken the opportunity of giving prominence to this matter. Four years ago (9th January, 1885) the Board of Examiners under "The Barristers and Attorneys Act, 1874," intimated to me "that (my) suggestion would probably be embodied in the recommendation to be made by the Board to their Honors the Judges," but I am not aware that so far anything further has been done in the matter. I beg, therefore, to again submit the question for consideration, on the grounds that as nearly one-fourth of the alienated land in the Colony is under "Torrens' System" it does seem only reasonable that Law students should be expected to know something of the principles and practice which rule conveyancing under it.

It is my painful duty to record the death of Mr. Justin McCarty Browne, who for so many years was one of the Lands' Titles Commissioners.

I have to acknowledge the courtesy of the legal profession in all matters in which I have been brought in contact with them in the administration of the Department.

I have the honor to be,

Sir,

Your obedient Servant,

JAMES WHYTE, *Recorder of Titles.*

The Hon. the Attorney-General.

No. 1.—*APPLICATIONS for Certificates of Titles and Grants.*

| YEAR. | NO. | VALUE. | AREA. | | | | | |
|-----------------------------|-----|---------|-------------------|----|----|----------|----|----|
| | | | Town and Suburbs. | | | Country. | | |
| | | £ | A. | R. | P. | A. | R. | P. |
| 1884..... | 103 | 53,356 | 301 | 1 | 38 | 3872 | 0 | 26 |
| 1885..... | 74 | 36,967 | 102 | 2 | 27 | 1860 | 1 | 24 |
| 1886..... | 80 | 44,449 | 77 | 2 | 29 | 6573 | 3 | 38 |
| 1887..... | 96 | 57,523 | 194 | 1 | 20 | 9026 | 1 | 16 |
| 1888..... | 113 | 66,773 | 166 | 1 | 6 | 5774 | 3 | 14 |
| 1889 (first six months).... | 45 | 33,925 | 79 | 1 | 20 | 774 | 1 | 4 |
| | 511 | 292,993 | 921 | 3 | 20 | 27,882 | 0 | 2 |

No. 2.—GRANTS registered.

| YEAR. | NO. | VALUE. | AREA. | | | | | |
|------------------------------|------|----------|-------------------|----|----|----------|----|----|
| | | | Town and Suburbs. | | | Country. | | |
| | | | A. | R. | P. | A. | R. | P. |
| 1884..... | 544 | £ 43,249 | 716 | 2 | 22 | 35,951 | 2 | 18 |
| 1885..... | 503 | 31,272 | 710 | 0 | 9 | 24,137 | 3 | 31 |
| 1886..... | 560 | 40,078 | 595 | 2 | 1 | 41,611 | 1 | 12 |
| 1887..... | 529 | 55,433 | 616 | 3 | 39 | 43,326 | 0 | 27 |
| 1888..... | 563 | 61,571 | 580 | 0 | 2 | 45,967 | 3 | 28 |
| 1889 (first six months)..... | 249 | 19,296 | 230 | 2 | 14 | 16,043 | 1 | 30 |
| | 2948 | 250,899 | 3449 | 3 | 7 | 207,038 | 1 | 26 |

No. 3.—TRANSFERS.

| YEAR. | NO. | VALUE. | AREA. | | | | | |
|----------------------------|------|-----------|-------------------|----|----|----------|----|----|
| | | | Town and Suburbs. | | | Country. | | |
| | | | A. | R. | P. | A. | R. | P. |
| 1884..... | 675 | £ 184,486 | 503 | 3 | 7 | 29,805 | 2 | 37 |
| 1885..... | 729 | 161,921 | 1067 | 3 | 12 | 34,603 | 2 | 32 |
| 1886..... | 817 | 158,877 | 945 | 1 | 32 | 36,191 | 0 | 24 |
| 1887..... | 938 | 170,989 | 877 | 3 | 16 | 42,772 | 2 | 22 |
| 1888..... | 1076 | 211,327 | 1172 | 0 | 28 | 47,006 | 1 | 22 |
| 1889 (first 6 months)..... | 532 | 121,921 | 346 | 3 | 22 | 57,195 | 0 | 2 |
| | 4817 | 1,009,521 | 4913 | 3 | 37 | 247,574 | 2 | 19 |

No. 4.—MORTGAGES registered.

| UNDER REAL PROPERTY ACT. | | | | | | | UNDER OLD SYSTEM. | | | |
|--------------------------|------|-----------|-------------------|----|----|----------|-------------------|----|-----|-----------|
| YEAR. | NO. | VALUE. | AREA. | | | | | | NO. | VALUE. |
| | | | Town and Suburbs. | | | Country. | | | | |
| | | | A. | R. | P. | A. | R. | P. | | |
| 1884..... | 474 | £ 236,134 | 625 | 0 | 16 | 33,642 | 3 | 18 | 536 | £ 604,489 |
| 1885..... | 495 | 248,732 | 829 | 3 | 29 | 47,128 | 1 | 18 | 625 | 397,979 |
| 1886..... | 665 | 333,954 | 1542 | 0 | 4 | 56,702 | 3 | 12 | 655 | 546,768 |
| 1887..... | 772 | 345,031 | 1187 | 1 | 22 | 99,128 | 3 | 8 | 655 | 515,524 |
| 1888..... | 918 | 373,318 | 1172 | 0 | 28 | 96,066 | 2 | 35 | 894 | 711,032 |
| 1889 (first 6 months) | 407 | 162,538 | 237 | 2 | 3 | 37,037 | 3 | 22 | | |
| | 3731 | 1,699,707 | 5594 | 0 | 22 | 369,707 | 1 | 33 | | |

No. 5.—MORTGAGES.

| DISCHARGED. | | | | | | | | TRANSFERRED. | | | | | | | | | |
|--------------|------|----------|-------------------|----|----|----------|----|--------------|--------------|-----|--------|-------------------|----|----|----------|----|----|
| YEAR. | NO. | VALUE. | AREA. | | | | | | YEAR. | NO. | VALUE. | AREA. | | | | | |
| | | | Town and Suburbs. | | | Country. | | | | | | Town and Suburbs. | | | Country. | | |
| | | | A. | R. | P. | A. | R. | P. | | | | A. | R. | P. | A. | R. | P. |
| 1884..... | 259 | £ 90,215 | 439 | 2 | 29 | 20,741 | 3 | 14 | 1884..... | 9 | 751 | 2 | 0 | 13 | 139 | 0 | 0 |
| 1885..... | 257 | 94,871 | 604 | 0 | 19 | 42,861 | 2 | 26 | 1885..... | 29 | 9324 | 9 | 2 | 35 | 3252 | 1 | 5 |
| 1886..... | 278 | 111,450 | 355 | 2 | 38 | 19,812 | 0 | 17 | 1886..... | 22 | 5337 | 31 | 3 | 0 | 7956 | 0 | 16 |
| 1887..... | 286 | 91,758 | 2140 | 3 | 35 | 27,404 | 1 | 36 | 1887..... | 19 | 6158 | 49 | 1 | 33 | 4594 | 1 | 13 |
| 1888..... | 363 | 228,482 | 445 | 1 | 18 | 38,439 | 0 | 11 | 1888..... | 15 | 7607 | 2608 | 3 | 2 | 622 | 1 | 28 |
| 1889..... | 143 | 40,727 | 754 | 2 | 28 | 14,022 | 2 | 37 | 1889..... | 14 | 792 | 9 | 1 | 25 | 4090 | 2 | 17 |
| first 6 mos. | 1586 | 657,503 | 4740 | 2 | 7 | 163,281 | 3 | 21 | first 6 mos. | 108 | 29,929 | 2711 | 0 | 28 | 20,654 | 2 | 39 |

No. 6.—LEASES.

| YEAR. | NO. | VALUE. | AREA. | | | | | |
|------------------------------|-----|--------|-------------------|----|----|----------|----|----|
| | | | Town and Suburbs. | | | Country. | | |
| | | £ | A. | R. | P. | A. | R. | P. |
| 1884..... | 41 | 2332 | 57 | 2 | 28 | 4472 | 2 | 37 |
| 1885..... | 26 | 2906 | 26 | 2 | 20 | 2102 | 2 | 39 |
| 1886..... | 47 | 5776 | 61 | 3 | 31 | 7502 | 3 | 9 |
| 1887..... | 31 | 4216 | 48 | 0 | 29 | 10,421 | 2 | 26 |
| 1888..... | 51 | 22,510 | 569 | 2 | 1 | 11,967 | 3 | 8 |
| 1889 (first six months)..... | 18 | 1346 | 21 | 1 | 39 | 6819 | 3 | 25 |
| | 214 | 39,086 | 785 | 1 | 28 | 43,287 | 2 | 24 |

No. 7.—APPLICATIONS on Death of Registered Proprietor.

| YEAR. | NO. | VALUE. | AREA. | | | | | |
|----------------------------|-----|---------|-------------------|----|----|----------|----|----|
| | | | Town and Suburbs. | | | Country. | | |
| | | £ | A. | R. | P. | A. | R. | P. |
| 1884..... | 61 | 55,274 | 533 | 1 | 19 | 16,847 | 1 | 0 |
| 1885..... | 58 | 48,736 | 108 | 1 | 21 | 19,219 | 3 | 17 |
| 1886..... | 58 | 51,978 | 308 | 2 | 9 | 19,394 | 3 | 35 |
| 1887..... | 61 | 55,816 | 192 | 0 | 18 | 28,055 | 3 | 3 |
| 1888..... | 57 | 36,707 | 1312 | 1 | 21 | 10,917 | 0 | 24 |
| 1889 (first 6 months)..... | 40 | 24,545 | 144 | 2 | 36 | 8824 | 2 | 19 |
| | 335 | 273,056 | 2599 | 2 | 4 | 103,259 | 2 | 18 |

No. 8.—OTHER Transactions mentioned in Statistics.

| | 1884. | 1885. | 1886. | 1887. | 1888. | 1889. first 6 mos. |
|--|-------|-------|-------|-------|-------|-----------------------|
| Mortgages partially discharged..... | 35 | 17 | 23 | 41 | 43 | ... |
| Powers of Attorney | 13 | 14 | 13 | 28 | 40 | 18 |
| Surrenders of Lease | 11 | 4 | 4 | 6 | 7 | ... |
| Transfers of Lease | 4 | 8 | 8 | 14 | 12 | ... |
| Transfers by Death or Bankruptcy | 43 | 48 | 38 | 58 | 49 | ... |
| Foreclosure Orders..... | ... | ... | ... | 1 | ... | ... |
| Encumbrances..... | ... | 1 | 1 | 3 | ... | ... |
| Order of Supreme Court | 5 | 3 | 4 | 2 | 7 | ... |
| Provisional Certificates | ... | ... | 2 | ... | ... | ... |
| Writ of <i>Fi. Fa.</i> | 1 | 2 | 4 | 3 | 4 | ... |
| Registration Abstract | ... | ... | ... | ... | ... | ... |
| Office Copy..... | ... | ... | ... | ... | ... | ... |
| Entry of Marriage of Proprietor | 4 | 5 | 4 | 7 | 6 | 3 |
| Entry of Death of Annuitant | ... | ... | ... | ... | ... | 1 |
| Estate in Remainder | 1 | 3 | 1 | 3 | ... | ... |
| Re-entry by Lessor | ... | ... | ... | ... | 1 | ... |
| Discharge of Encumbrance | 2 | ... | ... | ... | ... | ... |
| Surrender to the Crown..... | 9 | ... | 1 | ... | ... | ... |
| Discharge of Annuitant... .. | ... | ... | ... | 2 | 2 | 1 |
| Extension of Mortgage | ... | ... | ... | 7 | 2 | 1 |
| Balance by Endorsement | ... | ... | ... | 31 | 64 | 19 |
| Entry of Encumbrance | ... | ... | ... | ... | 1 | ... |
| Entry of Execution..... | ... | ... | ... | ... | 2 | 1 |