

pursued by you towards them, and will, I trust, have some effect on their fellow-citizens in the United States. The letter from Mr. Hugunin on the subject of the attack on the "Stephen Girard," and the reparation made to him for that outrage is also highly satisfactory.

No. 22.
The Marquis of
Normanby to
Sir G. Arthur.
9th July, 1839.

I have, &c.
(Signed) NORMANBY.

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

No. 23.

(No. 84.)

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

SIR, Downing-street 23rd July, 1839.

WITH reference to my Despatch of 17th May last, No. 47, I have the honour to transmit herewith for your information the copy of a letter from the Under-Secretary of State for the Home Department announcing that, after considering the cases of the Canadian Prisoners enumerated in that letter, Lord John Russell has felt bound to recommend to Her Majesty to grant them a pardon, on their entering into their own recognizance not to return to Canada, nor to appear within fifty miles of the Canadian frontier. I proceed to explain the grounds on which this decision has been adopted.

No. 23.
The Marquis of
Normanby to
Sir G. Arthur.
23rd July, 1839.
13th July, 1839.

Shortly after their arrival in England these prisoners presented to the Crown petitions impugning the justice of their sentences, and praying that they might not be carried into effect. So long as the legality of their detention in custody was in question before the legal tribunals, Her Majesty's Government felt bound to decline any interference in the matter; but that question having been decided, it became necessary to inquire into the allegations of the petitioners, and to determine both whether it was just to carry their sentences into execution, and whether this could be done consistently with law.

Respecting the guilt of the prisoners there was no room for doubt; nor, if their claim to mercy had depended on an estimate of the demerit or the danger of their conduct, would there have been any room for hesitation. I have not found in the case of any one of these men any fact which could be urged either to contradict the charges against them, or materially to extenuate their guilt.

But their claim to a remission of their sentences is chiefly founded on the terms of Sir Francis Head's Proclamation of the 7th of December, 1837, on which they now insist as an amnesty for their offences. In two of these cases it would, I think, be scarcely possible to make any satisfactory answer to this demand. In the other cases, it appears to Her Majesty's Government to possess very considerable, though inferior force.

But it has not been necessary to decide this question; for a difficulty of another kind has presented itself, to which, after the most mature inquiry and reflections, we have found it inevitable to yield. The decisions of the Courts of Queen's Bench and Exchequer ascertained that the prisoners were held in lawful custody, in this kingdom; but those Courts did not determine either of the two ulterior questions, namely,—whether their compulsory removal from this kingdom, or their compulsory detention as convicts in Van Diemen's Land, would be lawful. The judges studiously declined the expression of any opinion on either of those points of law, because they had not then actually arisen; and they strictly confined their judgments to the precise and single question in controversy before them. It was, however, inferred, by those who attended the discussions and heard the judgments, that the judges entertained a very grave doubt whether the Government could lawfully proceed further against the prisoners, unless they could bring them to trial in this country for their treasons.

Under these circumstances I consulted the Attorney and Solicitor-General on the question—whether, if the prisoners should be sent to Van Diemen's Land, they could be lawfully held in custody there as convicts or prisoners of the Crown. The