

arise to the plan proposed. In that case, it is not the wish or the intention of Her Majesty's Government to restrict the free exercise of your own judgment or discretion, bearing in mind that the great object which they have in view is to avoid giving any just ground for complaints, not unreasonably made on former occasions, against attempting legislative changes affecting Canada, without previously ascertaining the sentiments and wishes of those whom such changes principally concern. Neither, in the brief enumeration of the topics upon which it has been suggested that you should consult with such a committee as has been proposed, is it the intention of Her Majesty's Government to exclude other subjects from your consideration, or to restrict you from entertaining other proposals, whether affecting the two Canadas only or all the British North American provinces, which you may be induced to think conducive to the permanent establishment of an improved system of government in Her Majesty's North American possessions.

Lord Glenelg to the
Earl of Durham,
20 January 1838.

Your commission will be co-extensive with the whole of these possessions, for the express purpose of enabling you with the greatest advantage to take the most comprehensive view of their general interests, and to recommend such measures as, after personal communication with men of various classes, and upon mature deliberation, you may consider best adapted to remove all reasonable ground of dissatisfaction in these colonies, and to cement the union subsisting between them and this country by the ties of mutual advantage, and a reciprocal feeling of confidence and good-will.

I have, &c.

(signed) *Glenelg.*

—No. 4.—

(No. 4.)

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*, G. C. B.

My Lord,

Downing-street, 13 March 1838.

No. 4.

I HAVE the honour to transmit to you herewith the copy of a despatch from the Earl of Gosford, dated the 12th July last, No. 70, enclosing a memorial from Messrs. Bruce, Shillitoe, M'Intyre & Martin, praying the confirmation of a sale to them of 66,242 acres of Crown land in the district of Gaspé.

Lord Glenelg to the
Earl of Durham,
13 March 1838.

This despatch reached me some time ago; but, before any decision could be adopted respecting it, the outbreak of insurrectionary movements in Lower Canada compelled me to delay the instructions which I was about to issue to the Earl of Gosford. I now submit the documents to your Lordship, in order that, on your arrival in Lower Canada, you may make the necessary inquiries to enable you to decide on the claim of the memorialists. I think it necessary, however, to offer for your guidance some observations which have been suggested to me by the perusal of these papers.

I assume, in the absence of any statement to the contrary, that the memorialists acted throughout the transaction in good faith: that is, that they were not parties to the various irregularities (to employ no stronger term) of the late Commissioner of Crown lands. I also assume that the memorialists made their bidding for the land in ignorance of the departure which had occurred from the proper course of proceeding in the sales.

There is one principle, however, laid down by the memorialists to which I cannot accede, namely, that contracts entered into with the Government are to be executed and observed, precisely in the same manner as if the contracting parties had both been private persons. The Government acts in trust for the public. The powers of the Government are defined and limited by regulations, which it is competent to every purchaser to learn before he contracts with them. The subordinate agents of the Government, through whom such contracts are made, act in pursuance, not of a general, but of a special authority; and it is incumbent on the purchaser to inform himself of its nature and extent. And, finally, every subject contracting with the Crown for the purchase of public property, enters upon the treaty under obligations which do not subsist towards any private seller—obligations, namely, to take no advantage of the errors into which, from inadvertence or ignorance, the Sovereign, or those by whom