

The instructions to the Earl of Gosford contain or refer to various rules, restricting in many cases the exercise of the powers confided to him as one of the three branches of the legislature constituted under the Act of 1791. Those restrictions are of course inapplicable in form to enactments made under the authority of the accompanying statute; but in substance they will be found not less applicable to the present case than to that with a view to which they were framed. You will, therefore, still take them for your guide, subject to such variations as may unavoidably grow out of the altered relation which the Governor will now bear to the legislature of the province.

Lord Glenelg to
Sir J. Colborne,
19 February 1838.

It remains for me only to direct your attention to the provisions contained in the Act, by which certain subjects are placed entirely beyond the cognizance of the special council, and by which it is required that all laws to be passed by them shall be transmitted for the signification of the Royal pleasure. You will consult the law officers as to the exact nature of the restrictions thus laid upon the special council in case of any doubt that may occur.

You will inform me, by the earliest opportunity, of the measures which you may adopt in pursuance of the instructions conveyed to you in this despatch.

I cannot conclude without expressing the satisfaction which Her Majesty's Government feel in being able for the period that must elapse prior to Lord Durham's arrival in Canada, to entrust the execution of the accompanying Act to an officer of such eminent services and distinguished character.

I have, &c.

(signed) *Glenelg.*

—No. 2.—

(No. 50.)

COPY of a DESPATCH from Lord *Glenelg* to Lieutenant-general
Sir *John Colborne*, G.C.B.

Sir,

Downing-street, 19 March 1838.

No. 2.

I HAVE received your despatch dated the 24th of January (No. 2), in which you desire that the decision of Her Majesty's Government may be communicated to you on the course to be adopted in regard to the trial of the principal offenders now in gaol in Lower Canada on the charge of murder or high treason. This question has engaged the careful attention of Her Majesty's Government; and it is not without a full sense of the difficulties of the case that I proceed to convey to you the result of their deliberations.

Lord Glenelg to
Sir J. Colborne,
19 March 1838.

The immediate proclamation of a general amnesty for all political offences, followed by the indiscriminate discharge of all the prisoners, would afford the most easy solution of this question; but we cannot think it consistent with our duty to recommend this course. It appears to be also your own impression that some at least of those persons should, if possible, be brought to trial without delay.

The Attorney and Solicitor-general of Lower Canada record it as their opinion that, in the present state of the country, an impartial trial before the ordinary tribunals could not be had for offences of a political nature. This, too, was the unanimous opinion of 21 magistrates assembled at a general sessions of the peace at Montreal on the 5th of last December.

Your acquiescence in the views of the Attorney and Solicitor-general seems to be distinctly intimated in your despatch of the 24th of January.

In order to avoid the evils of this apprehended failure of justice, the Attorney and Solicitor-general recommend the passing of a law to try the prisoners by court martial.