

(No. 28.)

No. 21.

COPY of a DESPATCH from Lord JOHN RUSSELL to the Right Hon. C. POULETT THOMSON.

SIR,

Downing Street, 28th October, 1839.

No. 21.  
Lord John Russell  
to the Right Hon. C.  
Poulett Thomson.  
October 28, 1839.

In the Marquis of Normanby's despatch of the 2nd of July (No. 52), his Lordship apprised Sir John Colborne of the receipt at this office of sixty-seven ordinances, passed by the Governor and Special Council of Lower Canada in the months of February, March, and April of the present year. Lord Normanby further explained the necessity of postponing the intimation of Her Majesty's pleasure on this series of enactments until his Lordship should be able to lay before Her Majesty the result of the references made upon them to various other departments of the Government; observing, at the same time, that as all these ordinances had, with one exception, gone into immediate operation, the delay would be attended with no practical inconvenience.

I regret to state that some of the departments of the Government to whom references of this nature have been made, have not yet been able to complete their inquiries on the subject, so that even now it is not in my power to convey to you any instructions embracing the whole of this series of enactments. But having, on the 25th inst., received the answer of the Lords Commissioners of the Treasury to the reference made by Lord Normanby to their lordships, I will no longer postpone apprising you, as far as it is in my power, of the course which will be taken on each of the sixty-seven ordinances transmitted with your predecessor's despatches of the 13th of April last (No. 55.)

I subjoin a schedule, marked A, which comprises a list of the whole of this series, in which each ordinance is distinguished by the number it bears in the records of this office, from 48 to 114, both inclusive.

I further subjoin a schedule, marked B, in which are enumerated such of the sixty-seven ordinances as have appeared to Her Majesty's Government to be open to no objection; and which it is therefore proposed to leave to their operation. But it is necessary to qualify this statement by one general remark: These laws were passed in pursuance of the statute 1st and 2d Vict., c. 9, which limited to the 31st of December, 1842, the duration of the ordinances of the Governor and Special Council. Yet, amongst those enumerated in the schedule marked B some will be found which, from the nature of their provisions, would be useless, if not unmeaning, if the operation of them were to be really limited within that narrow period of time. For example, one of these ordinances authorizes the granting of a very long lease, which would endure till nearly the close of the present century; and another provides for registrations of births, deaths, and marriages, which, if not valid beyond the year 1842, it would be to no purpose to compile at all. I mention these merely by way of illustration. On reference to the whole series, you will find many enactments which, like these, contemplate permanent or lasting improvements, and not regulations expiring in less than three years from their commencement.

I do not refer to this circumstance as affording any ground of objection to the ordinances themselves, and still less as suggesting any matter of blame to the authors of them. The Governor and Special Council obviously legislated with the full recollection that their laws must cease to be binding after the close of the year 1842, unless in that interval provision should be made by Parliament for their longer continuance; but, hoping that such provision would be made, they passed some ordinances which, though of great value on that supposition, would, in the opposite event, be at least innocuous. Now, although it appears to me that in taking this course the Governor and Special Council judged very correctly, yet I also apprehend that, unless in pursuance of the statute of the last session of Parliament, 2d and 3d Vict., c. 53, laws be passed to give a permanent, or, at least, a protracted duration to the ordinances I have mentioned, those ordinances, as having been passed under the 1st and 2d Vict., c. 9, must cease to be in force from the 31st of December, 1842, and must consequently lose their chief value. You will therefore instruct the law officers of the Crown for Lower Canada to revise all the ordinances enumerated in the subjoined schedule, marked B; and to report to you which of them contemplate objects, to the right accomplishment of which it is necessary that a longer duration should be assigned to the laws than that limited by the 1st and 2d Vict. c. 9; and in those cases, you will submit to the Special Council the propriety of prolonging the operation of such ordinances, in exercise of the powers vested in that body by the 2d and 3d Vict. c. 53.