

No. 17.
Despatch from
Mr. Sec. Stanley,
to Lord Aylmer,
3 July 1834.

Enclosure 1.

The official proceedings were as follows :

On the 15th April 1826, Mr. Felton being in England, applied to Lord Bathurst for an additional grant of land for himself, and the usual reservation for each of his children, with an allowance of land for his labourers as heretofore.

On the 6th May 1826, he further applied for permission to have the Crown Reserves interspersed amongst his land included in the grant.

On the 3d July 1826, Lord Bathurst directs a grant of 5,000 acres to Mr. Felton, with the usual reservations for his children and labourers, including the grant of the Crown Reserves as prayed for.

On the 8th May 1828, Mr. Felton applies for patents for 5,000 acres of land for himself, and 1,200 for each of his children, and encloses a schedule of the particulars of the required grants, and subsequently to the foregoing furnishes a statement of precedents, showing that the usual extent of grants to children had been 1,200 acres each.

On the 2d March 1829, the Executive Council reports in favour of the grant of 5,013 acres to Mr. Felton, and on the 9th March reference is made to the Attorney-general to prepare a draught of patents for 5,013 acres according to the tenor of the report, but no authority appears to have been given to include the grants to Mr. Felton's children; in consequence, it is presumed, of Sir James Kempt having determined upon communicating with Sir George Murray for further instructions on that subject. The reply to Sir James Kempt's letter was received on the 7th August 1829, when Colonel Yorke, the civil secretary, transmits to Mr. Felton a copy of the despatch from Sir George Murray, dated 11th May 1829, sanctioning the grant of 200 acres only to each of the children, as suggested by Sir James Kempt.

On the 25th May 1830, the Attorney-general sends his draught of the patents to Colonel Yorke; this draught contains the grant to the children as prayed for by Mr. Felton, and it remains in Colonel Yorke's possession until the 18th August, when it is transmitted to the secretary of the province, with the order for engrossment indorsed upon it by Colonel Yorke. The patents not being engrossed in time to receive Sir James Kempt's signature, are, with several others similarly situated, presented for the signature of his Excellency Lord Aylmer, 20th November 1830.

The *official* view of the subject is, that an error must have been committed in the office of the Attorney-general, whose draught does not correspond with the report of council, and reference from the civil secretary, as there is no document to be found authorizing the Attorney-general to insert the grant to the children, nor any communication on the subject between the 9th November 1829 and the 25th May 1830, the interval employed in the preparation of the draughts.

The Commissioner of Crown Lands feels it is duty to observe that as a public officer, connected with the management of the Crown lands, he had no agency nor influence, directly nor indirectly, in forwarding the patents; that in the interval from the 25th May to 11th August 1830, the Attorney-general's draught was in Colonel Yorke's possession, and that no other person had or could have access to it, and that it was only when the patent was ordered to be prepared in August 1830, a few months before the departure of Sir James Kempt for England, that Mr. Felton became aware of the grants being made to the full extent of his petition. The next point connected with his despatch is the reasonableness of Mr. Felton's application, and the circumstance under which the Secretary of State's acquiescence in Sir James Kempt's suggestion was not acted upon.

In referring to Mr. Felton's claims, as set forth in his application to my Lord Bathurst, and as represented to Sir James Kempt, it may possibly appear that Sir James Kempt took a different view of the case in 1830, when his Excellency was about to resign the government of the colony, from that which he entertained on first assuming it in 1828; and it is probable that Sir James Kempt found cause to change his opinion, that the prayer of Mr. Felton's petition ought not to be complied with.

When Mr. Felton received Colonel Yorke's letter of 7th August 1829, announcing Sir George Murray's decision, he immediately waited on his Excellency Sir James Kempt, and respectfully expostulated on the hardship and injustice of refusing to him, who had fairly and honourably performed all the conditions of his engagements to the utmost letter, by residing upon his grants, that award to which he considers his children entitled from the privations they had suffered, and the application of their patrimony to purposes from which the government derived more extensive advantage than themselves; at the same time pointing out that Mr. Felton had abstained from covering his acquisitions by the names of third parties as others had done, preferring to have the names of his family inserted in the patents. And when he ascertained, a short time before the departure of Sir James Kempt, that the extent of the grant corresponded with his pretensions, he was convinced that Sir James had been satisfied with the justice of his claims, and that in acceding to the prayer of the petition, his Excellency had given a proof of the good feeling he condescended to entertain towards him personally, as well as for his character and public services. The Right honourable the Secretary of State, in terming Mr. Felton's request unreasonable, will not probably have adverted to the peculiar circumstances under which it was made. The clamour of factious persons may mislead Mr. Stanley as it misled Sir James Kempt, but if the Secretary of State will cause full inquiry to be instituted, he will find that of all the extensive grantees of the Crown in this colony, Mr. Felton is the only one who brought a capital with him from England, to be applied exclusively to the improvement of his grant, and that he is a solitary example of the *bonâ fide* and minute performance of the engagements under which he occupied the grant.