

No. 23.
The Marquis of
Normanby to
Sir G. Arthur.
23rd July, 1839.

law-officers reported that they could not be so detained or dealt with in that colony, unless either an Act of Parliament or a Colonial Ordinance were made, to justify that course of proceeding.

Here, then, arose a conclusive and insuperable difficulty. Her Majesty's Government could not propose such an enactment, either to the Imperial or to the Local Legislature, with any prospect of success. Amongst other objections to such a law, it was not the least weighty that the Government are not in possession of the evidence by which the offences of the prisoners, or of any of them, are established. We have, indeed, their petitions for pardon, in which their guilt is acknowledged in general terms; but, under the peculiar circumstances of the case, it was impossible that such an acknowledgment could be admitted as a sufficient basis for legislation against them. We have also the Reports of the Commissioners by whom the cases were investigated: but on what proofs the Commissioners proceeded, it is not in our power to explain. An Act of Parliament or an Ordinance of a nature so totally new and unprecedented, could scarcely have been obtained, even on the most complete evidence of the facts. In the absence of such evidence it was manifestly unattainable to have sent the prisoners to Van Diemen's Land, on the mere chance that a law might be passed there for their detention, was a proceeding which it would have been impossible to hazard or to justify.

It thus became necessary either to bring these men to trial in this country for high-treason, or to discharge them from further imprisonment. A trial, I need hardly say, must have resulted in their acquittal, because we have no producible witnesses of their guilt; and because, after all that had occurred, such a prosecution would have been justly regarded with the utmost disfavour by the Court and jury. The result is, that they have been released on the conditions mentioned in the letter from the Home-Office. Her Majesty's Government have used every exertion in their power to avoid a result which they lament, as it may prove embarrassing to your Administration, and perhaps to the tranquillity of Upper Canada. I trust, however, that when the real state of the case is known in the province, any excitement which may have been raised by this decision will subside; and that it will be in your power to disabuse the public mind of the opinion that Her Majesty's Government regard with indifference, or are disposed to treat with a misplaced lenity, such crimes as those of which the prisoners in question are self-convicted.

I have, &c.

(Signed) NORMANBY.

Sir G. Arthur, K.C.H.
&c. &c. &c.

Enclosure in No. 23.

SIR,

LORD JOHN RUSSELL, having considered the circumstances connected with the cases of the Canadian Prisoners now in the gaol of Newgate, who were brought here under the Act of the Upper Canada Legislature, viz., Ira Anderson, James Brown, Randal Wixon, William Alves, Robert Walker, Leonard Watson, John Goldsbury Parker, Finlay Malcolm, and Paul Bedford, I am directed to acquaint you for the information of the Marquis of Normanby, that Lord John Russell has deemed it expedient to recommend to Her Majesty to grant them a pardon, on condition of their entering into their own recognizance not to return to Canada, nor to appear within fifty miles of the Canadian Frontier.

I am, &c.

S. M. PHILLIPPS.

James Stephens, Esq.,
&c. &c. &c.

No. 24.

(No. 86.)

COPY of a DESPATCH from the Marquis of NORMANBY to Lieut.-Governor
Sir G. ARTHUR, K.C.H.

SIR,

Downing-street, 28th July, 1839.

I HAVE had the honour to receive your Despatch of the 1st instant, No. 150, enclosing a copy of a circular letter addressed by you to the Magistrates of Upper Canada, with a view to prevent the display of those party feelings and the excitement of those party processions which in former years have occurred at this season.

No. 24.
The Marquis of
Normanby to
Sir G. Arthur.
26th July, 1839.