

(No. 21.)



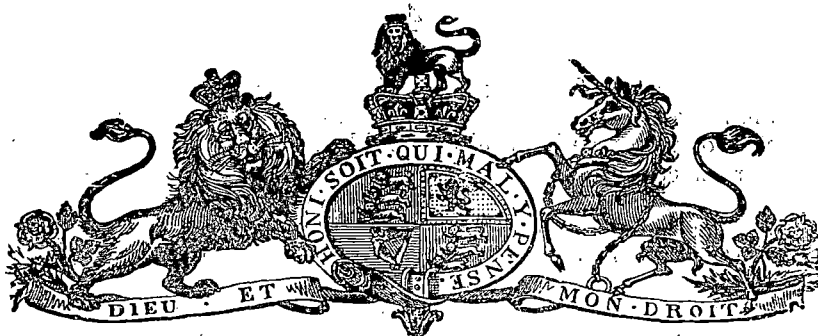
1894.

PARLIAMENT OF TASMANIA.

RECORD OF TITLES:

REPORT FOR 1893.

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



Lands' Titles Office, 1st March, 1894.

SIR,

I HAVE the honor to submit to you the Annual Report on this Department for the year ending 31st December, 1893.

The receipts for the year were £3182 0s. 10d., being £227 19s. 2d. below my estimate, and £387 1s. 8d. less than those of the previous year, but, however, only £121 10s. 5d. less than the amount received for 1891, when the depression in business which subsequently set in may be said to have hardly commenced.

The amount provided on the Estimates for the expenditure of the Department was £2996, but this amount was reduced by the percentage deductions from salaries made by "The Appropriation Act, 1892," and by unexpended amounts, and the actual expenditure was £2728 18s. 5d., made up as follows:—

	£	s.	d.	£	s.	d.
Salaries—Hobart	2367	18	0			
Launceston	140	8	0			
				2508	6	0
Stationery and Stores				31	8	8
Advertising				159	6	8
Messenger's Uniform				6	2	1
Miscellaneous and Travelling Expenses.....				10	15	0
Assistance to Messenger during winter months.....				13	0	0
				<u>£2728</u>	<u>18</u>	<u>5</u>

thus leaving a surplus of £453 2s. 5d. of receipts over expenditure. This surplus is within £94 9s. 7d. of the amount shown for the previous year, and is £33 7s. 3d. in excess of that shown for 1891. Of course it has been increased by the reduction in salaries, but if there had been no such reduction there would still have been a surplus of £187 0s. 10d.

The amount provided on the Estimates for salaries for 1894 is £2507, or £18 less than the amount provided for 1884, when there were four officers less to be paid, and the income received was £1000 (all but £8) less than that received during the past year of depression. There is every reason to suppose that the volume of business will increase during the current year, and I feel confident therefore that I shall be enabled to show an excess for 1894 of receipts over expenditure even larger than that for 1893. Under all the circumstances the financial aspect of the Department may be considered as highly satisfactory from a budget point of view.

At the same time it must not be lost sight of that the Government scheme of amalgamation, recently adopted in the Law Department, and into which this office has been brought, must at certain periods materially affect the despatch of business under "Torrens' Act," and the profession and the public must not therefore at such periods expect a continuance of the invariably prompt attention to their business to which they have of late years become accustomed.

This office was not established for revenue purposes, but for the conduct of a particular class of business, which is paid for by a particular class of persons, who for the past seven and a half years have not only paid all expenses connected with the Department, but have contributed a surplus of not less than £4000 to the revenue. Under these circumstances they will not unnaturally consider that the office, which is entirely supported by them, should not have been handicapped for the benefit of the general revenue by being brought into the amalgamation scheme of the Law Department, of which it has never been considered as forming, and does not, I submit, form part, although in common with many other departments it is expedient and fitting that they should be under the ministerial control of the Hon. the Attorney-General. These parties—the holders of land under Torrens' Act—have, as shown above, already contributed much towards the revenue, for every £1 of surplus over the actual expenditure in the conduct of their business amounts in effect to a special land tax on such of them as have dealt with their land in any year, and under all these

circumstances they had, I respectfully submit, a right to expect that their interests should not in the smallest degree have been sacrificed to the necessities of revenue. My views on this question and as to the reduction of fees have been fully placed before you in correspondence, and need not, therefore, be further referred to here.

The total area of land—town, suburban, and country—under “The Real Property Act” on the 31st December last was 1,251,531 acres, valued at £2,832,951 in the books, but, as nearly the whole of Launceston, a considerable portion of Hobart and suburbs, and all the new towns proclaimed since 1862 are included in this area, which greatly exceeds a quarter of the alienated land of the Colony, the actual value should in proper proportion be quite double that amount.

The following Table shows the principal Instruments received by this Office to be dealt with during the past year :—

Nature of Instrument.	Number received.	Area of Lands, Town and Country.	Value.
Transfers	806	ACRES. 69,196	£ 168,410
Mortgages	723	1.0,541	474,356
Grant Deeds prepared at Crown Lands Office and registered here	535 (in duplicate)	29,132	42,447
Applications to bring Land under “The Real Property Act,” and for Grants of Land held under Location Orders as roots of Title	55	7697	42,820
Certificates of Title	880 (in duplicate)	...	...
Ditto by Endorsement	172	...	...
Total number of Memorials of transactions entered on Grant Deeds or Certificates of Title in course of registration of dealings during year.....	6955	...	...

The difficulties arising from roads being seldom constructed on the exact lines reserved for them in Grant Deeds still continues, but can, I am of opinion, be readily overcome by adopting the course which I have been advocating since 1889, and with reference to which I have recently had the honor to address you very exhaustively and in full detail, with the result that my views met with your approval. The Deputy Surveyor-General, however, thinks that the question cannot be adequately dealt with without legislation. It is always better to deal with details with existing machinery where practicable, instead of further burdening the Statute Book by the creation of new and, as I consider in this case, unnecessary and inexpedient machinery, and whether the Deputy Surveyor-General is right or I am, my scheme should at least have a fair general trial before legislation is resorted to. Where it has been tried it has, I consider, completely succeeded, and as the matter is one affecting the completeness of the work as finally turned out of this department, and is purely one of conveyancing, upon which I claim to speak with authority, I think that the course I advocate should be insisted upon. If it fails, which I am convinced it will not, it can be discontinued, and no harm will be done, for it will not entail so much work as the existing practice, which results in very clumsy conveyancing, vesting the deviations in the Minister of Lands, while the old portions of the road are vested in the Crown. This alone is a serious anomaly, which should not be allowed to exist for an instant after it is capable of removal. The practice I advocate has long obtained in Victoria, and there meets all requirements.

The Assurance Fund now amounts to £9876 2s. 5d., but of course no one can tell when it may be required, and it bears still a very small proportion to the value even of land annually brought under the Act. This fund is a source of confidence to the public, and should be carefully fostered.

A detailed plan of Sandy Bay has been compiled from the material available in the office and from plans kindly lent by Messrs. Butler, McIntyre, & Butler. A similar plan, in sections, of Hobart is in hand, and is nearing completion. These plans show the original grants, and distinguish the allotments under Torrens' Act from those under the old system of conveyancing, and will be found a great convenience to the department, and to parties dealing with land comprised therein, filling a long-felt want, inasmuch as no such compilations previously existed. The chief draughtsman in both cases deserves commendation for projecting these works, and for the manner in which the first has been and the second is being carried out under his supervision.

520 Surveyors' plans have been examined with the field notes and checked by mathematical computations, and numbers of plans have been mounted for office use, and tracings furnished for the information of parties doing business with the Department.

The Board of Lands Titles Commissioners has met 47 times, and have dealt with 180 applications of all kinds, a number only 7 less than that dealt with in the previous year.

By your instructions an Act amending "The Real Property Act" was prepared by me and became law on 29th September last. It deals with several very important matters, notably with the Law of Executions as affecting land under "Torrens' Act" and the right of production of Titles at this office to enable registration of dealings to be effected, and in the latter respect particularly, while protecting the interests of lien-holders it at the same time confers upon registered proprietors a much required power to force such production of Titles on terms. The "Torrens' Act" and amendments have within the last three years been consolidated in all the other colonies with the exception of New South Wales, which is still working under the old Principal Act of 1862, the second and last amendment to which was made as far back as 1878. It is obvious that here also the six Acts in existence should be consolidated and the sections classified in very much better order than they are now. To do this properly, and at the same time to bring our law exactly in line with the law in the other colonies in actual practice, as it is in fundamental principle, would be a work of some labour and responsibility, and could only be entrusted with safety to a draughtsman with special knowledge of the Torrens' system. On the other hand, the Victorian Act, as consolidated by Mr. Justice Higinbotham in 1890, might be adapted, *mutatis mutandis*, without nearly so much labour. Although the details of our law are slightly different the principles are the same, and the adoption of the Victorian Act *in globo*, with a few necessary alterations, would render more practically available for reference the only really good text-book on the Torrens' Act and practice which has been written in the colonies and known as "A'Beckett's Transfer of Land Statute, by F. G. Duffy." This work was written especially with reference to the Torrens' Law of Victoria, although judgments given in other colonies are cited therein. Another edition is now in the press dealing with the law as consolidated in 1890.

Annexed will be found the usual quinquennial Return in detail of transactions dealt with by the Department.

Again I have the pleasure of thanking the legal profession for their courteous co-operation with me in administering the "System."

JAMES WHYTE, *Recorder of Titles.*

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

YEAR.	NO.	VALUE.	AREA.					
			Town and Suburbs.			Country.		
			A.	R.	P.	A.	R.	P.
1889.....	105	£ 71,525	194	3	10	10,308	0	6
1890.....	76	72,851	93	2	1	4341	3	5
1891.....	101	90,687	244	1	31	7436	1	3
1892.....	82	75,386	204	3	25	4021	2	28
1893.....	55	42,820	44	1	16.	7656	3	6
	419	353,269	779	0	3	33,764	2	8

No. 2.—GRANTS Registered.

YEAR.	NO.	VALUE.	AREA.					
			Town and Suburbs.			Country.		
			A.	R.	P.	A.	R.	P.
1889.....	502	£ 37,415	597	1	33	30,690	3	34
1890.....	523	38,270	659	0	0	27,076	1	0
1891.....	470	46,888	630	3	36	44,915	2	13
1892.....	455	32,889	310	3	0	26,496	2	25
1893.....	535	42,447	592	0	31	28,640	2	14
	2485	197,909	2790	1	20	157,820	0	6

No. 3.—*TRANSFERS.*

YEAR.	NO.	VALUE.	AREA.					
			Town and Suburbs.			Country.		
		£	A.	R.	P.	A.	R.	P.
1889.....	1028	230,119	784	3	36	82,362	1	15
1890.....	1106	276,513	1037	0	12	67,553	3	33
1891.....	967	217,955	1209	2	38	49,260	2	29
1892.....	886	210,437	886	3	37	56,824	1	5
1893.....	806	168,410	586	1	20	68,610	3	38
	4793	1,103,434	4505	0	23	324,612	1	0

No. 4.—*MORTGAGES registered.*

YEAR.	NO.	VALUE.	AREA.					
			Town and Suburbs.			Country.		
		£	A.	R.	P.	A.	R.	P.
1889	826	377,681	623	0	10	54,806	2	1
1890	913	332,824	1483	1	31	93,640	1	37
1891	790	429,559	823	3	9	102,465	2	34
1892	863	386,389	1309	3	32	86,836	0	16
1893	723	474,356	670	1	6	109,871	2	39
	4115	2,000,809	4910	2	8	447,620	2	7

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.
1889.....	351	100,961	1006	0	17	25,993	3	15	1889...	28	9945	35	2	39	12,152	0	27
1890.....	423	184,527	817	1	12	41,552	2	29	1890...	22	4866	56	3	8	2066	1	23
1891.....	412	159,548	92	1	0	28,910	1	4	1891...	33	20,543	58	0	15	11,833	0	30
1892.....	403	141,311	408	3	14	55,498	2	28	1892...	59	16,158	99	1	10	14,142	0	21
1893.....	485	188,077	368	0	25	29,293	3	35	1893...	81	10,883	224	0	22	49,103	3	11
	2074	774,424	2692	2	28	181,229	1	31		223	62,395	474	0	14	89,297	2	32

No. 6.—*LEASES.*

YEAR.	NO.	VALUE.	AREA.					
			Town and Suburbs.			Country.		
		£	A.	R.	P.	A.	R.	P.
1889.....	34	3477	32	3	35	10,185	0	33
1890.....	37	4356	4	1	1	19,584	2	8
1891.....	28	7819	5	2	1	38,211	3	11
1892.....	50	12,623	90	3	28	10,427	3	35
1893.....	46	13,349	95	0	39	32,693	1	26
	195	41,624	223	3	24	111,102	3	33

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

YEAR.	NO.	VALUE.	AREA.					
			Town and Suburbs.			Country.		
		£	A.	R.	P.	A.	R.	P.
1889.....	84	55,119	237	0	29	20,621	1	19
1890.....	88	60,953	300	1	29	13,957	1	22
1891.....	70	31,395	250	1	26	9230	2	1
1892.....	86	88,423	226	0	38	14,196	1	28
1893.....	90	42,560	184	3	5	8770	3	6
	418	278,450	1199	0	7	66,776	1	36

No. 8.—OTHER Transactions mentioned in Statistics.

	1889.	1890.	1891.	1892.	1893.
Mortgages partially discharged.....	26	55	66	93	80
Powers of Attorney	31	25	34	51	69
Surrenders of Lease .....	...	5	11	7	10
Transfers of Lease.....	2	2	9	14	3
Transmission by Death or Bankruptcy	58	34	69	112	113
Foreclosure Orders.....	1	...	1	2	12
Encumbrances .....	...	1	7	3	1
Provisional Certificates of Title	4	1	3	2	1
Writs of <i>Fi. Fa.</i> and Warrants of Execution	2	8	8	7	11
Certified Copies .....	...	...	9	3	5
Entries of Marriage of Proprietor	7	11	8	7	9
Entry of Death of Annuitant	1	...	...	1	...
Estate in Remainder .....	...	...	3	...	1
Re-entry by Lessor .....	...	1	...	1	...
Discharges of Encumbrance.....	...	...	2	...	2
Surrender to the Crown.....	...	...	...	3	2
Discharges of Annuity	1	2	1	...	...
Extensions of Mortgage	2	...	2	11	6
Certificates of Title by Endorsement.....	...	...	259	220	172
Certificates of Title in duplicate .....	...	1168	982	969	880
Partial Surrender of Lease .....	...	...	...	...	4
Partial Discharge of Encumbrance .....	...	...	...	...	1
Decree of Supreme Court.....	...	...	...	...	1
Applications to dispense with the production of Certificates of Title and Mortgages .....	...	...	...	...	5