

UPPER
CANADA.

Sir George Arthur
to Lord Glenelg,
14 April 1838.

despatch and its enclosure to be read before the Executive Council, in order that the members might be in possession of the views of Her Majesty's Government as regarded Lower Canada, and have time to reflect how far they bore upon the events that had transpired in Upper Canada, before the reports of any capital cases were brought under the consideration of the Council.

On this occasion I was informed that it was almost universally expected, after the great injuries, the severe hardships and privations, and, in many instances, deep distress which the loyal inhabitants of the province had endured, that the severest penalty of the law would be visited upon all the leaders and most guilty traitors, in order to deter the disaffected section from ever again venturing to bring upon the community such a heavy calamity.

At the same time, whilst they put me in possession of the general sentiment abroad, the members of the Council themselves saw the difficulty of proceeding to extremes where so large a number of persons were concerned; and much consideration was given to framing some plan for classifying the offenders, amongst whom were many shades of moral guilt, although all were alike amenable to the legal penalties of high treason.

5. On the 29th March, the Chief Justice reported that Samuel Lount and Peter Matthews had been convicted, upon their confession, of high treason, and that sentence of death had been passed upon them, to be carried into execution on the 12th of April.

The Council was therefore again assembled on the 31st of March, to take this report into consideration; and I thought it a duty that peculiarly devolved upon me, at such a crisis, to intimate to the Council my opinion, which your Lordship will find in the accompanying Minute, that it was expedient and proper, in the spirit of your Lordship's suggestions to Sir John Colborne, that a course of mercy should be pursued, so far as it could be carried on with a due regard to the maintenance of the laws, and that some means must be devised for limiting the number of trials, and discouraging the continued apprehension of persons on the charge of treason.

*Vide Minute
marked (A.)*

*Vide Minute in
Council.*

*Vide Report of the
Attorney-general,
2 April.*

6. On the cases of Lount and Matthews, the Chief Justice and the Attorney-general were heard at length before the Council; neither could recommend that they should be either pardoned or respited. In his Report the Attorney-general observes, "It will be seen from the foregoing statement, that both Lount and Matthews were prominent and active leaders of the rebels; that they possessed much influence, which they employed in seducing their neighbours from their allegiance; and that each of them, in attempting to attain their treasonable designs, was directly implicated in the crimes of robbery, arson, and murder.

"With respect to the infliction of capital punishments on any of the offenders, I have already, by your Excellency's command, expressed my opinion in the presence of your Excellency in Council. I think public justice requires, and the peace of the country renders it necessary, that some of the most guilty offenders should be executed. I trust it will be found that the number may be reduced to a *very few*. With this feeling I considered it my duty to prosecute, in the first instance, the two convicts to whom this report refers, that the earliest opportunity might be afforded your Excellency to determine on the course that your Excellency might deem most just and expedient to pursue in a matter involving considerations of the deepest importance."

*Vide Minute in
Council, 2 April.*

With respect to these cases, therefore, the following advice was given: "The Council have considered with great deliberation the despatch dated 30th January 1838, the copy of a despatch to Sir John Colborne, bearing date 6th January 1838, transmitted with the former despatch, and referred to therein, and also the opinion delivered by the Chief Justice and the Attorney-general before the Council, with the report of the Attorney-general.

"The Council have also considered attentively the Minute of his Excellency, and with every disposition to recommend the extension of Royal clemency, so far as at all compatible with the public safety, feel bound respectfully to advise his Excellency not to interfere with the course of justice in favour of Samuel Lount and Peter Matthews.

"The Council conceive that in advising this course, they are not, in any respect, departing from the spirit of the despatch addressed to Sir John Colborne. The Council are of opinion that the cases in question are of great urgency; that severe public example is actually required in some instances; and that the crimes
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