

No. 2.
The Marquis of
Normanby to
Sir G. Arthur.
21st March, 1839.

of the prisoners C. Cunningham, J. G. Doan, Amos Perley, and Layman L. Lewis, who had been ordered for execution,—and have to express to you my approbation of the course which you have pursued with regard to these individuals.

It is with the utmost satisfaction that I learn, at the same time, that in your opinion it will not be necessary to carry capital punishment to any greater extent in the province which is intrusted to your care. The sentiments which you express upon this painful subject, would render it more than superfluous for me to repeat what are the views of Her Majesty's Government upon it, and how indelible a disgrace would, in their opinion, be attached to the British name by any measures which were not strictly necessary for the protection of the peace and security of the loyal inhabitants of Upper Canada, and which could justly be suspected of partaking of a sanguinary and vindictive character.

In the event of fresh aggressions rendering it unfortunately necessary to revert to the use of capital punishments, I would suggest to you, whether it would not be desirable that they should follow the commission of the crime as speedily as may be consistent with the calm and complete investigation of the several cases of the criminals, and then terminate. It is true, that it is probable that this course would produce the effect of enabling some of the most guilty among the prisoners to escape the last degree of punishment; but it appears to me that this would be an inferior evil to that produced by the spectacle of protracted executions long after the offence has been committed.

In conclusion, I have to signify to you, my entire approbation of the course which you have pursued towards the remaining prisoners. If the lenity which you have evinced towards the younger and less guilty parties of them, by granting them a free pardon, shall have, as you anticipate, the effect of giving satisfaction to those inhabitants of the United States, who regard with abhorrence the lawless and disgraceful outrages which have been perpetrated by some of their fellow-citizens upon the persons and property of British subjects in Upper Canada, that circumstance cannot but be very agreeable to Her Majesty's Government.

I am, &c.

(Signed)

NORMANBY.

Sir G. Arthur, K.C.H.,
&c. &c. &c.

No. 3.

(No. 19.)

COPY of a DESPATCH from the Marquis of NORMANBY to Lieut.-Governor
Sir G. ARTHUR, K.C.H.

SIR,

Downing-street, 30th March, 1839.

I HAVE the honour to acknowledge the receipt of your despatch of the 18th February, No. 32, reporting the circumstances connected with the prosecution in Upper Canada, of Howland Hastings, for an assault on a British subject at Detroit in Michigan.

I entirely participate in the regret which you express for this ill-advised prosecution; I cannot but further regret, that it did not occur to Mr. Prince, that it was inexpedient that he should preside and deliver a charge to the jury on the trial of a person who was his own avowed enemy, and who had even threatened his life, especially as the offence charged against the prisoner had arisen out of a quarrel of which those threats were the immediate occasion. It is peculiarly unfortunate that the infringement of the law of nations, in the person of an American citizen, should have thus been connected with a disregard of the general maxim of equity, which forbids any man to be a judge in a case in which his own interests are deeply involved. I approve the conduct pursued by you in this affair, and I trust that some means may have been found for discharging Howland Hastings from custody, under the warrant by which he was committed, until he should find securities to keep the peace.

It is, of course, out of the power of the Executive Government to control or interfere with the administration of the law upon a question of this nature; yet it is impossible not to perceive, that at least a plausible cause of complaint will be afforded to the American Government, even by this part of the proceedings against Hastings, which will be represented as the sequel to other irregularities of the

No. 3.
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