

(No. 104.)



1878.

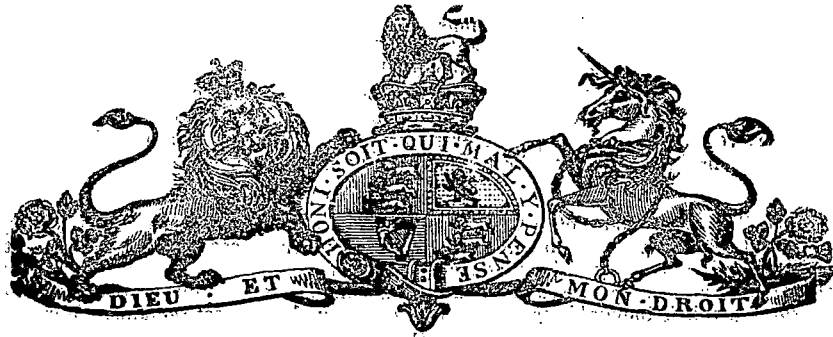
T A S M A N I A.

H O U S E O F A S S E M B L Y.

L A N D S ' T I T L E S D E P A R T M E N T.

C O R R E S P O N D E N C E W I T H T H E R E C O R D E R O F T I T L E S.

Laid upon the Table by the Attorney-General, and ordered by the House to be printed, October 31, 1878.



Attorney-General's Office, Hobart Town, 29th October, 1878.

SIR,

My attention has been called to a letter which appears in the *Launceston Examiner* of the 23rd instant, headed "The Real Property Act," and signed "William Ritchie;" and to the leading article in the *Examiner* of the 25th instant, commenting upon the conduct of business in the Lands' Titles Office.

I forward the papers mentioned to you, and shall be glad to have your report upon the statements contained in the letter and article respectively, with any observations you may see fit to offer upon the subject.

I have, &c.

ALFRED DOBSON.

The Recorder of Titles.

[*Launceston Examiner, Wednesday, 23rd October, 1878.*]

THE REAL PROPERTY ACT.

To the Editor of the Examiner.

SIR,

NEARLY five years since the owner of a valuable property held under "The Real Property Act" sold a small portion of it to the Main Line Railway Company; and, from that time up to the present, he has been unable to obtain a Certificate of Title for the balance. Repeated applications have been made to the Lands' Titles Office, but no satisfaction has been afforded; and the owner is still left without any evidence of his title,—so that if he wished to deal with his property he would be unable to do so. Why is this thus?

Many months ago an application was made to the Recorder of Titles by the owner of a property, who was entitled as devisee under his late father's will, to be registered as proprietor (subject to a mortgage created by the deceased proprietor); and all necessary proofs were furnished; but, up to the present time, the owner has waited in vain for his Certificate of Title. The loss and inconvenience to which several persons have been put in this case have been very serious; and, if everything were taken into account, would probably amount to as much as would purchase and stock a small farm. The owner wishing to effect certain improvements, and supposing that business would be transacted in the Lands' Titles Office in a reasonable time, made arrangements for obtaining a loan of a considerable sum in order to pay off the existing encumbrance, and for his other requirements. The mortgagee, also relying upon the expedition with which it is popularly imagined that transactions are effected under "The Real Property Act," agreed with another borrower for the loan to him of the money to be paid off. Weeks and months passed on. The owner of the property wrote repeatedly to his agents, and made several journeys from a distant part of the country to Launceston, at heavy expense and loss of time, in the vain hope of getting his business completed; but, so far, it has been to no purpose,—the fact being that the officials in the Real Property Office seem to do as they like. The owner is now actually being charged with double interest, that is to say, interest on the existing mortgage and interest on the new loan,—the money for which has been engaged and lying idle for some months. The mortgagee, who was desirous of securing a re-investment for his money, anticipated his resources by giving his acceptance to the borrower under the new security, and has now to retire it at some inconvenience by other means. The improvements which had been contemplated by the owner of the property are at a standstill; and he is being worried by persons from whom he had purchased building materials. Thus the loss and inconvenience directly traceable to delays in the Lands' Titles Office are spread over a wide circle, while the officials probably excuse themselves by assuming that it is only one common pestilent fellow who is kept waiting until they have had another turn and another yawn. I ask you, Sir, is not this state of things absolutely disgraceful? I have only brought up two instances now, but am prepared to adduce scores of others, if necessary, to let the public see for what they are taxed.

Yours obediently,

WILLIAM RITCHIE.

Launceston, 22nd October, 1878.

Launceston Examiner, *Friday, October 25, 1878.*

NOTWITHSTANDING the changes and additions to the staff of the Lands' Titles Office made a couple of years since—changes which it was hoped would soon bring about the realisation of the framers of the Real Property Act, namely, certainty, simplicity, and expedition in dealings with landed property—complaints as to the loss of time, the trouble, annoyance, uncertainty, expense, and risk occasioned by the dilatory manner in which affairs are managed, are as numerous as ever. In our issue of Wednesday, Mr. Ritchie, of the well-known firm of Messrs. Ritchie & Parker, solicitors, &c., in this town, detailed several instances of the vexatious and costly delay in conducting the business of the Lands' Titles Department, and intimated that he was prepared to adduce scores of others, if necessary. When a lawyer, openly in the public press, brings such charges against a law department as those which Mr. Ritchie has now and in former years brought, it is only reasonable to conclude that there are very strong grounds for complaint.

It will be in the recollection of many of our readers that the introduction of the Real Property Act was hailed with no small degree of satisfaction by the public generally, because of the great facilities that were to be afforded by it in buying and selling landed property. A title once obtained, there was to be an end to vexatious delays in all future dealings with the land, and the fees were to be exceedingly moderate. Stamp duties have, however, rendered transactions more *costly*, but this is inevitable so long as that objectionable impost remains. For a time matters went on smoothly. The public were delighted with the simplicity of the new law, but gradually discontent was induced by the prolonged detention of deeds and other documents in the Lands' Titles Office, and the difficulty of pushing any transactions through that department within any reasonable period. The annoyance, inconvenience, and even serious pecuniary loss thereby sustained, can easily be realised by any one who has had anything to do with dealings in landed property. Rather more than two years ago some changes were made—Mr. H. J. Buckland resigned the Recordership of Titles, for which he received £100 per annum; and Mr. G. P. Adams who had been receiving £500 as Solicitor to the Lands' Titles Commissioners, was appointed Recorder with a salary of £600, or five hundred pounds more than Mr. Buckland received; while Mr. John Alexander Jackson, then the representative of Queenborough in the House of Assembly, succeeded Mr. Adams in the Solicitorship at a salary of £400, and as required by law ceased to be a member of Parliament. The duties of Recorder of Titles are almost nominal, and go little beyond signing a number of documents, and attending a weekly meeting of Commissioners; and as we said at the time the additional expenditure of £400 per annum involved by the change might have been far more advantageously devoted to paying the salaries of two or three more clerks, who would have enabled the department to conduct its business in a manner more satisfactory to the public,—for at the time we wrote, not only was it difficult to get even simple current matters attended to, such as the issuing of new certificates on transfers, and the registration of mortgages and releases, but it was next to impossible to make a search, for the index was two years in arrear. The complaints became so numerous that the new Recorder had to attempt the defence of his department, which amounted to this, that while the business of the office had been annually on the increase the strength of the department had not kept pace in the same degree. Under these circumstances he thought it was not a matter of surprise that at the time of his taking office in July, 1876, the index was several years in arrear, and there was a considerable accumulation of other business. Subsequently, however, two additional clerks were appointed, and it was hoped that with this accession to the working strength of the department, and under the active and well-paid supervision of the Recorder and Solicitor—who have nothing to prevent them from giving their undivided attention to the work of their respective offices—all arrears would be pulled up speedily, and that the Lands' Titles Department would soon be distinguished for its celerity in the transaction of public business. It seems, however, that notwithstanding the increase in the staff there is little or no improvement in the mode of carrying out the provisions of the Real Property Act, and the cases cited by Mr. Ritchie fully justify the conclusion that this state of things is absolutely disgraceful. If Ministers do not make any effort to provide a remedy, the Legislature should step in and insist on some reform, or exact some guarantee of reform before voting the sum set down in the estimates for this department. We trust some member will bring the subject under the notice of Parliament before the close of the Session.

Lands' Titles Office, Hobart Town, 29th October, 1878.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of this day's date, referring to a letter which appeared in the *Launceston Examiner* of the 23rd instant, headed "The Real Property Act," and signed "William Ritchie;" and to the leading article in the *Examiner* of the 25th instant, commenting upon the conduct of business in the Lands' Titles Office; and you request my report thereon, with any observations I may see fit to offer upon the subject.

Libelling the Lands' Titles Department seems to be a not uncongenial occupation of Mr. Ritchie's, as on several occasions the officers have been publicly derided by him. Some time since I stated for the information of the Government that Mr. Ritchie's charges as to the conduct of the office were not justified by facts, and therefore uncalled for; and I now repeat that statement.

The one specific charge contained in Mr. Ritchie's letter is, that a transfer to the Main Line Railway Company had been waiting in the Lands' Titles Office for five years, and that the owner of the unsold portion of the land was unable to obtain a Certificate of Title for the balance; and he asks, "Why is this thus?"

The answer is not far to seek: the description of the land to be transferred to the Main Line Railway Company, as contained in the transfer, is so vague and indefinite, that without a survey the draftsman could not identify the land, nor delineate the same in a diagram on the certificate of title. Repeated applications have been made to the parties for a survey, but hitherto without success, and the transfer is still incomplete. Upon whom should the blame rest in this case? Surely not upon the Lands' Titles Office.

Probably the scores of cases which Mr. Ritchie states he is able to quote may be as capable of explanation; at all events, this is a specimen of the misrepresentation to which this Department is continually subjected. Delay, in many cases, is the fault not of the officials, but of the parties forwarding imperfect documents for registration.

It is, I believe, a long time ago since I heard any complaint from Mr. Ritchie, except through the press, of delay in completing transactions, although in constant correspondence with him; and I may reasonably ask, why he does not make me the confidant of his wrongs instead of the public, even though at the loss of a gratis advertisement? He is well aware that any remarks made by him to myself, as to the conduct of the business of the office, will receive my immediate attention.

At least one-third of the conveyancing business of the Colony is required to be conducted with great despatch, by a staff of officials numerically less than those employed by several solicitors in the Colony; and I have continually urged upon the Government the necessity of annually voting, as has been done in Melbourne, a sum of money for the employment of extra clerical assistance to meet an unusual press of business, as may sometimes occur. In my Report of 8th July last, which I had the honor to forward, this course was again strongly pressed by me.

Mr. Ritchie's dislike to the system of title by registration is, I believe, no secret; but, with a strange want of discrimination in one so acute, he appears unable to distinguish between the, to him, obnoxious Real Property Act, and the officers employed in working it,—forgetting that the programme is provided by the law of the Colony, and that because the play is not to his taste, it is childish to fall foul of the performers. Any suggestions as to the conduct of the officials will be taken in good part, but they naturally object to being improved off the face of the earth, which is too much the drift of Mr. Ritchie's letter.

Another charge is that "the officials in the office seem to do as they like." It would, I think, have been nearer the mark had Mr. Ritchie stated that the officials cannot always do as *he* likes, as for some weeks past I have been trying to induce him to comply with certain provisions of the Real Property Act, towards which he manifests considerable reluctance.

The leading article in the *Launceston Examiner* of the 25th instant is evidently written in ignorance of the true facts of the case: my duties, as you are aware, are not confined to the office of Recorder of Titles, which, however, is not such a sinecure as is there stated. I hold also the appointments of Registrar of Deeds and Collector of Stamp Duties, the last office entailing the perusal of several hundreds of documents monthly, and the settlement of complicated questions of Stamp Duty, requiring much discussion and occasional correspondence. The writer proposes, as I understand, that I should also perform the work of Solicitor to the Lands' Titles Commissioners,—a proposition which could only emanate, I should think, from one ignorant of the duties of that office. The Solicitor's business involves great responsibility: only a few months since a legal difficulty connected with the title to a valuable property, sought to be brought under the provisions of the Real Property Act, engaged the attention of the Supreme Court; and the investigation of complicated titles is of such frequent occurrence as to require the undivided attention of one officer.

I have, &c.

GEO. PATTEN ADAMS, *Recorder of Titles.*

The Hon. the Attorney-General.

(In continuation of Paper No. 104.)

[Laid upon the Table by the Attorney-General, and ordered by the House to be printed, 3rd December, 1878.]

Lands' Titles Office, Hobart Town, 13th November, 1878.

SIR,

I HAVE the honor to submit the following remarks upon a letter signed "William Ritchie," which appeared in the *Mercury* of the 11th instant, and also in the *Launceston Examiner* and *Cornwall Chronicle* of the 9th instant.

Mr. Ritchie's language is as follows:—"Now the fact is that the transfer to the Railway Company, as I previously stated, has been completed; the survey was perfectly clear and definite, in strict accordance with the provisions of the Real Property Act; the draftsman had the survey, and by means of it did identify the land, and actually delineated the same on the Certificate of Title issued to the Railway Company." (The italics are mine.)

I now have the honor to inform you that the transfer to the Railway Company has not been registered,—no Certificate of Title to the Railway Company has been issued,—and consequently no balance Certificate of Title could be prepared.

My explanation of the second charge against the Office made by Mr. Ritchie is as follows:—On 3rd July last an application was made by the owner of a property who was entitled as devisee to be registered as proprietor of the land (subject to two mortgages created by the deceased proprietor). After investigation of title and proper advertisement, Certificate of Title issued on 30th August last. The original mortgagee being dead, application was made by his executors before the Certificate of Title issued to be registered as proprietors of the two mortgages for the purpose of discharging the same; and for this purpose the production of the probate of the will of the deceased mortgagee at the Lands' Titles Office became necessary. Not, however, until the 8th instant was the probate produced: the executors of the deceased mortgagee were then duly registered, the two mortgages were released, and Certificate of Title unencumbered was forwarded the same day.

I beg to submit that the blame (if any) of delay in this matter should not rest upon the Lands' Titles Office.

This second charge against the Office would have been earlier explained by me, but the facts, as narrated by Mr. Ritchie in his letter which appeared in the *Examiner* of the 23rd ultimo, did not then enable me to recognise the case referred to by him.

I have, the honor to be,

Sir,

Your obedient Servant,

GEO. PATTEN ADAMS, Recorder of Titles.

The Hon. the Attorney-General.