

(No. 35.)



1866.

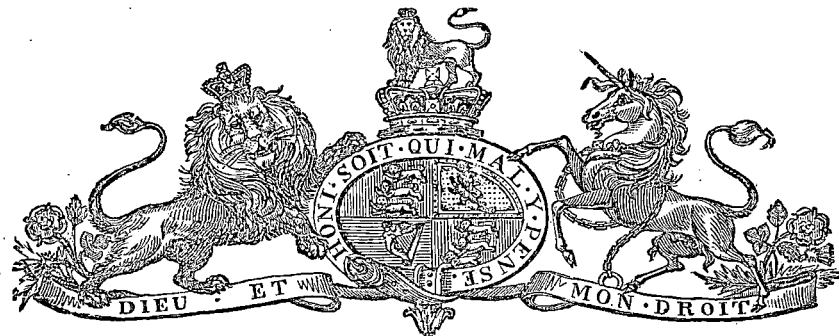
TASMANIA.

LEGISLATIVE COUNCIL.

MR. EDGAR LUTTRELL.

CORRESPONDENCE RELATING TO 300 ACRES OF LAND.

Laid upon the Table by Mr. Whyte, and ordered by the Council to be printed,
August 14, 1866.



His Honor GEORGE ARTHUR, *Esq.*, *Lieutenant-Governor of Van Diemen's Land.*

The Memorial of Edgar Luttrell.

18th October, 1824.

HUMBLY SHOWETH :

THAT your Memorialist is the son of Mr. Surgeon Luttrell, formerly of the Medical Establishment of this Colony.

That your Memorialist received from Governor Macquarie Two hundred acres of land, which being incompetent to lay out in an agricultural manner, he disposed of for the purpose of aiding in the erection of a genteel house in Campbell-street.

That your Memorialist now having a wife and four small children, and desirous of turning his attention wholly to farming pursuits, possessing every means for the accomplishment thereof, he respectfully solicits the indulgence of such an additional Grant of Land as Your Honor may be pleased to conceive him deserving of; and your Memorialist, as in duty bound, will ever pray.

You had better send for the Memorialist, and explain to him that the disposal of his land already granted makes void his claim for more—enquire, however, what his means are of cultivation.

G. A.

Hobart Town, 2nd November, 1824.

SIR,

I HAVE the honor to reply to your communication relative to the explanation required by the Lieutenant-Governor, touching the means now in my power of laying out and cultivating such a Grant of Land as my means may be deemed adequate by His Honor for the improvement thereof.

In the first place I possess a house in Campbell-street, the rent of which is productive of £75 per annum. I have also a vessel of fifteen tons burthen, capable of producing One hundred and fifty Pounds per annum, and thirty head of horned cattle, with outstanding debts amounting to full One hundred and ninety Pounds, at Pittwater; as also a part bequest of Fifteen hundred Pounds in a train of arrangement in India.

I am, &c.,

EDGAR LUTTRELL.

Captain MONTAGU.

Secretary's Office, 17th November, 1824.

SIR,

I AM to acknowledge the receipt of your letter of the 2nd instant, and to acquaint you that His Honor the Lieutenant-Governor will make a grant to you of 300 acres of land upon condition you reside upon, cultivate it, and erect your necessary buildings.

I remain, &c.,

JOHN MONTAGU.

Mr. E. LUTTRELL.

Hobart Town, 39, Davey-street, 6th May, 1835.

SIR,

IN 1824 Mr. Edward Lord, by his agent, Mr. Pritchard, received moneys due to me in India, amounting to £175 sterling; and I was also in possession of other property in Hobart Town of the value of about £310.

I applied to His Excellency the Lieutenant-Governor for a Grant of Land, and had the honor to receive a letter from the Colonial Secretary, dated the 17th of November, 1824, informing me that His Honor would be pleased to make a grant to me of 300 acres.

Soon afterwards, and before I could make a selection, Mr. Lord left the Colony without paying the money his agent had so received for me, and I have not until lately had the power to enforce the payment at law. I have continued to reside in the Colony ever since I landed, 17 years ago, from Sydney; but from the want of the money due to me from Mr. Lord, and in the constant expectation of receiving it, I have refrained from applying for a location.

As I can now command the means of necessary improvements, I take the liberty to request that you will do me the favour to lay my case before His Excellency, and solicit His Excellency's sanction to my making a selection of land in some approved situation.

I have, &c.,

EDGAR LUTTRELL.

The Surveyor-General.

THIS gentleman wishes the accompanying application laid before the Governor, although what has passed does not appear to amount to an order for land.

G. FRANKLAND, *Surveyor-General.*

July, 1835.

It is not in my power to accede to the request.

G. A.
13th July.

THE Surveyor-General will communicate the nature of the Lieutenant-Governor's note to the applicant.

JOHN MONTAGU.

15th July, 1835.

His Excellency Colonel GEORGE ARTHUR, Lieutenant-Governor of Van Diemen's Land.

The Memorial of Edgar Luttrell.

30th December, 1835.

HUMBLY SHOWETH :

THAT your Memorialist is the son of Edward Luttrell deceased, formerly Colonial Surgeon.

That at the time when the notorious Musquito was in the bush perpetrating the most sanguinary acts, having deprived many of life, your Memorialist then had under his protection a native boy named Page.

That Your Excellency having so ascertained, Your Excellency was pleased to write to Mr. Bent to the following effect:—"The Lieutenant-Governor is much obliged to Mr. Bent for the information contained in his note, and will thank him to request Mr. Luttrell to call with the Native boy at the Lieutenant-Governor's Office at 9 o'clock to-morrow morning.—Wednesday evening."

That your Memorialist did so accordingly, and Your Excellency having promised the Native boy a pine boat provided he captured Musquito, he went in pursuit of him, and after great sufferings and privations succeeded in shooting him through the thigh, and brought him in safe custody to Your Excellency.

That the boat which Your Excellency ordered to be built for him being composed of stringy bark in lieu of pine plank, he took umbrage and flew to the bush, threatening extermination to every white man that fell in his way.

That Your Excellency, dreading the alarming consequences arising from his flight, and aware of the influence he had over the various tribes, your Memorialist was again applied to, who at the peril of his life traversed the bush in quest of him.

That your Memorialist then took him as before under his protection, and uniting the habits of the Native boy with those of his own, he had the gratification of thoroughly civilizing him.

That for rendering such a public service your Memorialist was ordered Three hundred acres of land, which, owing to adverse fortune and a very large family, he was totally incapable of cultivating; that now he has the means of so doing the Crown has refused to confirm it, owing to the conditions thereof not having been fulfilled.

Your Memorialist therefore humbly prays Your Excellency will take into your sympathy the hardness of his case, and as he has expended divers large sums of money in the Colony, he hopes Your Excellency will be the means of restoring to him his land, and he will, as in duty bound, ever pray.

I HAVE no recollection of this case—refer to the Surveyor-General.

G. A.
1st January, 1836.

The Surveyor-General.

JOHN MONTAGU.
8th January, 1836.

THE former Memorial from Mr. Luttrell (which I forward) urged his claim on totally different grounds.

A Grant was made to him in 1823 by Sir Thomas Brisbane of 200 acres, and I presume he has had the enjoyment of it; but as to the 300 acres now under consideration there is no order for such.

G. F.
8th January, 1836.

MR. Frankland is mistaken, as will appear by the enclosed papers. Does the Lieutenant-Governor approve of Mr. Luttrell having the 300 acres ordered for him in 1824?

J. M.

INFORM Mr. Luttrell that I regret very much it is not in my power to revive an order which has been dormant for so many years.

G. A.
25th January, 1836.

Informed accordingly.

27th January, 1836.

24, Frederick-street, 21st June, 1866.

SIR,

I BEG leave most respectfully to bring under your notice the following circumstances in connection with my late husband.

In the year 1824 Colonel Arthur, then Governor of the Colony, requested that he would render his assistance in capturing and bringing in the aborigines, who were at the time most troublesome to the settlers at the East Coast near Swanport. He, in company with two Constables and his own servant (a black boy), whose name was Teg, went in pursuit, and on two different occasions brought in upwards of thirty,—among them one desperate character known by the name of "Musquito," who was executed. For this service the Constables were rewarded, and the black boy was to receive

a boat. My husband was awarded a Location Order for 300 acres of land, which he did not take up, but kept the Order in his possession for a considerable number of years, and ultimately by mischance lost it. I therefore humbly trust that, although so many years have now elapsed, I may crave your influence and interest on behalf of myself and family, in granting me the land or some remuneration in lieu thereof.

I have the honor to be,
Sir,

Your most obedient Servant,

SARAH LUTTRELL.

The Hon. the Colonial Secretary.

REFERRED to the Surveyor-General, who is requested to make search and report if any trace can be found of the within referred to Location Order having been issued,

B. TRAVERS SOLLY.

22nd June, 1866.

THERE is no record of an Order of the kind in this Office; but there are documents in the Colonial Secretary's Department showing that it was the intention of Lieutenant-Governor Arthur in 1824 to give Luttrell 300 acres of land, which, however, he never selected.

When Luttrell renewed his application in 1836, Colonel Arthur regretted that it was not in his power, after the lapse of so many years, to revive the Order.

E. W. BOOTHMAN, *for Surveyor-General.*
29th June, 1866.

The Assistant Colonial Secretary.

Colonial Secretary's Office, 18th July, 1866.

MADAM,

IN reply to your letter of the 21st ultimo, applying for a grant of land, or some remuneration in lieu thereof, on account of the award of a Location Order promised to your late husband in 1824, for services rendered to the Government, I have the honor to inform you that, upon reference to the records bearing upon the subject, it appears that the grant of the order was conditional upon your late husband's residing upon the land, cultivating it, and erecting the necessary buildings.

Further correspondence shows that circumstances prevented Mr. Luttrell from fulfilling those conditions; and in 1835 an application appears to have been received from Mr. Edgar Luttrell, somewhat similar to the present, to which the Lieutenant-Governor directed a reply to be given to the effect that he regretted it was not in his power to revive an order which had been dormant for so many years.

I am unable to perceive any grounds which would justify the Governor in varying the decision arrived at in 1836 after a further interval of 30 years; and under these circumstances I am precluded from recommending your application to the consideration of His Excellency.

I am, &c.,

JAMES WHYTE.

Mrs. LUTTRELL, Frederick-street.

24, Frederick-street, Hobart Town, 26th July, 1866.

SIR,

I HAVE had the honor of receiving your answer of the 18th instant, informing me that the order of 300 acres of land being conditional, and the long interval of so many years, that for such reasons you are precluded from recommending my application to the consideration of His Excellency the Governor.

I venture to hope that, as all the facts have not been brought forward so prominently as they ought to have been in this correspondence, you will be pleased to reconsider my claim, and allow the same.

On this occasion I appeal to your innate sense of justice and right to recognise my claim in the words of your letter as bearing in the case a Location Order forwarded to my late husband in 1824, for services rendered the Government.

I could have brought forward again all the especial circumstances of the taking of the Natives by my late husband, which are well known to many Members of Parliament, and to Messrs. Beaumont and Ferguson, as well as others; but the admission in your letter above cited renders my doing so a work of supererogation.

I shall now respectfully address you on the main point in your communication, that the order was conditional. I would call your attention to the Government Order respecting lands of date 31st January, 1832, which clearly declares that no grant of land shall be refused by reason of the non-fulfilment of the conditions; and this principle should govern this case when the land was given for a consideration, viz., labour and exertion in the public service.

The words of the Order are as follows:—In all cases in which lands have been located or granted subject to the condition of the grantee or locatee personally making a given expenditure on it, if the grantee or locatee shall have in fact parted with the actual occupation of the land to any other person before he shall have personally made such expenditure thereon, no grant will be made but upon payment of a similar fine as in cases of breach of the condition of non-alienation.

I may be allowed to state that I am advised that there is no instance on record of a grant of land being refused for a non-compliance with the conditions. The fact is patent and notorious that this liberal regulation has been acted on in every instance but mine. Why, therefore, may I ask, should my especial case be the exception?

With respect to the former decision in the case in 1835, that the then Governor could not revive an order which had been dormant so long, such an argument is fallacious; for every due regard to the public interests could not reasonably thus summarily negative a righteous and just claim, on account of which my husband put his life in jeopardy, as is well known to all the old hands. No one but the latter are fully aware of the fearful state of the country from the wholesale murders and ravages of the blacks, when my husband was employed by the Government in the perilous duty of capturing them, so that their atrocities should cease.

I would humbly submit to you that as the widow of an old servant of the Government, for the reasons herein detailed, I am justly, fairly, and equitably entitled to the order for 300 acres of land; that I am a poor lone woman entitled to your commiseration, only having a pension of £15 per annum to subsist on; and that as the land was awarded my late husband for special service, no time ought to bar such a just claim,—one founded on the principles of irrefragable justice.

Apologising for thus troubling you again, and trusting that you will not deem me importunate,

I remain, &c.,

SARAH LUTTRELL.

Colonial Secretary's Office, 11th August, 1866.

MADAM,

In reply to your letter of the 26th ultimo upon the subject of your application for a grant of land on account of services performed by your late husband, I have the honor to inform you that the Executive Government cannot acquiesce in the revival of a claim originating forty-two years ago, which was refused thirty years ago as being then too long dormant, and which has remained in abeyance ever since.

I would also remark that the last decision was given four years after the Order you refer to.

The Legislature alone can authorise the recognition of your late husband's services, as without a special Act of Parliament the land you apply for could not be legally granted.

I am, &c.,

JAMES WHYTE.

Mrs. LUTTRELL, 24, Frederick-street.