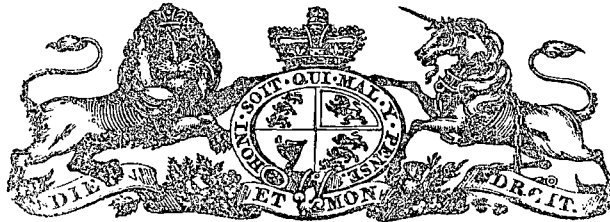


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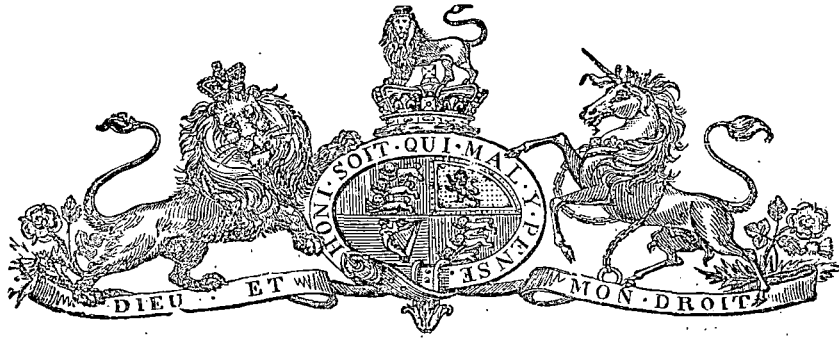
1862.

TASMANIA.

LAND IN DAVEY-STREET.

**REPORT FROM THE SELECT COMMITTEE APPOINTED TO
CONSIDER THE PETITIONS OF MR. MOSES AND MR. LEWIS.**

Brought up by Mr. Adams, and ordered by the House to be printed,
1 October, 1862.



SELECT COMMITTEE appointed on the 28th August, 1862, to take into consideration the prayer of the Petition presented to this Honorable House, by MR. ADAMS and MR. DAVIES respectively, on behalf of MR. DAVID LEWIS and MR. SAMUEL MOSES.

MEMBERS.

DR. BUTLER.
MR. DOUGLAS.
MR. SHARLAND.

MR. DAVIES.
MR. ADAMS (*Mover.*)

DAYS OF MEETING.

- No. 1.—23 September, 1862. *Present*—Mr. Adams, Mr. Davies, Mr. Butler, and Mr. Sharland.
No. 2.—25 September, 1862. *Present*—Dr. Butler, Mr. Sharland, and Mr. Adams.
No. 3.—30 September, 1862. *Present*—Mr. Adams, Mr. Sharland, Mr. Davies, and Dr. Butler.
No. 4.—1 October, 1862. *Present*—Mr. Adams, Mr. Sharland, Dr. Butler, and Mr. Davies.

WITNESSES EXAMINED.

- | | |
|--|--|
| 1. MR. H. E. SMITH, Clerk, 1st Class, Survey Office. | 4. J. E. CALDER, Esq., Surveyor-General. |
| 2. DAVID LEWIS, Esq., J.P. | 5. The Honorable the Colonial Treasurer. |
| 3. W. R. FALCONER, Esq., Director of Public Works. | |

R E P O R T .

Your Committee have carefully considered all the papers referred to them, and have taken evidence on the subject of the claims advanced by Messrs. Lewis & Moses.

Your Committee have unanimously adopted the three following Resolutions, which they submit for the consideration and approval of your Honorable House :—

1. That, in the opinion of this Committee, Mr. Samuel Moses has failed to substantiate any claim to compensation in regard to Lot 1.

2. That, in the opinion of this Committee, Mr. David Lewis has failed to substantiate any claim to compensation in regard to Lots 2 and 3, fronting on Murray-street, and Lot 5 fronting on Davey-street.

3. That Mr. Lewis has substantiated a claim to compensation in regard to Lots 6 and 7, fronting on Davey-street; and this Committee recommend that Interest, at the rate of 6 per cent. per annum, be allowed on the moneys paid by him with regard to those lots, on the various amounts respectively, and from the various dates, after the expiration of the first 12 months to the present date.

The Evidence upon which your Committee have arrived at their decision is annexed hereto.

ROBERT P. ADAMS, *Chairman.*

Committee Room, 1st October, 1862.

A P P E N D I X .

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SEPTEMBER 25, 1862.

MR. H. E. SMITH, *Clerk, 1st Class, Survey Office.*

Plan shown.] I know the particulars of the sale of these allotments to Mr. Lewis and Mr. Moses. They were put up for sale on the 16th February, 1859, at which sale, by Mr. Worley, I was present. I was authorised by the Surveyor-General to give Mr. Worley instructions as to the sale of the particular lots. Those instructions were that the old Watchhouse would be removed in about twelve months from the day of sale, 16th February, 1859. The Surveyor-General directed me, and I gave the instructions to Mr. Worley. The same instructions were repeated to Mr. Worley in my presence by the Deputy Commissioner of Crown Lands; and Mr. Worley made the statement as one of the conditions of sale. I produce a letter from the Surveyor-General to the Colonial Treasurer, dated 7th September, 1858, on the subject of these Allotments, which bears an endorsement to the following effect—"Verbally instructed by the Honorable Treasurer to sell subject to the removal of the Buildings in a twelvemonth from date of sale. (Signed) J. E. Calder, 11th December, 1858." Mr. Lewis bought five of the lots, and Mr. Moses one. No other instructions were given by me, nor any other conditions by Mr. Worley in my presence. I see this day part of the Buildings being cleared away. I put in correspondence between Messrs. Lewis and Moses and the Survey Office on the subject; which papers the Surveyor-General wishes to be returned to him.

Mr. Smith withdrew.

W. R. FALCONER, *Esq., Director of Public Works.*

Plan shown.] I can point out on this plan the Buildings proposed to be removed. The Battery belongs to the Imperial Government. In my correspondence with the Treasurer as to removal of the Buildings, I merely understood the portion of the Buildings extending to the Battery and fronting on Murray-street. We can require the Contractor to complete the removal of the Buildings in a fortnight from this date if required. As far as I know the removal of the Battery was not contemplated. I first heard of this property being taken down in May 1861. Colonel Broughton wished to put up another Battery fronting on Davey-street. I remember going to the Survey Office to see about the terms on which the sale was made.

Mr. Falconer withdrew.

DAVID LEWIS, *Esq., J.P., called in and examined.*

I became the purchaser of five lots of land as marked on the plan put in. On the faith of a statement made by Mr. Smith, of the Survey Office, before the sale commenced, I paid the deposit of £324 17s. 5d.; the rest was in three instalments to be paid annually. I paid the first of these instalments on the 14th April, 1860; viz., £324 17s. 5d.; the second to the same amount in May, 1861; and the third £324 17s. 6d. on the 9th April, 1862. Before I paid my first instalment I had a communication with the Government as to the non-removal of Buildings. [Letters read and put in.] I saw the Treasurer between May and October, 1861; and he told me the Government were desirous to repurchase the land, in order to make some fresh arrangement as to the street. I should have been satisfied to wind up the matter in May, 1861, if the Government had then pulled down the Buildings. In October, 1861, I had verbal communication with the Government, who I understood would re-purchase the land, and move Parliament in the matter. My object was to have a passage in Davey-street, and an entry from Murray-street. I could not turn the three allotments to account having no back entrance. I could not drain the two allotments in Murray-street without access to the others, as I am shut in by Mr. Oldham and Mr. Salier. I claim interest at 6 per cent. from the first payment on the various amounts, and from the various dates of payment. If the Government had, in May 1861, completed their arrangements, I would, as I have said, been satisfied. It has come to my knowledge that the Government have been occupying these buildings as a Store, receiving a large quantity of goods from an English ship and storing them there; if the Government had completed their part of the contract I should not have been here; and I feel I am now justified in claiming interest. I heard of the Bill handing over the Batteries to the Imperial Authorities; and I saw Mr. Innes on the subject, and he told me the Battery would be removed.

Mr. Lewis withdrew.

SEPTEMBER 30, 1862.

J. E. CALDER, *Esq., Surveyor-General, called in and examined.*

By Dr. Butler.—In the instructions given by you to the Auctioneer, authorising him to convey to intending purchasers the information as to the removal of the watch-house as shown on the plan, was he authorised to state that the Battery on the plan would be removed to continue the line of street to that width? I think he was. I will give you the information in writing.

By Mr. Sharland.—If the distance of the watch-house from Mr. Moses's allotment was 77 links, was there anything to prevent Mr. Moses from building on that allotment? Certainly not.

Was it competent to Mr. Moses, within 12 months, to remove that fence and to fence his own allotment, or build on it? I certainly think he could do so. I was never applied to to remove that fence. I think I have gone through that way myself, to get to the Wharf. It was marked by large posts at each corner, and on the day of sale by flags at each angle. I know the other allotments generally, but I have never been over them. Some of the allotments fronting on Murray-street could be approached and built upon in the same way as Mr. Moses's allotment.

Mr. Calder withdrew.

WEDNESDAY, 1 OCTOBER, 1862.

J. E. CALDER, *Esq.*, *Surveyor-General*.

1. *By Mr. Sharland.*—Was any promise made previous to the sale of the allotments as to the removal of the Battery? None whatever.

2. How far does the fence of the Battery interfere with the allotments belonging to Mr. Lewis; and has either of the obstructions in any way prevented Mr. Lewis from draining the two allotments in Murray-street? No.

3. Does the non-making of the street interfere with the drainage of the two allotments? I produce a plan. A cart may pass all over the space enclosed within the double line a, b, c, d, except on the area d, w, x, which about 80 or 100 loads of soil would level. All that portion of Mr. Moses's allotment covered with a faint pencil shade is also nearly level. Mr. Lewis's frontage on Davey-street is not approachable. To make it so the line x, e, would require raising about 10 feet, which would bring it up to the general level of the Battery. X, E, is about 20 or 25 feet above the space marked "LEVEL;" namely, the space marked C, k, j, D. The lots 2 and 3 (Mr. Lewis's) may be easily drained into the "Passage" anywhere on the "Level" space, particularly along the fence i, j; the fall is from i towards j. The general rise from the "Level" to x, w, v, may be 3 or 4 inches in a foot.

4. Had the Government in any way made any proposition to Messrs. Lewis and Moses which in any way interfered with their full possession? No proposition to Messrs. Lewis and Moses, "which in any way interfered with their full possession," was made by this Department; nor is there any correspondence on the subject in the Treasury. The Director of Public Works, in his telegram of 23rd May, 1861, recommended "that the money paid to Messrs. Moses and Lewis should be repaid to them, with interest; and that the new line of Davey-street should be made out," &c. The following paragraph occurs in Messrs. Allport, Roberts, & Allport's letter of the 21st March, 1862, showing that a proposal had been made by the Colonial Treasurer to repay the purchase-money with interest; and calculations of these repayments have been made at the request of the Treasurer. On these facts being "brought under the notice of the Colonial Treasurer, he proposed to repay to Mr. Lewis and Mr. Moses the amount of the instalments paid by them, with interest; and this proposal was accepted. But the Colonial Treasurer now states that he is unable to carry out the arrangement," &c.

5. Was there any delay in giving the Grants to the parties after payment of the purchase money? None whatever, beyond the usual delay.

6. Do you know if it was a distinct understanding that the Battery should be removed? The only information is contained in the letter of 7th December, 1858.

7. Did you understand that Davey-street was to be opened through to Elizabeth-street making a thoroughfare? Yes; it has always been considered in the Survey Office that it was to be a thoroughfare. I did not convey that information to any one prior to the sale of the allotments. The Government never gave any promise of opening up and making the street. Allotments in the other Sections were laid out to Elizabeth-street, and marked on the ground. They are not sold, nor were they put up for sale.

Mr. Calder withdrew.

THE HON. THE COLONIAL TREASURER *examined*.

By Dr. Butler.—Were any instructions given to Mr. Calder, in preparing the Land for sale, to the effect that the Battery should be removed? I did not contemplate the removal of the Battery. The interpretation of my Memo. of 8th December, 1858, was left to the Surveyor-General, who I was aware knew that the Local Government had no power over the Reserve to the War Department.

Did you authorise instructions to be given to the Auctioneer promising that the Battery should be removed prior to the sale of the Allotments? To the best of my recollection, the only removal specifically referred to by me, was of the old Police and other buildings in the way. My reason for bringing it before the House last Session, was to retain the buildings and part of the site, and also to reserve the neighbouring land. I consider an injury had been done to the purchasers of the land by the non-redemption by the Government of its promise. I have no recollection of such a promise as that referred to by Mr. Lewis in his Evidence.

Mr. Innes withdrew.