

(No. 9.)



1858.

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T A S M A N I A.

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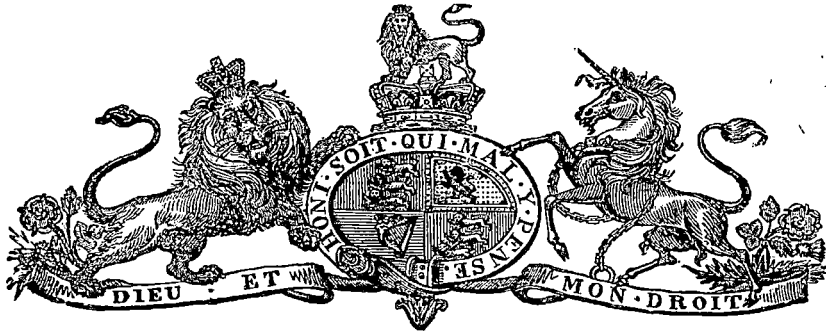
R I V E R F O R T H.

REPORT OF SURVEYOR-GENERAL AS TO ENCROACHMENT ON  
CROWN RESERVE.

*(Mr. Wedge. 14 September.)*

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Laid upon the Table, and ordered by the Council to be printed, 16 September, 1858.



*COPY of Surveyor-General's Report to Colonial Treasurer, dated 15th February, 1858, respecting Encroachment on Crown Reservation at River Forth.*

It appears from the enclosed Papers that a Mr. Berry and Mr. Maning rented, on their separate accounts, a small Island, considered by the purchaser of Lot 701 to form a portion of that Lot: Mr. Berry occupied the Northern and Mr. Maning the Southern portion of the Island. Mr. Maning put a fence up, commencing upon the Eastern edge of the Island, which was an obstacle to Mr. Berry, and some impediment to him in shipping his produce. Mr. Maning would not allow Mr. Berry to enjoy the use of the Reserve which is usually made in such situations, and, in consequence, Mr. Berry applied to this Office for protection. This Office applied to the Police Magistrate of the District in the usual way; and a Constable was sent to examine the obstruction, and to remove any unjustifiable impediments in the shape of fences, &c. Some disturbance ensued, and Mr. Berry brought a case of assault against Mr. Maning at the Police Office. The decision of the Magistrate was "against Mr. Berry," and the case was dismissed on the grounds that the Reserve in question was disputed property, and the assault for removing the fence was justifiable; and the case has lain over in that position, as far as Mr. Berry has been concerned, to the present time, more particularly as the deciding Magistrate was the father-in-law of Mr. Maning.

Since that time I have more fully investigated the case, both as regards the Office Records and reference to the Surveyors upon the ground. In the Office Records I find that Mr. Lette, in 1839, made the survey of Lot 701 of 640 Acres upon the River Forth, and that Mr. Clerke bought the Land at the Public Sale, in the usual way, and under the usual regulations at the time. The Grant Deed was prepared on the survey of Mr. Lette, a tracing of whose survey I enclose, and stated that the Land granted was represented by the lines tinted pink, taking the small creek or passage as the River Forth, and placing a Reserve of One hundred feet wide upon that Creek as part of the Eastern boundary of Lot 701, leaving out the Island entirely,—as it was, at that period, very unusual to grant Islands.

Mr. Champ at this time was the Acting Surveyor-General; and, to make the exclusion of the Island a certainty, he made a pencil memorandum upon Mr. Lette's diagram, that the diagram upon the deed should also contain the Island as represented by Mr. Lette, so that no doubt might exist hereafter. The Land was sold, and Mr. Clerke became the purchaser, as I before stated. Mr. Clerke, without looking to this diagram upon the margin of his deeds, lays claim to the Island, rejecting the Creek as a branch of the Forth.

I instructed Mr. Dooley, one of the authorised Contract Surveyors, to make a survey, but he was opposed in the performance by Mr. Maning, and not wishing any *fracas*, desisted from the work. The question at issue is:—Is the Island or land the property of the Crown, or the property of Mr. Clerke? In either case Mr. Berry will be entitled to enjoy the privilege of the One hundred feet Reserve along the frontage.

(Signed) JAMES SPRENT.