

been brought by legitimate means under the cognizance of a Court of Law, and was being effectively prosecuted by the parties interested. You observe that the prisoner has no right to take advantage of his own negligence in obtaining the writ of *habeas corpus*, which would have afforded him the necessary protection; but I think that you here assume a negligence on his part which, as far as the papers before me enable me to judge, has had no existence. For some days you had had reason to anticipate that Lamirande's person would be brought under the protection of the Queen's Bench, and before you authorized his surrender to the French authorities it would have been only a proper exercise of your discretion to have ascertained whether he was or was not under that protection. The omission to take this precaution has led to a most unfortunate abuse of your authority.

The probable, or even, if it were so, the undoubted guilt of the prisoner cannot affect the question. A great scandal has taken place, and an insult has been passed upon the dignity of the law and the regular administration of justice in the Canadian Courts. It is true, as you say, that a person charged with the offences, and arrested under the circumstances of this case, deserves no special favour or indulgence at the hands of the authorities, but he has a right to the protection which every accused person can claim under the humane principles of the English law, and any abridgment of that protection tends to shake the confidence of society in the execution of justice, and inflicts a wrong upon the individual. In this case I am obliged, therefore, with whatever reluctance, to express my decided disapproval of the course which your Lordship was induced to adopt.

With the conduct of those Canadian officers who have taken part in this transaction I am less immediately concerned. As from the course which circumstances have taken in this case there is no question of any demand made by a foreign Power upon Great Britain, and no question of Imperial duty arises, it appears to me a matter which may properly be considered as falling within the province of Canadian administration. The subordinate officers who have had a share in the surreptitious withdrawal of Lamirande are responsible to their superiors, and their superiors to the Parliament, the constituencies, and the public opinion of Canada. Whilst I think that the further investigation into this matter properly belongs to the Provincial authorities, I feel that I should not be discharging my duty if, after taking the best opinion at my command, I did not inform you that the explanations hitherto afforded by your Solicitor-General of his conduct in obtaining the warrant whilst the case was actually under the hearing of the Judge, would not have been deemed satisfactory by Her Majesty's Government.

I am not obliged to express any further opinion on this part of the subject beyond what is implied in the observations which I have addressed to yourself. I shall have performed my duty as the servant of the Queen in communicating to your Lordship, to whom Her Majesty's authority is delegated in one of the most important of her Colonies, the judgment of her Advisers respecting the course which you have adopted in this case, and the principles by which, in any future question of a similar kind, they desire you to be guided.

Viscount Monck, &c. &c. &c. I have, &c.
(Signed) CARNARVON.

No. 5.

COPY of a DESPATCH from the Right Hon. the Earl of CARNARVON to Viscount MONCK.

(No. 114.)

MY LORD,

Downing Street, December 14, 1866.

I HAVE been officially informed that the Frenchman Lamirande has been tried in France, and that he has been found guilty of forgery ("faux"). He has been sentenced to ten years' reclusion, and from this decision he has appealed to the Court of Cassation, where the whole question will be considered.

I have not yet received a full report of the proceedings on the recent trial.

I am informed that the punishment of reclusion is more severe than that imprisonment, and it carries with it the penalty of the loss of all civil rights.

Viscount Monck, &c. &c. &c. I have, &c.
(Signed) CARNARVON.