

CANADA.

CORRESPONDENCE

RELATIVE TO THE

AFFAIRS OF CANADA.

PART II.

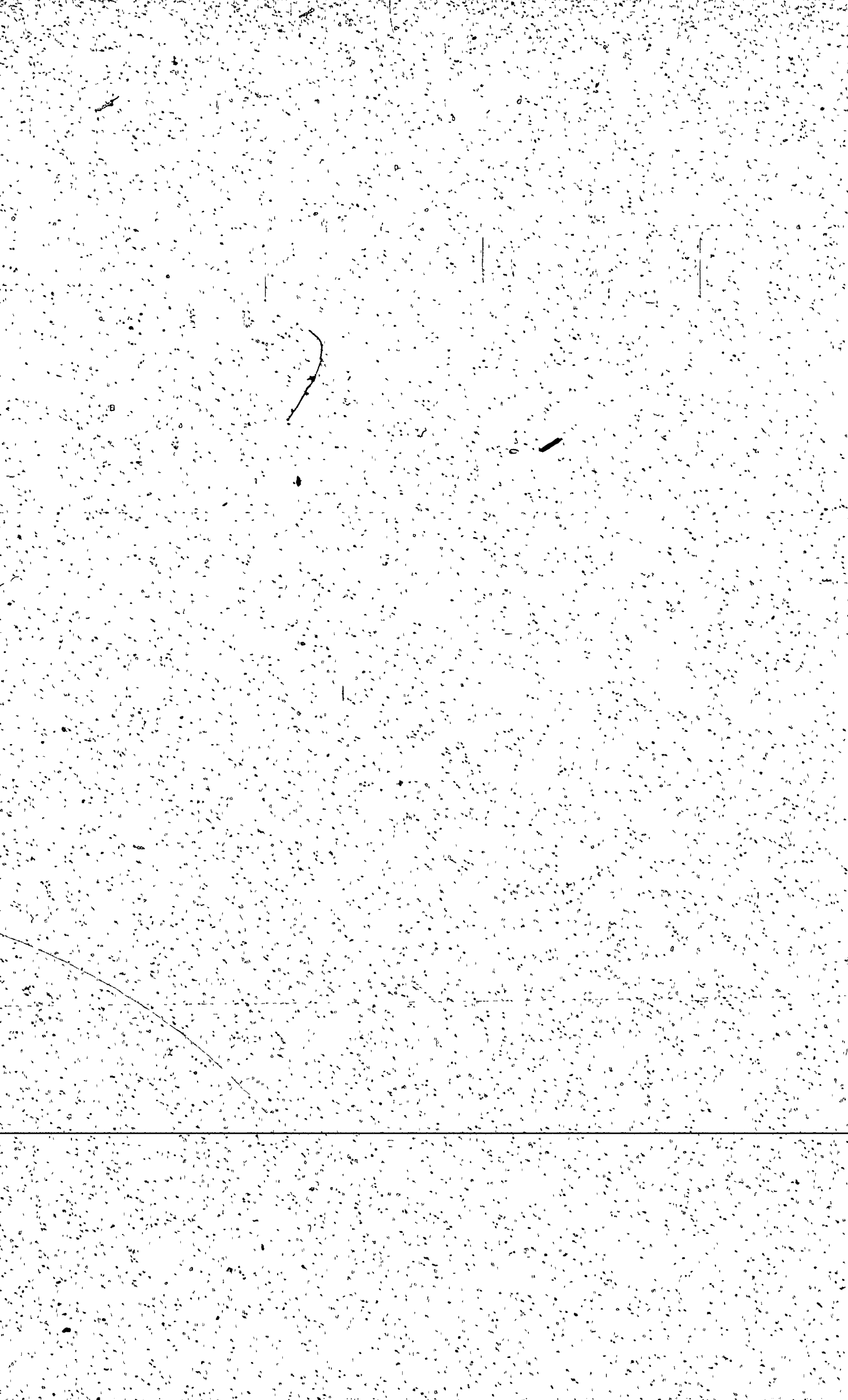
UPPER CANADA.

Presented to both Houses of Parliament by Command of Her Majesty.

LONDON:

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FOR HER MAJESTY'S STATIONERY OFFICE.

1840.



SCHEDULE.

UPPER CANADA.—POLITICAL.

FROM THE MARQUIS OF NORMANBY AND LORD JOHN RUSSELL.

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3. The Marquis of Normanby to Sir G. Arthur	Mar. 30	Prosecution of Howland Hast- ings—Acknt. of Despatch 18th Feb.	12
4. The Marquis of Normanby to Sir G. Arthur	April 8	Disposal of Americans now in custody in Upper Canada— Acknt. of Despatch 10th Feb.	13
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UPPER CANADA.—POLITICAL.

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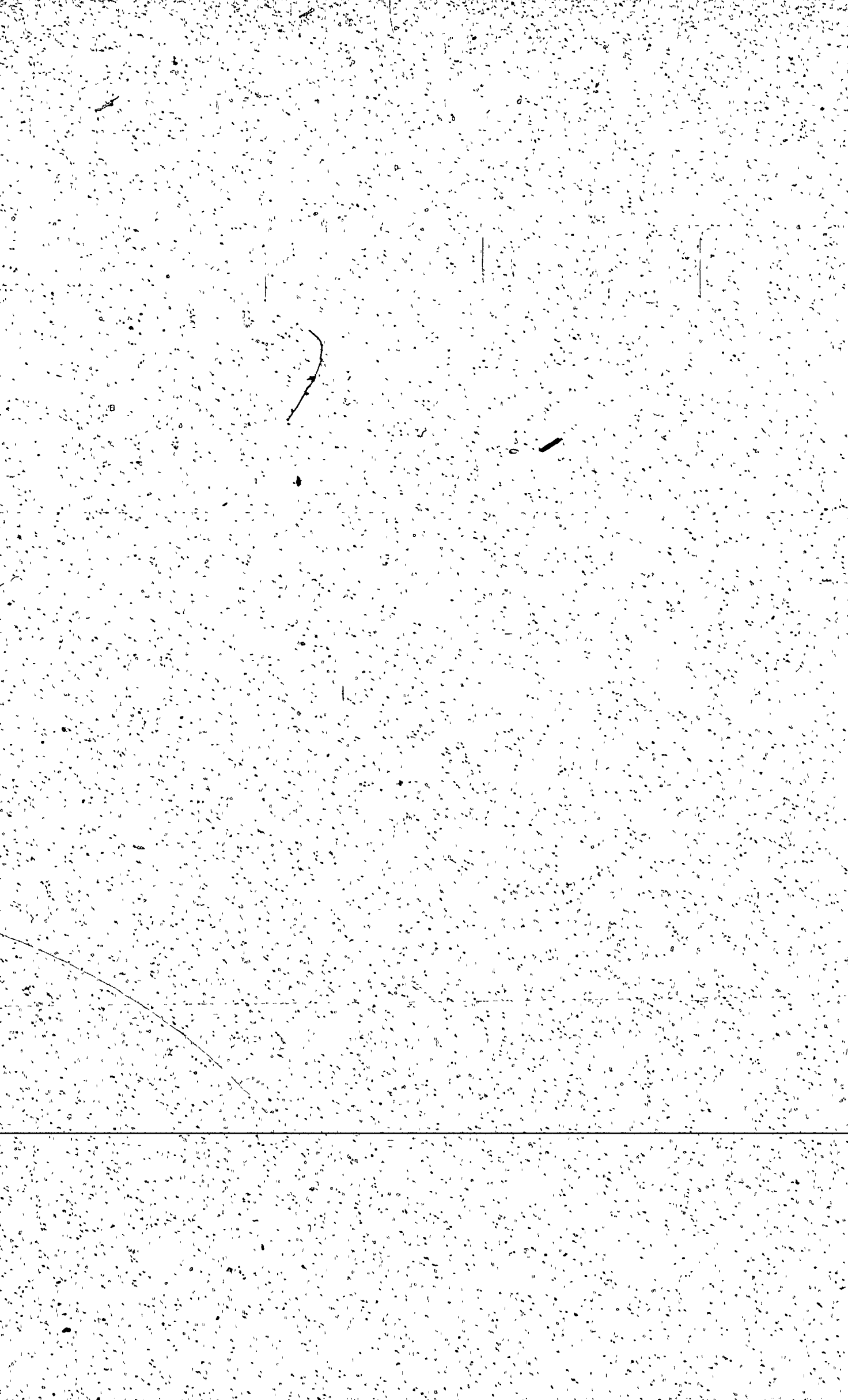
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UPPER CANADA.

POLITICAL.

**From the Marquis of Normanby and Lord John Russell
to Sir G. Arthur, K.C.H.**



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UPPER CANADA.

POLITICAL.

COPIES and EXTRACTS of CORRESPONDENCE relative to the Affairs of
UPPER CANADA.

From the Marquis of Normanby and Lord John Russell.

No. 1.

(No. 5.)

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

SIR, Downing Street, 28th Feb. 1839.

I HAVE the honour to acknowledge the receipt of your Despatches of the 1st and 2nd ultimo, Nos. 1 and 3, reporting the further proceedings of the Militia Courts Martial on the prisoners taken at Prescott, and the conviction, before the Court Martial assembled at London, of Herain B. Lynn, the first of the prisoners engaged in the outrage at Windsor, who had been brought to trial.

I have to convey to you my approval of your decision to allow the law to take its course in the case of Lynn, and in that of four of the individuals convicted of participation in the attack at Prescott, and sentenced to death. Much as Her Majesty's Government regret the necessity for the infliction of the punishment of death, they cannot doubt the soundness of the judgment which you exercised in these cases.

In conformity with the course adopted by my predecessor, I have referred for the consideration of the Judge Advocate General the proceedings of the Courts Martial which accompanied your Despatches.

I have further to convey to you my approval of the answers, returned by you to the application which you received from some citizens of the United States, in behalf of two of the prisoners named Smith and Sweatman.

I have, &c.

(Signed) NORMANBY.

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

No. 1.
The Marquis of
Normanby to
Sir G. Arthur,
28th Feb., 1839.

No. 2.

(No. 14.)

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

SIR, Downing Street, 21st March, 1839.

I HAVE the honour to acknowledge the receipt of your despatches of the 29th January and 5th February, with their enclosures, containing the report of the cases

No. 2.
The Marquis of
Normanby to
Sir G. Arthur,
21st March, 1839.

No. 2.
The Marquis of
Normanby to
Sir G. Arthur.
21st March, 1839.

of the prisoners C. Cunningham, J. G. Doan, Amos Perley, and Layman L. Lewis, who had been ordered for execution,—and have to express to you my approbation of the course which you have pursued with regard to these individuals.

It is with the utmost satisfaction that I learn, at the same time, that in your opinion it will not be necessary to carry capital punishment to any greater extent in the province which is intrusted to your care. The sentiments which you express upon this painful subject, would render it more than superfluous for me to repeat what are the views of Her Majesty's Government upon it, and how indelible a disgrace would, in their opinion, be attached to the British name by any measures which were not strictly necessary for the protection of the peace and security of the loyal inhabitants of Upper Canada, and which could justly be suspected of partaking of a sanguinary and vindictive character.

In the event of fresh aggressions rendering it unfortunately necessary to revert to the use of capital punishments, I would suggest to you, whether it would not be desirable that they should follow the commission of the crime as speedily as may be consistent with the calm and complete investigation of the several cases of the criminals, and then terminate. It is true, that it is probable that this course would produce the effect of enabling some of the most guilty among the prisoners to escape the last degree of punishment; but it appears to me that this would be an inferior evil to that produced by the spectacle of protracted executions long after the offence has been committed.

In conclusion, I have to signify to you, my entire approbation of the course which you have pursued towards the remaining prisoners. If the lenity which you have evinced towards the younger and less guilty parties of them, by granting them a free pardon, shall have, as you anticipate, the effect of giving satisfaction to those inhabitants of the United States, who regard with abhorrence the lawless and disgraceful outrages which have been perpetrated by some of their fellow-citizens upon the persons and property of British subjects in Upper Canada, that circumstance cannot but be very agreeable to Her Majesty's Government.

I am, &c.

(Signed)

NORMANBY.

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

No. 3.

(No. 19.)

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

SIR,

Downing-street, 30th March, 1839.

I HAVE the honour to acknowledge the receipt of your despatch of the 18th February, No. 32, reporting the circumstances connected with the prosecution in Upper Canada, of Howland Hastings, for an assault on a British subject at Detroit in Michigan.

I entirely participate in the regret which you express for this ill-advised prosecution; I cannot but further regret, that it did not occur to Mr. Prince, that it was inexpedient that he should preside and deliver a charge to the jury on the trial of a person who was his own avowed enemy, and who had even threatened his life, especially as the offence charged against the prisoner had arisen out of a quarrel of which those threats were the immediate occasion. It is peculiarly unfortunate that the infringement of the law of nations, in the person of an American citizen, should have thus been connected with a disregard of the general maxim of equity, which forbids any man to be a judge in a case in which his own interests are deeply involved. I approve the conduct pursued by you in this affair, and I trust that some means may have been found for discharging Howland Hastings from custody, under the warrant by which he was committed, until he should find securities to keep the peace.

It is, of course, out of the power of the Executive Government to control or interfere with the administration of the law upon a question of this nature; yet it is impossible not to perceive, that at least a plausible cause of complaint will be afforded to the American Government, even by this part of the proceedings against Hastings, which will be represented as the sequel to other irregularities of the

No. 3.
The Marquis of
Normanby to
Sir G. Arthur.
30th March, 1839.

whole transaction, and as conceived in the same spirit, although conducted more in accordance with the law. It is needless, however, to prosecute the discussion any further, as I am convinced that long before the arrival of this despatch, you will have used all the means in your power to bring this ill-timed and unfortunate question to a close.

No. 3.
The Marquis of
Normanby to
Sir G. Arthur.
30th March, 1839.

I have, &c.

(Signed) NORMANBY

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

No. 4.

(No. 23.)

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

Downing-street, 8th April, 1839.

I HAVE received your Despatch, No. 33, of the 19th February, enclosing the copy of a confidential Despatch addressed to you by Her Majesty's Ministers at Washington on the subject of the present political relations of Canada with the United States, and the disposal of the Americans now in custody in Upper Canada. With reference to the latter subject, you report your intention to persevere in the course which you had originally prescribed to yourself.

No. 4.
The Marquis of
Normanby to
Sir G. Arthur.
8th April, 1839.

I have already, in my Despatch, No. 14, of the 21st March, notified to you my approval of your intention to grant, with the concurrence of your Executive Council, a free pardon to the younger and less guilty portion of the prisoners in question. It is, therefore, only necessary for me to add, on the present occasion, that, after a full consideration of the arguments urged by yourself and by Mr. Fox, I approve of your determination to abide by your previous decision in this matter.

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

No. 5.

(No. 26.)

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

Sir, Downing Street, 12th April, 1839.

I HAVE received your despatch of the 2nd ultimo, No. 47, enclosing a copy of the answer of the Governor of Michigan to the communication which you had addressed to him respecting the prosecution of Howland Hastings. I have perceived with much pleasure the tone of Governor Mason's letter, and am happy to believe that this unfortunate transaction has been brought to so favourable a result.

No. 5.
The Marquis of
Normanby to
Sir G. Arthur.
12th April, 1839.

I have, &c.

(Signed) NORMANBY

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

No. 6.

(No. 27.)

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

SIR,

Downing-street, 13th April, 1839.

I HAVE the honour to acknowledge the receipt of your Despatch of the 27th February last, No. 42, enclosing a copy of the speech with which you had on that day opened the session of the Provincial Legislature. I have to convey to you my approval of the course which, in the peculiar circumstances of the province, you adopted with regard to your speech.

I have, &c.

(Signed) NORMANBY.

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

No. 6.
The Marquis of
Normanby to
Sir G. Arthur.
13th April, 1839.

No. 7.

(No. 29.)

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

SIR,

Downing-street, 15th April, 1839.

I HAVE the honour to acknowledge the receipt of your Despatch of the 5th ultimo, No. 49, enclosing two Minutes of the Executive Council of Upper Canada, in regard to the disposal of the prisoners in custody on charges connected with the late disturbances.

As in my Despatch of the 8th instant, No. 23, I have already conveyed to you my approval of the course which you proposed to follow in this matter, and as the recommendation of the Council coincides with that course, it is only necessary for me, on the present occasion, to express my satisfaction that your decision on this important subject should be so fully supported by the opinions of the gentlemen who form your Executive Council.

I have, &c.

(Signed) NORMANBY.

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

No. 7.
The Marquis of
Normanby to
Sir G. Arthur.
15th April, 1839.

No. 8.

(No. 31.)

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

SIR,

Downing-street, 18th April, 1839.

I HAVE to acknowledge the receipt of your Despatch of the 8th March last, No. 53, enclosing copies of the Addresses presented to you by both branches of the Legislature, in answer to the Speech with which you had opened the Session. Having laid these Addresses before the Queen, I have to express to you the gratification with which Her Majesty has observed the terms of mutual confidence between the Executive Government and the Legislature, with which the Session has commenced.

I have, &c.

(Signed) NORMANBY.

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

No. 8.
The Marquis of
Normanby to
Sir G. Arthur.
April 18th, 1839.

No. 9.

(No. 32.)

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

SIR, Downing-street, 20th April, 1839.

I HAVE received your Despatch, No. 62, of the 14th March, enclosing copies of a correspondence between yourself and the Governor General, on the subject of the liberation of the prisoners named in the margin, who were captured in the Schooner, Anne, near Amherstburg, in January, 1838, and who were sent to Quebec for safe custody.

I have to convey to you my approval of your proceedings in this matter.

I have, &c.

(Signed) NORMANBY.

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

No. 9.
The Marquis of
Normanby to
Sir G. Arthur.
20th April, 1839.
C. Parker.
B. F. Pew.
N. Smith.
H. S. Hull.
Squire Thayer.
T. Culver.
A. Partridge.

No. 10.

(No. 41.)

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

SIR, Downing-street, May 7, 1839.

I HAVE the honor to acknowledge the receipt of your despatch of the 30th March last, No. 68.

I have learned with much satisfaction, that at that date the province of Upper Canada was perfectly tranquil. You, indeed, state that excitement still prevailed within the American lines, and that there seemed to be a "general expectation and desire for war." I cannot, however, doubt that this excitement will gradually subside, more especially since an arrangement has now been effected respecting the disputed territory, which will obviate any risk of hostile collision between the two countries on that question, pending the negotiations for its settlement.

I have, &c.

(Signed) NORMANBY.

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

No. 10.
The Marquis of
Normanby to
Sir G. Arthur.
7th May, 1839.

No. 11.

(No. 47.)

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

SIR, Downing-street, 17th May, 1839.

I HAVE received your Despatch of the 10th of April (No. 79) enclosing various documents connected with the cases of the prisoners, who have been sent to this country from Upper Canada for transportation to Van Diemen's Land. This Despatch reached me on the 8th instant, that is, two days after the decision of the Court of Exchequer respecting the discharge of these prisoners on a writ of Habeas Corpus had been pronounced. Fortunately the absence of these documents was not productive of any real inconvenience. After hearing the arguments in support of and against the claim of the prisoners to be discharged, and taking full time for deliberation, the Court of Exchequer, on the 6th instant, pronounced a judgment ordering them to be remanded into the custody of the gaoler of Liverpool.

No. 11.
The Marquis of
Normanby to
Sir G. Arthur.
17th May, 1839.

No. 11.
The Marquis of
Normanby to
Sir G. Arthur.
17th May, 1839.

I enclose the short-hand writer's note of the judgment of the Court of Exchequer, as delivered by the Lord Chief Baron, Lord Abinger. I have not thought it necessary to send you copies of the affidavits and other proceedings, or copies of the notes taken of the speeches of the Council on either side, as this would be little else than a repetition of the documents already communicated to you by Lord Glenelg, in reference to the corresponding application to the Court of Queen's Bench.

All difficulties respecting the lawfulness of the detention and transportation of these prisoners being thus removed, measures will be taken as soon as may be practicable to carry into effect the conditions on which their pardons were granted. I am unable to hold out any prospect that it will be in the power of Her Majesty's Government to advise the Queen to accede to the applications which have been addressed to Her Majesty for the remission of the punishment of some of these parties. Without definitively expressing any conclusion as to the course which may be taken in that respect, I can for the present state only that I have not hitherto found any sufficient reason to justify the Ministers of the Crown in advising that the sentences pronounced upon any of the prisoners should be remitted.

I have, &c.

(Signed)

NORMANBY.

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

No. 12.

(No. 48.)

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

SIR,

Downing-street, 18th May, 1839.

I HAVE the honour to acknowledge the receipt of your Despatch of the 2nd ultimo (No. 74). The subjects to which it adverts having been in a great measure already disposed of, it will not be necessary for me on the present occasion to enter upon them at any length.

My Despatch of the 16th ultimo will have apprised you that Her Majesty's ship "Buffalo" had been ordered to proceed to the Saint Lawrence with detachments, and would afterwards convey to their destination those individuals in Canada who might be under sentence of transportation to Australia. The "Buffalo" is capable of containing 200 convicts and will therefore receive all the prisoners under sentence of transportation both in Upper and Lower Canada. I learn from the Lords Commissioners of the Admiralty that the "Buffalo" will be ready for sea in the first week of June.

In regard to the disposal of the younger American prisoners, my Despatches of the 21st of March and the 8th and 15th ultimo have already conveyed to you my approbation of the course which you have adopted, and my concurrence in your reasoning on this subject. I am happy to learn, from your Despatch of the 10th ultimo (No. 80), that, as far as it was possible to form an opinion from the conduct of those who had been at that time liberated, the lenity shown towards them had been received in a becoming and grateful spirit.

Her Majesty's Government sincerely regret the continuance among the citizens of the States of Michigan and Ohio of excitement and bad feeling towards Her Majesty's subjects in Upper Canada. At the date of your Despatches of the 30th of March and 2nd of April, the temporary arrangement effected between the Governments of New Brunswick and Maine in regard to the disputed territory was probably unknown to you. That arrangement has, I trust, put an end to all risk of collision between Great Britain and the United States, pending the negotiations on the Boundary question; and Her Majesty's Government cannot but expect that, as a striking indication of the desire of either Government to preserve the amicable relations between the two countries, it will have a strong effect on the public mind in the Western States. I do not deny the inferences which you draw from the entertainment given in Michigan to certain of the Canadian refugees, but I hope that the people of that State, seeing the hopelessness of their aggressions on Her Majesty's Canadian dominions and receiving no countenance or support from the

No. 12.
The Marquis of
Normanby to
Sir G. Arthur.
18th May, 1839.

other and more influential States of the Union, will, from feelings of prudence, if not from higher motives, abstain from a course which is so injurious to Upper Canada and disgraceful to themselves.

I have, &c.
(Signed) NORMANBY.

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

No. 12.
The Marquis of
Normanby to
Sir G. Arthur.
18th May, 1839.

No. 13.

(No. 56.)

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

SIR,

Downing-street, 8th June, 1839.

I HAVE received your Despatch of the 20th April last (No. 92), on the subject of the principles to be followed in bringing to justice parties implicated in treasonable attacks on the Government of Upper Canada.

I acknowledge that there is great weight in the reasoning by which you vindicate tardiness rather than promptitude of punishment in cases such as those which unhappily occurred during the last year. It would be useless to attempt, at this distance from the scene of action, to fetter the discretion of the Local Government by any positive and inflexible rules on such a subject. It is enough to say that the immediate infliction of the penalties of the law when it may be indispensable to inflict them, appears to be regarded by you not less than by myself, as the sound general principle from which it is not wise to deviate, except in deference to some peculiar reasons which may suggest and justify an exception to it.

With regard to the transmission of Lord Durham's Report, unaccompanied by any remarks on those passages of it which appeared to convey injurious reflections on your conduct, I apprehend that when you advert to all the circumstances connected with that publication, you will readily discover reasons why I was unwilling to render it the subject of comment in my Despatches, apart from the supposition that my silence implied an acquiescence in any censure cast by that Report on the administration of the Government of Upper Canada.

I have, &c.
(Signed) NORMANBY.

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

No. 13.
The Marquis of
Normanby to
Sir G. Arthur.
8th June, 1839

No. 14.

(No. 57.)

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

SIR,

Downing-street, 9th June, 1839.

I HAVE to acknowledge the receipt of your Despatch of the 13th ultimo, (No. 104), enclosing a Copy of the Speech with which, on the 11th of that month, you had closed the Session of the Provincial Legislature.

I have, &c.
(Signed) NORMANBY.

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

No. 14.
The Marquis of
Normanby to
Sir G. Arthur.
9th June, 1839.

No. 15.

(No. 61.)

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

No. 15.
The Marquis of
Normanby to
Sir G. Arthur.
12th June, 1839.

SIR,

Downing-street, 12th June, 1839.

I HAVE the honour to acknowledge the receipt of your Despatches of the 17th April and 7th May, (Nos. 90 and 100), reporting the steps which you had taken for liberating an additional number of the prisoners concerned in the attacks on Upper Canada; and the effect which had been produced by this and your former act of clemency, both on the prisoners themselves and on their fellow-citizens.

I have read these Despatches with much interest. The spirit in which your clemency has been received sufficiently vindicates the wisdom of your proceedings, and, combined as it has been with some examples of necessary severity, can scarcely fail either to abate the disposition to renew these outrages, or at least to justify to the world at large any measures of a sterner character which it may hereafter become necessary to take for the prevention of them.

I have, &c.

(Signed)

NORMANBY.

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

No. 16.

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

No. 16.
The Marquis of
Normanby to
Sir G. Arthur.
12th June, 1839.

SIR,

Downing Street, 12th June, 1839.

As I am aware of your anxiety to be informed of the measures contemplated by Her Majesty's Government for the settlement of the affairs of Canada, I avail myself of the opportunity afforded by the departure of the Liverpool steam-vessel to communicate with you on the subject.

It had been the intention of Her Majesty's Government to introduce into Parliament the Bill, of which I enclose you a copy, and which, if agreed to, would have re-united the Provinces of Upper and Lower Canada, and would have made effectual provision for their future Government. Late events, however, and especially the recent proceedings in the Legislature of Upper Canada, of which intelligence was received on the 3rd instant, have induced Her Majesty's Ministers so far to modify this Bill as to defer for the present those provisions which relate to the re-union of the Provinces and their future Government. Accordingly the Bill will be divided into two parts—the first extending the authority of the Special Council of Lower Canada, and prolonging its existence to the year 1842; the second providing for the future re-union of the Canadian Provinces on the principles of a free and representative Government. The first Bill only will be immediately pressed on the attention of Parliament, and will, I trust, meet with their concurrence. The second will be brought in, but will not be proceeded with during the present session, nor until the Legislative Council and Assembly of Upper Canada, and the Special Council of Lower Canada shall have had an opportunity of communicating to Her Majesty's Government their views respecting it.

I shall take an early opportunity of communicating with you further on this subject, and of apprising you of the proceedings in the Imperial Parliament. My present communication is necessarily restricted to a mere indication of the intentions of Her Majesty's Government, but I could not allow this opportunity to pass without apprising you of them.

I have, &c.

(Signed)

NORMANBY.

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

No. 17.

(No. 65.)

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

SIR,

Downing-street, 20th June, 1839.

I HAVE received your Despatches, Nos. 91 and 107, of the 17th April and 13th May, commenting on certain statements in the Report of the Earl of Durham, relating to the affairs of Upper Canada, and to the policy observed by you in the administration of the Government of that Province. I have felt it my duty to you to communicate to Parliament the explanations contained in those Despatches. Before their receipt I had availed myself of the opportunity afforded by the debate on Colonel Prince's case to bear testimony in the House of Peers to the wisdom, firmness, and humanity, which had distinguished your administration, under circumstances of great difficulty. I am happy to repeat, in writing, the declaration which I then made, and to assure you of my determination to afford you all the support in my power in the arduous and critical circumstances in which you are placed.

I have, &c.

(Signed)

NORMANBY.

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

No. 17.
The Marquis of
Normanby to
Sir G. Arthur,
20th June, 1839.

For Despatches
No. 91 and 107,
17th April and 13th
May, 1839.

Vide Papers
relative to the
Affairs of Canada.
Ordered to be
printed, June 1839.

No. 18.

(No. 72.)

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

SIR,

Downing-street, 27th June, 1839.

I HAVE had the honour to lay before the Queen the Address of the House of Assembly of Upper Canada, founded on the Report of a Select Committee of that House appointed to inquire into the state of the province.

The Queen commands me to instruct you to acquaint the Assembly that Her Majesty has been pleased to communicate to both Houses of Parliament this Address, together with the Report annexed to it. Her Majesty is convinced that those documents will receive from Parliament the mature consideration which their importance so eminently demands.

I have, &c.

(Signed)

NORMANBY.

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

No. 18.
The Marquis of
Normanby to
Sir G. Arthur

27th June, 1839.
Transmitted in
No. 102 of 11th
May.

Vide Papers
relative to the
Affairs of Canada.
Ordered to be
printed, June, 1839.

No. 19.

(No. 76.)

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

SIR,

Downing-street, 5th July, 1839.

WITH reference to my Despatch of the 12th ultimo, I have the honour to transmit herewith, for your information, copies of the two Bills introduced into Parliament on the subject of Canada. The Bill to amend the Act 1 Vict. cap. 9, was last night read a second time in the House of Commons, will go into Committee on Thursday next.

The Bill for reuniting the Provinces of Upper and Lower Canada, although introduced into the House, will not be pressed during the present Session to a second reading. Her Majesty's Government have decided on adopting this course in deference to what appears to be the general sentiment of the people of Upper Canada, and in compliance with your recommendation that no unnecessary discussion should, at the present moment, be taken on the question of union. This

No. 19.
The Marquis of
Normanby to
Sir G. Arthur.

5th July, 1839.

No. 19.
The Marquis of
Normanby to
Sir G. Arthur.
5th July, 1839.

Bill, therefore, will stand over until the next Session of Parliament, and in the mean time Her Majesty's Government will have an opportunity of ascertaining the views of the people of Canada on the proposed measure. I shall communicate further with you on this subject when the Bill for amending the 1 Vict. c. 9. shall have been advanced through its remaining stages.

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

(Signed)

I have, &c.,
NORMANBY.

(No. 77.)

No. 20.

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

SIR,

Downing Street, 6th July, 1839.

I HAVE received your Despatch No. 124, of the 24th May, forwarding to me an Address to the Queen from the residents in Upper Canada, who acted as "Commissioners for constructing the St. Lawrence Canal," vindicating themselves from certain reflections supposed to have been cast upon them in the Report of the Earl of Durham, relating to the affairs of British North America.

You will have the goodness to acquaint those gentlemen, that I have had the honour to lay their address before the Queen, and that Her Majesty was pleased to receive it very graciously. The Queen has, at the same time, thought it due to their character, that these explanations should be communicated to Parliament.

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

(Signed)

I have, &c.,
NORMANBY.

(No. 78.)

No. 21.

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

SIR,

Downing Street, 6th July, 1839.

I HAVE received your Despatch No. 138, of the 10th June, enclosing a copy of the Report of a Select Committee of the Legislative Council of Upper Canada, to whom had been referred the Report of the Earl of Durham on the affairs of British North America.

In answer, I have to acquaint you that I have caused copies of this report to be laid before both Houses of Parliament.

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

(Signed)

I have, &c.,
NORMANBY.

(No. 81.)

No. 22.

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

SIR,

Downing Street, 9th July, 1839.

I HAVE the honour to acknowledge the receipt of your Despatch of the 18th May last, No. 113.

I have read with much satisfaction the documents which it encloses. The letter from the liberated prisoners affords the most gratifying testimony to the policy

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

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

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.

Previously to the receipt of your Despatch, I had intended to write to you on the subject of statements which have appeared in the public papers relative to the continuance of Orange Lodges in Upper Canada, and the excitement and irritation arising from them, I am happy to find that the suggestions which I had proposed to offer to you on this subject are now unnecessary. I entirely approve of the course which you have adopted, and of the tone of your communication to the magistrates; and I cannot but hope that an exhortation, framed in such a spirit, and proceeding from such a quarter, will have been sufficient to prevent any demonstration of which the tendency is to excite and exasperate civil and religious animosity between different classes of Her Majesty's subjects.

No. 24.
The Marquis of
Normanby to
Sir G. Arthur.
28th July, 1839.

I have, &c.
(Signed) NORMANBY.

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

No. 25.

(No. 87.)

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

SIR, Downing-street, 30th July, 1839.

I HAVE had the honour to receive your Despatches of the dates and numbers mentioned in the margin, reporting the proceedings which you adopted in consequence of the outrages committed by British subjects on the American Steam-boat, "United States," at Prescott, and on the American Schooner, "Stephen Girard," at Port Colborne, as well as of the outrage committed by American citizens on the British Steamer, "Traveller," at Rochester; and of the robbery of the mail between Kingston and Gananoque by a party of armed men from the United States.

No. 25.
The Marquis of
Normanby to
Sir G. Arthur.
30th July, 1839.
No. 94, 24 April, 1839.
" 99, 7 May, "
" 101, 8 May, "
" 113, 18 May, "
" 126, 6 June, "

Having communicated your several Despatches to Viscount Palmerston, I am happy to inform you that his Lordship concurs with me in approving the measures which you adopted on the occasions to which those Despatches refer.

I have, &c.
(Signed) NORMANBY.

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

No. 26.

(No. 89.)

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

SIR, Downing-street, 1st August, 1839.

I HAVE received your Despatches of the dates mentioned in the margin, reporting the excitement which has been produced in the Midland and Newcastle Districts by the release of a number of the persons who had been arrested on suspicion of treason; the measures which you adopted for removing the misconception entertained by the public on that subject; and the apprehensions generally felt of fresh invasions from the United States on the 4th of this month.

No. 26.
The Marquis of
Normanby to
Sir G. Arthur.
1st August, 1839.
No. 149, July 1,
July 2.

I have to convey to you my thanks for the very clear and full explanation which, on the present, as on all other occasions, you have given of the state and prospect of public affairs in Upper Canada. The measures which you adopted on the occasions referred to in your Despatches, merit my entire approbation. I am happy to observe by the last American newspapers, that the 4th of July passed over without any attack on the province.

If any such designs were really entertained, I have no doubt that your own vigilance, and that of the officers acting under your authority, contributed largely to frustrate them.

I have, &c.
(Signed) NORMANBY.

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

No. 27.

(No. 1.)

COPY of a DESPATCH from Lord JOHN RUSSELL to Lieut.-Governor
Sir GEORGE ARTHUR, K.C.H.

SIR, Downing-street, 10th September, 1839.

No. 27.
Lord John Russell
to Sir G. Arthur.
10th Sept. 1839.

Vide Papers
relative to the
Affairs of Canada
1840:
Part I.
Lower Canada.

I TRANSMIT to you herewith, for your information and guidance, an extract of the instructions which have been addressed to the Right Hon. C. Poulett Thomson, on his assuming the Government of British North America.

I have, &c.

(Signed) J. RUSSELL.

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

No. 28.

(No. 2.)

COPY of a DESPATCH from Lord JOHN RUSSELL to Lieut.-Governor
Sir GEORGE ARTHUR, K.C.H.

SIR, Downing-street, 11th September, 1839.

No. 28.
Lord John Russell
to Sir G. Arthur.
11th Sept. 1839.

It will be of great importance to the public service in the Canadian Provinces, that you should, as soon as may be possible, enter into personal communications with Mr. Poulett Thomson upon various questions connected with the affairs of Upper Canada. He is in possession of the views of Her Majesty's Government on all those subjects, and especially with regard to the Bills which during the last Session of the General Assembly of Upper Canada were reserved by you for the signification of Her Majesty's pleasure. You will therefore hold yourself in readiness to repair to the Lower Province, if, as I anticipate, Mr. Poulett Thomson should see occasion to request your personal attendance there. I convey to you this intimation in order that you may be subjected to as little inconvenience as possible in complying with any invitation which he may find cause to address to you for this purpose.

I have, &c.

(Signed) J. RUSSELL.

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

No. 29.

(No. 6.)

COPY of a DESPATCH from Lord JOHN RUSSELL to Lieut.-Governor
Sir G. ARTHUR, K.C.H.

SIR,

Downing-street, 15th Sept. 1839.

No. 29.
Lord John Russell
to Sir G. Arthur.
15th Sept. 1839.

I HAVE to acknowledge the receipt of your despatch, No. 166, of the 27th of July last, with its enclosures, referring to your circular letter to the magistrates, in which you recommended the discontinuance of Orange processions, and stating, that in your opinion the Orange society, if continued, is likely to prove a source of the greatest mischief in Upper Canada; and that, entertaining this view very strongly, you propose, steadily and resolutely, but calmly, to direct the attention of Government to the gradual suppression of this Association.

I have only in reply to observe that I concur with you in these views; and recommend your steady perseverance in the same course.

I have, &c.

(Signed) J. RUSSELL.

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

No. 30.

(No. 10.)

COPY of a DESPATCH from Lord JOHN RUSSELL to Lieut.-Governor
Sir G. ARTHUR, K.C.H.

SIR, Downing-street, 21st Sept. 1839.

I HAVE to acknowledge the receipt of your Despatches as noted in the margin.

I shall take an early opportunity of furnishing you with such instructions as these communications may be found to require. The only one of them which appears to me to demand my immediate notice is that marked "Private," of the 21st ultimo, in which you suggest that a declaration should be made by the Government, that the release of the Upper Canada rebels sent to this country did not arise from any doubt of the justice of their sentence. Your wish on this subject has been anticipated by the Marquis of Normanby's Despatch, No. 84, of the 23rd July, explaining to you at length that the liberation of these prisoners arose entirely from legal difficulties, which appeared to Her Majesty's Government to preclude any other course. I have only to add to the announcement made to you in that Despatch the assurance that that decision of the Government was not in any way influenced by any considerations referring to your own conduct in these transactions.

Throughout the whole of them Her Majesty's Government have witnessed the same activity and zeal for the interests of the Crown, which have always characterized your public service; neither do they see any reason whatever to doubt the discretion and judgment which you exercised on the occasion.

I have, &c.

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

(Signed)

J. RUSSELL.

No. 30.
Lord John Russell
to Sir G. Arthur.
21st Sept. 1839.

No. 160.

172.

173.

174.

175.

176.

(Private, 21st Aug.

No. 31.

(No. 14.)

COPY of a DESPATCH from Lord JOHN RUSSELL to Lieut.-Governor
Sir G. ARTHUR, K.C.H.

SIR, Downing-street, 2nd Oct. 1839.

I HAVE to acknowledge the receipt of your despatches, Nos. 176 and 179, of the 21st and 27th of August, containing additional information respecting the occurrence at Brockville, between Her Majesty's schooner "Montreal" and the American steam-boat, "St. Lawrence;" and likewise containing copies of the resolutions passed at a meeting of the inhabitants of the district of Gore, together with a copy of the answer which you returned to the address presented to you on that subject.

I have read with much satisfaction the report which you transmit from Captain Sandom on the former of these subjects.

With reference to the latter, I have to convey to you my approval of the tone of your answer to the committee who addressed you. Having now made known your sentiments on the subject, for the discussion of which the meeting was convened, it will not be advisable that you should enter into any further controversy respecting it.

I have only further to express to you my thanks for the zealous attention which you are devoting to the interests of the Province under your Government.

I have, &c.

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

(Signed)

J. RUSSELL.

No. 31.
Lord John Russell
to Sir G. Arthur.
2d Oct. 1839.

No. 32.

(No. 15.)

COPY of a DESPATCH from Lord JOHN RUSSELL to Lieut.-Governor
Sir G. ARTHUR, K.C.H.

SIR,

Downing-street, 2nd Oct. 1839.

No. 32.
Lord John Russell
to Sir G. Arthur.
2d Oct. 1839.

I HAVE to acknowledge the receipt of your Despatch, No. 174, of the 21st of August, with documents in corroboration of the statements contained in your despatch, No. 107, of the 13th of May last, on the subject of the Earl of Durham's report on Upper Canada.

I have, in reply, to acquaint you, that the explanation which you have furnished satisfactorily refutes the imputation of incorrectness in the statement made in your former despatch.

I trust that this expression of the opinion of Her Majesty's Government will appear to you to render any further proceedings in regard to this question unnecessary; and that you will not give effect to your intention of bringing the matter before the Provincial Legislature for investigation.

I have, &c.

(Signed) J. RUSSELL

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

No. 33.

(No. 30.)

COPY of a DESPATCH from Lord JOHN RUSSELL to Lieut.-Governor
Sir GEORGE ARTHUR, K.C.H.

SIR,

Downing-street, 26th October 1839.

No. 33.
Lord John Russell
to Sir G. Arthur.
26th Oct. 1839.

I HAVE received your despatch, of the 27th of September last, in continuation of the series of Reports which you have furnished on the state of the Province of Upper Canada.

This communication contains much interesting and important information, for which I have to return you my acknowledgments. There are, however, only two practical questions which appear to me to require any remark. The first is the recommendation of the Council, that a small Police Force should be established during the winter months at Niagara, with a view to the protection of the inhabitants of that frontier from the unhappily increasing dangers of assassination and arson. I fully concur in opinion with yourself and the Executive Council, that the most efficient means should be adopted for guarding against such atrocities. The mode by which you propose to effect this is, perhaps, the best under the circumstances; and I have no objection to sanction the payment of the expense which it will occasion, from the Casual and Territorial Revenue, as you have proposed. Your arrangements will, of course, be made with a due attention to economy, and you will furnish me with an account of the expenditure, for the information of the Lords of the Treasury.

The other point which has attracted my attention relates to the convict John G. Parker, whom you state to be residing at Rochester, and to be negotiating an exchange of his landed property in Upper Canada, for property in the United States. I approve of your intention to facilitate this arrangement, should you find, on consultation with the law officers, that Parker's property in the province was not subject to attainder. With reference to this individual, and to the other convicts who have returned to Upper Canada from this country under a conditional pardon, I should wish to be informed whether he, or any of them, reside within fifty miles of the frontier. The town of Rochester, where Parker is stated to be at present, I believe, rather exceeds that distance.

I have, &c.

(Signed) J. RUSSELL

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

No. 34.

(No. 35.)

COPY of a DESPATCH from Lord JOHN RUSSELL to Lieut.-Governor
Sir GEORGE ARTHUR, K.C.H.

SIR,

Downing-street, 30th October, 1839.

I HAVE to acknowledge the receipt of your despatch, No. 196, of the 25th of September, transmitting a copy of a declaration, signed by 300 of the inhabitants of the township of Guelph and its vicinity, on subjects connected with the state of the province, and more especially with reference to the recommendations supposed to be contained in the Report of the Earl of Durham, and also enclosing a copy of an address which accompanied that declaration, from the magistrates of the township; with a copy of your answer.

In reply, I have to convey to you my thanks for your communication, and my approval of your firm and judicious answer to the magistrates of Guelph.

I have, &c.

(Signed) J. RUSSELL.

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

No. 34.
Lord John Russell
to Sir G. Arthur.
30th Oct. 1839.

No. 35.

(No. 42.)

COPY of a DESPATCH from Lord JOHN RUSSELL to Lieut.-Governor
Sir G. ARTHUR, K.C.H.

SIR,

Downing-street, 14th Nov. 1839.

I HAVE to acknowledge the receipt of your despatch, No. 200, of the 14th ult., with its enclosures, relative to the removal of the convicts from Fort Henry, and their embarkation on board Her Majesty's ship "Buffalo," for transportation to Van Diemen's Land.

In reply, it only remains for me to assure you that Her Majesty's Government are entirely satisfied of the humanity which has characterised the whole of your proceedings in the discharge of the painful duty which has devolved upon you.

I have, &c.

(Signed) J. RUSSELL.

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

No. 35.
Lord John Russell
to Sir G. Arthur.
14th Nov. 1839.

No. 36.

(No. 44.)

COPY of a DESPATCH from Lord JOHN RUSSELL to Lieut.-Governor
Sir G. ARTHUR, K.C.H.

SIR,

Downing-street, 15th Nov. 1839.

I HAVE to acknowledge the receipt of your Despatch, of the 15th ult. in continuation of the series of Despatches which you have addressed to this Office on the state of the Province of Upper Canada.

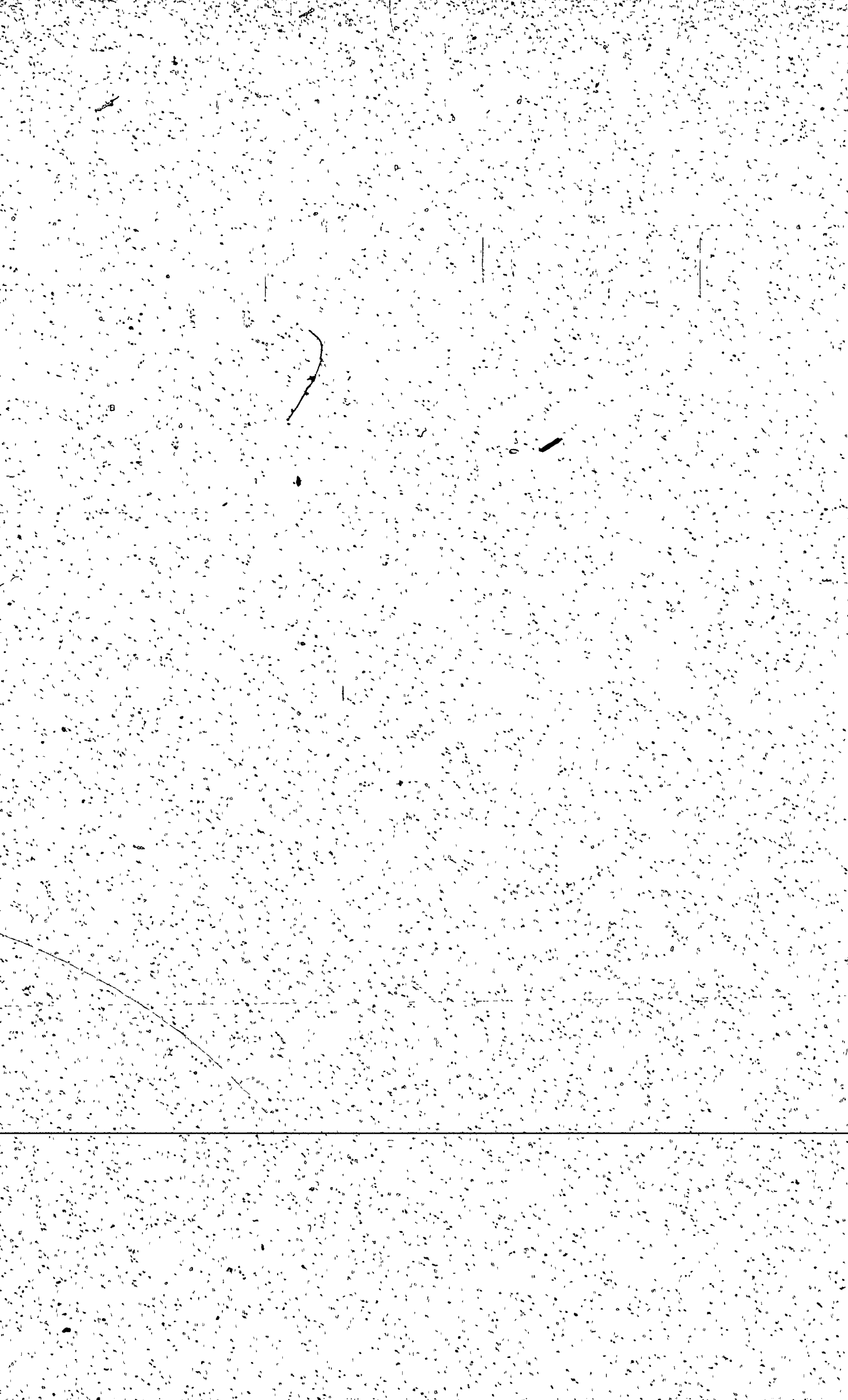
In reply, I have only to state that I rely on your successful exertions to repress any disturbance which may arise in Upper Canada, and that Her Majesty's Government have the fullest confidence in your zeal and devotion to the interests of The Queen.

I have, &c.

(Signed) J. RUSSELL.

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

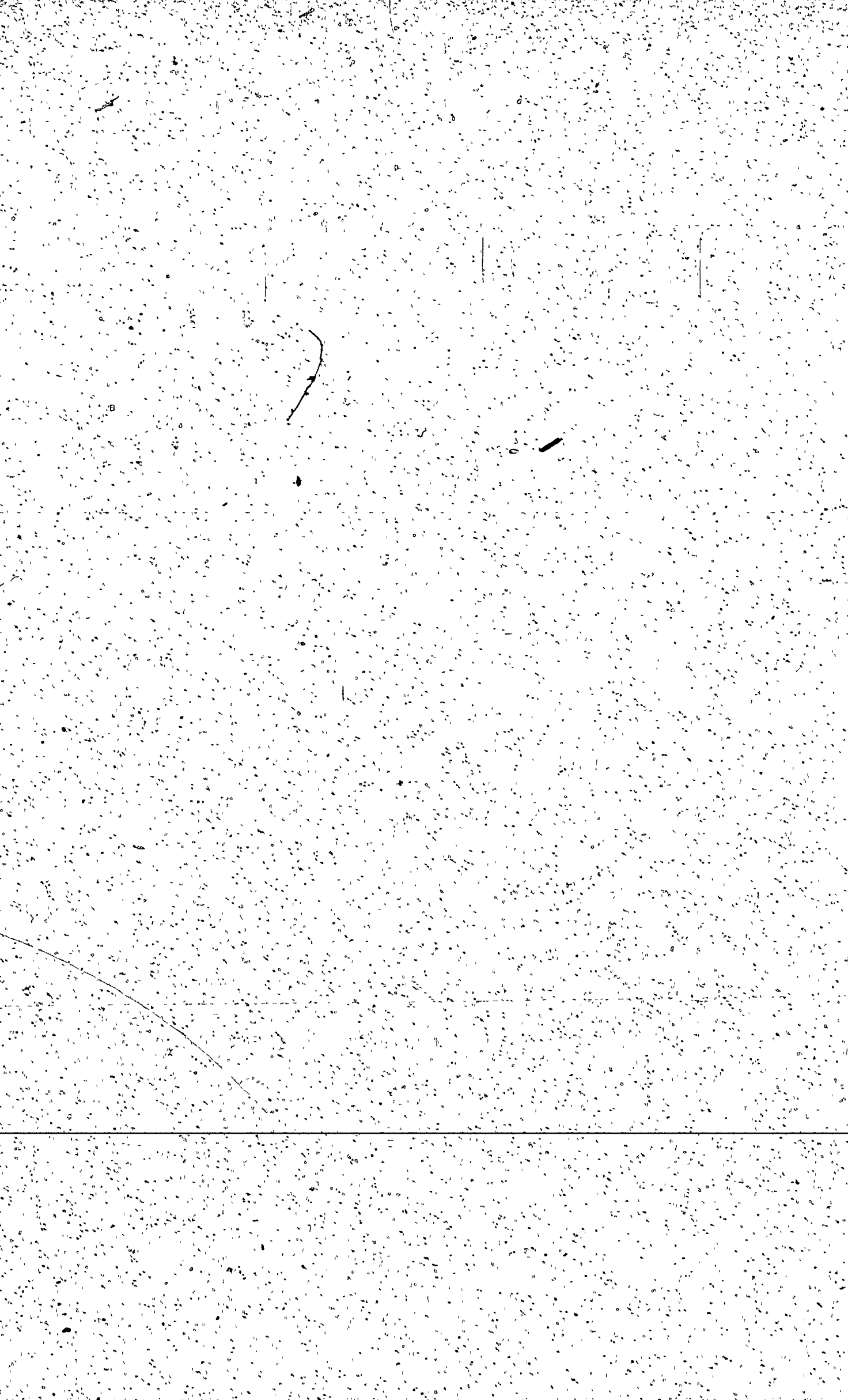
No. 36.
Lord John Russell
to Sir G. Arthur.
15th Nov. 1839.



UPPER CANADA.

POLITICAL.

From Lieut.-Governor Sir George Arthur, K.C.H.



SCHEDULE.

UPPER CANADA.—POLITICAL.

FROM LIEUT.-GOVERNOR SIR GEORGE ARTHUR, K.C.H.

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UPPER CANADA.

POLITICAL.

From Lieutenant-Governor Sir George Arthur, K.C.H.

No. 1.

No. 1.

COPY of a DESPATCH from Lieut.-Governor Sir GEORGE ARTHUR, K.C.H., to Lord GLENELG.

MY LORD,

Toronto, Upper Canada, 1st January, 1839.

WITH reference to my Despatches to your Lordship of the 4th, 13th, and 22nd ultimo (Nos. 100, 106, 117) I have the honour to enclose herewith copies of the proceedings of the militia general court-martial, held at Fort Henry, in the cases of the further number of sixty-three of the Prescott prisoners, whose names are stated in the margin.

From the Minutes of the Executive Council, also enclosed, your Lordship will perceive that six of the above-named convicts, viz., Duncan Anderson, Silvester A. Lawton, Christopher Bulkley, Russel Phelps, Leonard Delino, and Andrew Leeper, have been considered by the Council, and that these several prisoners were severally ordered for execution on the 4th instant.

A report of the cases of the prisoners who have been lately taken at Sandwich reached me yesterday, when finding that it would be necessary, from the enormity of their crimes, to punish with much severity, I deemed it my duty again to bring under consideration the cases of the six convicts already mentioned, with a view of decreasing, if possible, the number that should suffer.

By the proceedings of the Council, of which a copy is enclosed, your Lordship will observe that the members adhere to their former opinion and advice, and cannot find any grounds for altering them, or for reversing the fate of any of these culprits.

I wish to do that justice to the faithfulness and firmness with which the Council are discharging their very arduous duty, which I feel to be their due; but I have arrived at a different conclusion from them in the present instance, and have determined to grant a respite to two of the six prisoners, Delino and Leeper, with the intention of eventually commuting their sentences to transportation.

My minute, annexed to the proceedings of the Council, explains the view I take of the subject.

The demand which the inhabitants of this province make upon the executive Government to deter the refuse frontier population of the Union from repeating their enormities, by the terror of certain and severe punishment, must be allowed to have the weight in our councils which is justly due to the public feeling, and to our common safety. At the same time policy, with reference to the position of the American Government, which (to appearance at least,) is acting with us in the suppression of the conspiracy that has so widely extended itself amongst the citizens of the States, leads me to act with greater forbearance than, I confess, I should otherwise display.

In some of the more violent papers in the States, I observe they have inserted prints representing the President and myself "pulling in the same boat;" this is what I have been striving to effect, and I should be sorry to give him an opportunity to let go his oar.

Your Lordship will remark that the final consideration of the cases of the other 57 convicts has been deferred by the Executive Council until the whole proceedings of the court-martial at Kingston, shall be concluded, when I shall report to your Lordship upon all the cases collectively.

In connexion with the subject of the Prescott prisoners, I beg to inclose an American newspaper of the 20th ultimo, in which your Lordship will find recorded

No. 1.
Sir George Arthur
to Lord Glenelg.
1st January, 1839.

vide Papers.

Relative to British
North America. Or-
dered to be printed
Feb. 1839—pp. 369,
374, 381.

No. 1.

Schedule A. to F.

Charles Smith
Aaron Dresser
T. P. Rosin
William Gates
R. Whitney
John Thomas
A. H. Richardsou

No. 2.

E. A. Wilson
R. Bennett.
S. A. Lawton
L. Reilly
A. Smith
P. Scuter.
R. G. Collins
Thomas Stockton
David Howth
M. Frier.
E. Carrison
L. Delino
C. S. Clark
J. Cronkhite

No. 3.

William Sibbins
Peter Cronkee
D. Anderson
David Gould
James Pierce
H. C. Vaughan
Christopher Bulkley
Henry Shew
A. Richardson
J. Thompson
P. Cervanter
Eli Clarke.
C. S. Brown

No. 3.

John Elmore
J. H. Martin
M. Van Slyke
H. C. Wilkie
L. Darby
S. Wiley
Jos. Stewart
Alson Owen

C. Bugbee
A. Leeper
John Berry
H. W. Barlow
O. W. Smith
Ethel Penny
D. D. Heustis
L. S. Peck
Thomas Baker
S. Reynolds
Edmund Holmes

No. 1.
Sir George Arthur
to Lord Glenelg.
1st January, 1839.

J. Drummond
G. Goodrich [No. 4.
David Allen
Hiram Kenney
Hiram Sharp
Jos. Lee
Russel Phelps
J. M. Jones [No. 5.
S. Washburn
C. Mathers

63

certain resolutions, deprecating the proceedings of the self-styled "patriots," which were passed at a large meeting of the inhabitants of Watertown.

This statement of their views comes somewhat late, and the real motive, evidently enough, is only to serve their guilty fellow-citizens now in the custody of this Government; still it affords an expression of opinion most desirable to encourage, and is a valuable testimony as an admission of the injury which has been done to Her Majesty's Canadian subjects by citizens of the Republic.

I enclose, also, for your Lordship's perusal, a copy of a petition from the citizens resident at the town of Lyme, wherein they solicit the exercise of mercy towards the younger part of the individuals who were engaged in the atrocious invasion of the Canadian territory at Prescott; and I further transmit another petition from a number of persons—said to be highly respectable—residing at Albany, recommending to mercy a prisoner named Sweatman.

By the answers which I have instructed the Provincial Secretary to make to these applications, your Lordship will observe that it is my object to incline the American people to a better feeling towards us, than they have latterly displayed.

I have, &c.

The Right Hon. Lord Glenelg.
&c. &c. &c.

(Signed)

GEO. ARTHUR.

Nos. 7 and 8.

Encl. 1 in No. 1.

Enclosure 1 in No. 1.

PROCEEDINGS of the MIDDLETOWN GENERAL COURT MARTIAL, held at Fort Henry, in the cases of:—

Charles Smith	and	3 others.
Reilly Whitney	"	10 "
David Howth	"	11 "
Christopher Buckley	"	11 "
Sampson Wiley	"	11 "
Salomon Reynolds	"	11 "
		—
		57
		6
		—
Total		63 Prisoners.

(Copy)

Enclosure 2 in No. 1.

Executive Council Chamber,
Toronto, Monday 24th December, 1838.

Encl. 2 in No. 1.

Present, The Hon. Robert Baldwin Sullivan, Presiding Councillor; William Allen, Augustus Baldwin, and Richard Alexander Tucker.

To His Excellency Sir George Arthur, K.C.H., Lieutenant Governor of the Province of Upper Canada, Major-General Commanding Her Majesty's Forces therein, &c. &c.

MAY IT PLEASE YOUR EXCELLENCY,

The Council, according to your Excellency's command, and with reference to your Excellency's minute placed before the board on the 8th December instant, have most carefully examined the proceedings of the courts martial at Fort Henry, in the Midland district, as respects the trials, convictions, and sentences passed upon the undernamed prisoners:—

- | | |
|------------------------|--------------------------|
| 1. Reilly Whitney | 21. David Gould |
| 2. John Thomas | 22. James Pierce |
| 3. Asa H. Richardson | 23. Hunter C. Vaughan |
| 4. Edward A. Wilson | 24. James Cummings |
| 5. Rouse Bennett | 25. John Thompson |
| 6. Sylvester A. Lawton | 26. James Inglis |
| 7. Laurence Reilly | 27. Hugh Calhoun |
| 8. Andrew Smith | 28. Christopher Bulkley |
| 9. Price Seuter | 29. Henry Shew |
| 10. Robert G. Collins | 30. Andrew Richardson |
| 11. Thomas Stockton | 31. Joseph Thompson |
| 12. David Howth | 32. Pascal Cervanter |
| 13. Michael Frazer | 33. Eli Clarke |
| 14. Emanuel Garrison | 34. Charles S. Brown |
| 15. Leonard Delino | 35. John Elmore |
| 16. Culver S. Clark | 36. Jehiel H. Martin |
| 17. John Cronkhite | 37. Martin Van Slyke |
| 18. William Stebbins | 38. Hosea C. Wilkie, and |
| 19. Peter Cronker | 39. Luther Darby. |
| 20. Duncan Anderson | |

The council proceeding upon the plan already adopted of selecting from the number reported, the cases in which capital punishment seems decidedly to be called for, leaving the remaining cases undecided, until the whole of the proceedings of the court shall be concluded, have, out of the list of prisoners now before them, selected four, upon whom they are of opinion the sentence passed, should be executed without delay, and if your Excellency should concur in the advice of the Council, they think that further consideration of the remaining cases, may be postponed until the whole of the proceedings of the court shall be concluded.

No. 1.
Sir George Arthur
to Lord Glenelg.
1st January, 1839.
Encl. 2 in No. 1.

The selected cases are as follows:—

1. Sylvester A. Lawton, aged 23, appears to have been sworn in a "Hunter," and acted as an officer; as far as the Council can perceive, from the evidence, and the letter of the Judge Advocate, there is no foundation for any pretence that he was forced, or misled into the invasion; and the Council think that under all circumstances, he cannot properly be considered an object of mercy.

2. Leonard Delino, aged 25, was sworn in a hunter on the first of October, he sent his rifle before him from home, and belonged to a company, who seem to have been particularly active, headed by a Captain Kemble, he fought from beginning to ending, and there seems to have been a deliberation in his conduct; amongst a mass of prisoners, of whose individual share in the transaction little is known, sufficient to mark his case for selection for capital punishment.

3. Duncan Anderson, aged 48, denies being a hunter, but he also joined Kembles company, and was one of those on Carleton Island, his pretence of not knowing the object of the expedition is perfectly inconsistent with his own statements, and his age precludes him from the benefit of any supposition of his having been deceived, or misled, as to the object for which he took up arms; the Council have, therefore, selected him for capital punishment from amongst the list of convicts before them.

4. Christopher Bulkley, aged 27, appears beyond doubt to have been captain of a regularly enrolled company, he denies it himself, but after his trial, a book is found in the woods, dropped by himself, or some one of the party, in which the names of a body of men are mentioned, who pledge themselves to follow him; the Council think there can be no question as to his case, and they have therefore selected him, as a fourth convict, out of the number whose cases are now under consideration for capital punishment.

The Council desire to pause upon the case of Luther Darby, until they shall have received further intelligence of the proceedings of the Court-Martial. The remaining cases may, in the opinion of the Council, be deferred for final determination, when the whole of the cases arising out of the expedition near Prescott, shall be reported.

The Council have had before them, and considered the opinion of the judges of the King's Bench, and the subsequent opinion of the Attorney-General, respecting the case of William O'Neill, convicted by a majority of less than two-thirds of the members of the court present at the trial, and concurring fully in these opinions, the Council respectfully recommend that the conviction be not approved, and that William O'Neill be discharged from custody as acquitted.

The same opinion will apply to the case of Martin Van Slyke, who was convicted in the same manner, by a majority consisting of less than two-thirds of the members present, it is therefore respectfully recommended, that he be discharged from custody as acquitted.

All which is respectfully submitted.

(Signed) R. B. SULLIVAN, P. C.

Executive Council Chamber, Toronto,
Wednesday, 26th December, 1838.

Present, The Hon. Robert Baldwin Sullivan, Presiding Councillor, the Hon. William Allan, the Hon. Augustus Baldwin, the Hon. Richard Alexander Tucker.

To His Excellency Sir GEORGE ARTHUR, K.C.H., Lieutenant-Governor of the Province of Upper Canada, Major-General Commanding Her Majesty's Forces therein, &c. &c. &c.

May it please your Excellency,

THE Executive Council have perused with great attention the proceedings of the Court Martial assembled at Kingston, detailing the trial and conviction of the under-named prisoners:—

- | | |
|---------------------|-----------------------|
| 1. Sampson Wiley, | 10. Daniel D. Hustis, |
| 2. Joseph Stewart, | 11. Lawton S. Peck, |
| 3. Alson Owen, | 12. Thomas Baker, |
| 4. Chauncey Bugbie, | 13. Solomon Reynolds, |
| 5. Andrew Leeper, | 14. Joseph Drummond, |
| 6. John Berry, | 15. David Allen, |
| 7. Hiram W. Barlow, | 16. Hiram Sharp, |
| 8. Orren W. Smith, | 17. Russell Phelps, |
| 9. Ethel Penney, | 18. Samuel Washburn, |

No. 1.
 Sir George Arthur
 to Lord Glenelg.
 1st January, 1839.
 Encl. 2 in No. 1.

19. Edmond Holmes,
 20. Gideon Goodrich,
 21. Hiram Kinney,
 22. Joseph Lee,
 23. John M. Jones,

24. Chauncey Mathers,
 25. Philip Conrod,
 26. Joseph Wagner,
 27. Henry Jantzen, and
 28. Sebastian Meyer.

Notwithstanding the opinion expressed by the Council in their report of the 24th of December instant, that consideration of any future convictions might properly be deferred until the whole of the cases, arising out of the Prescott invasion, should be placed before your Excellency, the Council see good reasons for making a further selection for capital punishment from the cases now before them, as they do not think it probable that many instances will occur in the course of the trials in which distinguishing marks of aggravation will appear more plainly than in the two cases now selected; and when these are so obvious as to leave no hope of future merciful consideration, the Council are of opinion that the infliction of the penalty ought to follow the conviction with the utmost promptitude.

In the absence of special information respecting the previous history, or individual acts of the convicts, the Council have been obliged to select from the number of criminals those who appear to have been most willingly and advisedly joined in the project of invasion, and who have acted most deliberately and heartily in the cause of the conspirators; and with this view, and referring most carefully to the principles which guided the former decisions of the Government, they feel compelled, by what they consider a due regard to the ends of justice, to advise your Excellency that the sentences passed upon the two under-named prisoners should be promptly carried into execution.

1. Andrew Leeper.

The case made out against this convict appears very clear, upon his own confession. He had, as he states, been frequently in Canada travelling. He was employed for a considerable time at Kingston; he was in communication with an American named Prendergast, who, before the late invasion, resided in the province, and who appears to have been deeply implicated in the conspiracy. The convict came into the province, and took up arms with a perfect knowledge of the object of the expedition; and he fought from the beginning to the end of the contest. He is forty-two years of age, and his appearance and manner before the court are reported to have been unfavourable.

2. Russell Phelps is aged forty years. He landed on Carleton Island previously to the invasion near Prescott, and, besides a clear case of guilt, he appears to have been indicted and tried at the last Kingston assizes, for the offence of inducing Her Majesty's soldiers to desert; and although he was acquitted, a strong impression of his guilt remained. His future conduct in joining in the invasion of the province strongly confirms this suspicion; and although the Council do not desire his punishment for a crime not sufficiently proved against him, they cannot but allow the charge of an offence, which is known to have been in conformity with a most wicked and dangerous part of the conspiracy against the province, to have some weight, when they are seeking for distinctive grounds for the selection from the mass of offenders of the most aggravated cases, and for the criminals most proper for public example.

All which is respectfully submitted.

(Signed)

R. B. SULLIVAN, P.C.

Wednesday, 26th December, 5 o'clock, P.M.

Pursuant to his Excellency's commands, the Executive Council assembled at Government House:

Present, His Excellency the Lieutenant-Governor, the Hon. Robert Baldwin Sullivan, the Hon. Augustus Baldwin, the Hon. Richard Alexander Tucker;

And the Reports of Council of the 24th December instant, and of this day, were submitted.

Whereupon, after examination into, and mature deliberation upon, the proceedings of the Court Martial, his Excellency the Lieutenant-Governor, in Council, was pleased to approve of the recommendation of the Council as contained in the reports of their proceedings of the 24th instant, and of this day; and it was accordingly ordered by his Excellency in Council as follows:—

The Lieutenant-Governor, in Council, approves and confirms the finding and sentence of the Court Martial passed upon Sylvester A. Lawton, Duncan Anderson, Leonard Delino, Christopher Bulkley, Andrew Leeper, and Russell Phelps; and directs that the said sentence be carried into execution upon the said Sylvester A. Lawton, Duncan Anderson, Leonard Delino, Christopher Bulkley, Andrew Leeper, and Russell Phelps, on Friday, the fourth day of January next, between the hours of eight and nine o'clock in the forenoon of the same day, at or near Fort Henry, in the Midland District.

After which, his Excellency was pleased to lay before the Council a letter from the Judge Advocate, stating the probability of one of the convicts, whose cases remain for consideration, named John Thomas, might be identified as having been charged, under strong suspicion, of belonging to a party who entered the province in the year 1837, with the purpose of destroying some of the locks upon the Rideau Canal.

Enclosure 3 in No. 1.

Toronto, Monday 31st December, 1838.

No. 1.

Sir George Arthur
to Lord Glenelg.

1st January, 1839.

Encl. 3 in No. 1.

Present, His Excellency the Lieutenant Governor; the Honourable Robert Baldwin Sullivan; the Honourable William Allan; the Honourable Augustus Baldwin; the Honourable Richard Alexander Tucker.

His Excellency the Lieutenant-Governor having summoned the Executive Council, the Council met at Government House at nine o'clock, P.M.

His Excellency was pleased to call the attention of the Executive Council to the fact, that a number of criminals are in custody in consequence of the invasion in the western district, out of which, several must be selected for capital punishment; and his Excellency was further pleased to observe, that it may now be a question for serious consideration, whether so large a number as six persons should be left for execution at the same time, at Kingston, as he was not without some apprehension, that the execution of so large a number at once, may, in conjunction with the proceedings at London, go beyond the public feeling, and excite sentiments of commiseration, which would produce an ill effect in the province, and a feeling of indignation in the United States, which, however unreasonable, may hereafter associate to the injury of the province, in provoking war, or in making a war, if it be inevitable, more vindictive and sanguinary than it would otherwise be.

His Excellency was further pleased to say, that, he saw no reason to alter his opinion as to the aggregate number who ought to be executed out of the mass of prisoners, in order to put down, if possible, the dreadful crimes which the American border population were committing; but, under the whole of the circumstances, his Excellency required the opinion of the Council upon the question, whether two of the prisoners, now under orders for execution, might not properly be reprieved.

The Executive Council, after much deliberation, and after an attentive perusal of the cases of the convicts as reported, adhered to their former recommendation, and stated to his Excellency, that although they would, if the question were to be discussed *de novo*, and with the knowledge of the objection, in the mind of his Excellency; to the execution of so many convicts at one time, have modified their recommendation, so as to have divided the number to be executed, into smaller portions, they yet could not advise his Excellency to grant a reprieve to any of those convicts; such a reprieve, in the opinion of the Council, would amount to an assurance of sparing the lives of the persons reprieved, and the measure of their guilt, would necessarily become a new scale by which to judge of future cases.

The Council further stated, that upon the individual merits of each case, they could not make a selection from the six ordered for execution, with which they could feel satisfied. They were of opinion, that those who were ordered for execution, were amongst the most guilty of the prisoners, and that none of their cases offered any distinguishing marks of mitigation, which would enable the Council to recommend any of them to mercy. That the principle upon which the government had hitherto acted, of executing the most criminal, and reserving the less guilty for secondary punishment, must indeed, be entirely departed from, if the lives of any of those six persons should be spared.

The Council further stated that they could discover no reasons sufficient to induce them to alter their recommendation as to the numbers to be executed; that they had concluded upon their advice in that respect, making every allowance for public feeling; and that even supposing those in the immediate view of the executions to be inclined to relent, they conceived that the government was bound by a sense duty to carry public examples, in the way of capital punishment, so far as to prove that it is not intimidated by foreign threats of vengeance, or swayed from its course by sectional demonstrations of feeling.

The Council further remarked that, in advising the course of mercy and forbearance which had hitherto been a prominent character of this government, they had frequently to contend with popular sentiment, notwithstanding which they had advised his Excellency to persevere.

They have had no reason to regret their advice in this respect, and they now do not think the apprehension of popular commiseration, if such should be found to exist, or of foreign indignation, of sufficient moment to induce them to alter the advice which, upon the most mature deliberation, and with a view to the most merciful consideration of the remaining cases of prisoners, they had found it their duty to offer.

The Council were further of opinion, that the invasion of the province was plotted and carried into execution by a number of lawless and wicked conspirators on the frontier, who, taking advantage of the weakness of the United States Executive Government, have trampled upon their own laws with absolute impunity, and so far from the condign punishment of the criminals, when they fall into the hands of justice in Canada, being regretted or resented by the respectable and thinking portion of the American community, the Council believe that this portion of the American people will rejoice sincerely to see that there exists a power in Canada, which can check and punish the disorders and insubordination existing amongst the border and western population, which not only threatens to involve their country in a war with England, but also seems not unlikely to overthrow what remains of obedience or respect to law and order in the American territory itself.

No. 1.
 Sir George Arthur
 to Lord Glenelg.
 1st January, 1839.
 Encl. 4 in No. 1.

(Copy.)

Enclosure 4 in No. 1.

MINUTE for the EXECUTIVE COUNCIL.

Government-House, 1st Jan. 1839.

THE Lieutenant-Governor, in communicating to the Executive Council the result of his most anxious consideration of their advice with reference to the question respecting two of the six prisoners ordered for execution at Kingston on the 4th instant, assures the Council that it is with much hesitation and difficulty he has arrived at a conclusion opposite to that which they had recommended should be acted on.

The Lieutenant-Governor feels the weight of the reasoning which induced this recommendation, and fully appreciates the laudable intention of the Council to seek ground for the future sparing of life, or exemption from severe punishment, of many of the remaining criminals, in the signal example which the joint execution of six criminals would afford, and in the effect which such example would produce upon the public mind, as well in Canada as in the United States.

The Lieutenant-Governor concurred with the Council in their views when the execution was ordered, but, upon the most deliberate consideration, he thinks it most prudent that no determination of this Government should take effect calculated to shock the feelings of the community; and that, if the Government is forced, for the safety of the province, to resort to capital punishment, it should always exhibit the extreme and painful reluctance which is really deeply felt when its assent is given to such a measure.

The Lieutenant-Governor is most desirous that, in the course of the trying events now occurring, nothing should take place which would leave any opening for a feeling of regret, or a wish that any act of the Government were undone; and in cases where human life is the subject of deliberation, doubts almost assume the strength of conviction on the side of mercy.

The Lieutenant-Governor has therefore thought it proper to direct the Attorney-General to prepare a respite for the two convicts named—Andrew Leper and Leonard Delino.

From any official documents before him the Lieutenant-Governor cannot show satisfactorily that the cases of these individuals deserve more favourable consideration than those of the others on whom the sentence is left to take effect; but, in lessening the number for execution, he is induced to give weight to private information showing in the minds of some respectable persons near the scene of trial and confinement of the prisoners, a shade of difference exists in favour of the two in question, which is not apparent upon the face of the proceedings of the Court-martial.

(Signed.)

GEORGE ARTHUR.

Enclosure 5 in No. 1.

(Extracted from the "Jeffersonian.")

CANADIAN AFFAIRS—GREAT MEETING AT THE COURT-HOUSE.

"Watertown, New York, Dec. 21, 1838.

Encl. 5 in No. 1.

"PURSUANT to notice given from the bench on Tuesday last, a meeting was held at the Court-house on the evening of that day, to take into consideration the condition of the unfortunate prisoners now in confinement at Fort Henry, Kingston, and to adopt energetic, efficient, but pacific measures to correct public opinion, in relation to Canadian affairs—to allay public excitement along the frontier, and by all lawful and proper means to prevent the invasion of the Canadas by an armed force of American citizens, while the Governments of the United States and Great Britain are at peace.

"The meeting was called to order by Elisha Camp, Esq., on whose motion the Hon. Calvin M'Knight, First Judge of Jefferson County Courts, was appointed chairman; Hon. Daniel Wardwell, Hon. Eli Farwell, Gen. Thomas Loomis, Abner Baker, Jr., Sheriff of Jefferson County, and O. V. Brainard, Esq., were chosen Vice-Presidents, and Doctor Reuben Goodale, and Joseph Mullin, Esqrs., Secretaries.

"Col. Chauncey Baker, late sheriff, being called upon, made to the meeting a detailed statement of the result of the visit of himself and E. G. Merrick, Esq., to Kingston, to inquire into the condition of the prisoners, learn their probable fate, and what, if anything, could be done to save their lives and restore them to society and their most deeply afflicted friends and relatives. He stated, as the result of their inquiries, that the officers of justice in Canada felt deeply interested in the fate of the misguided men captured near Prescott, that they were disposed to do all that could be done, consistently with their laws and the public security, to spare their lives—that all business is at a stand except that of defending their soil from the invasion of the refugees and patriots—that public indignation in Canada has been excited to a very great degree in consequence of the great loss of life, to say nothing of property, which the Canadians have sustained—that, as may well be supposed, they feel themselves called upon by the laws of their country, by the duties they owe themselves, their families, and their government, to exercise unremitting watchfulness to protect themselves from invasion by armed bands from this side. And that till such time as the government and the people could be assured that American citizens

generally had abandoned all intention, if any existed, of countenancing, in any respect, renewed attacks upon a people with whom they are professedly at peace, it would be idle to hope for the liberation of those young men now suffering some of the direful consequences of violating the laws of two nations, or for tranquillity on either side.

Colonel Baker spoke in high terms of the friendly and polite attention paid himself and Mr. Merrick by John McDonald, Esq., of Gananoque, the sheriff of Kingston, Allan McDonald, Esq., Colonel Draper, and other officers and gentlemen whose names we do not recollect. The first named gentleman conveyed in his own carriage Messrs. Baker and Merrick from Gananoque to Kingston, and kindly offered to convey them at his own expense to Toronto, if they desired to visit Lieutenant-Governor Arthur. The offer was declined, believing as they did, that their best course in relation to the prisoners was to return and report to their fellow citizens the result of their inquiries and observations.

Colonel Baker stated further, that he found the Canadian authorities were much better acquainted with the plans and operations of the patriots in their secret lodges than he was, they having derived correct information from the prisoners and from their secret agents, who had been employed for that special purpose during the last summer and autumn. He also stated, that the sheriff of Kingston had very kindly expended the money forwarded to the prisoners, for their benefit, keeping an account of the same; and that the prisoners were now in much need of further assistance from their friends on this side.

The meeting was addressed by J. A. Spencer, Esq., of Utica, his Honour Judge Gridley, the Hon. Samuel Beardsley, Attorney-General, the Hon. Richard Hulbert, Hon. T. C. Chittenden, Colonel Camp, William Smith, Esq., and the Hon. Daniel Wardwell. These gentlemen, in spirited addresses, urged the great necessity of disabusing the public mind in relation to Canadian affairs—the importance of regarding our own laws and the rights of others—the absolute necessity of speaking out in a voice that will be respected at home and abroad, and to adopt the most rational measures to mitigate the fate of those young men, now standing on the very borders of the tomb.

To such of our citizens as had not before listened to the fervid and soul-stirring eloquence of Messrs. Spencer, Gridley, and Beardsley, the occasion was one of absorbing interest. Their hearts seemed warmed with the noblest philanthropy, and their tongues dispensed words that indeed burnt deep into the hearts of their hearers. We could not, had we space and time, do justice to their efforts; suffice it to say, that as the subject of their remarks is all important, whether we regard individual happiness or national prosperity and honour, so did they, impressed with that importance, acquit themselves with honour.

A committee of seven was then appointed to draft resolutions, and a collection of *sixty-five* dollars taken up for the benefit of the prisoners, and the meeting adjourned to Wednesday evening at the American.

Wednesday evening, December 19.—The adjourned meeting was held in the American, pursuant to notice. D. N. Burnham, Esq., was appointed secretary in place of J. Mullin, absent. Colonel Baker repeated to the meeting the result of his visit to Kingston, followed by E. G. Merrick, Esq., who fully corroborated the statements of Colonel Baker.

The meeting was addressed by J. A. Spencer, Esq., of Utica, Charles Mason, Esq., of Madison county, Hon. R. Hulbert, and G. M. Bucklin, Esq. The Committee on resolutions, reported a series, which were read and commented upon by Mr. Spencer. Subsequently, they were severally read, and as follows, *unanimously* adopted. The amount taken up at this meeting for the prisoners in Kingston was 75 dollars; the sum total for that purpose at the two meetings and on Wednesday, 150 dollars.

RESOLUTIONS.

Resolved,—That we regard the preservation of peace with Great Britain as all-important to the best interests of the American and British nations; but that we have no reason to expect its long continuance, unless our citizens refrain from hostile invasions of, or intermeddling with, her territories.

Resolved,—That we feel a deep-seated desire to maintain and preserve the greatest freedom of intercourse and the most friendly relations with our neighbours of Canada; and that the best evidence we can give of our sincerity will be to do unto them as they do unto us,—leave them to enjoy the government of their choice.

Resolved,—That the inhabitants of our frontier are loudly called upon by every consideration of justice and sound policy to exert themselves to the utmost of their power to prevent all hostile invasions into the neighbouring Canadian provinces by bands of armed men from our borders; and that we pledge ourselves, to our Government and to each other, faithfully and fearlessly to preserve the peace of this frontier, the faith of treaties, and the supremacy of the laws.

Resolved,—That any movements injurious to Canada, are open, flagrant violations alike of international law, of the enactments of the Congress of the United States, and of the Canadian Provincial Parliament; and that our ministerial officers, civil magistrates, and judicial tribunals, should be vigilant and prompt to arrest and ready to condemn any and every violation of our laws.

Resolved,—That there is too much reason to believe that many of our citizens have formed themselves into secret lodges or societies, under the sanction of extra-judicial oaths, for the purpose of promoting the organization and armament of bands of men to invade Canada; and that we earnestly call upon these misguided citizens everywhere and at once to disband.

Resolved,—That we regard the late attack upon Prescott as characterized alike by rash-

No. 1.

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to Lord Glenelg.
1st January, 1839.

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ness, weakness, and folly; and that while we pointedly condemn and rebuke those engaged in it, we feel called upon to express our solemn conviction that most, if not all, of them were influenced by misrepresentation, and acting under a delusion as strange and unaccountable as it has been disastrous and fatal, without any feelings of hostility toward our Canadian neighbours, but under the expectation and belief that instead of fighting with, they would be hailed by them as the champions of liberty, and received with open arms and heartfelt greetings.

Resolved,—That we, in common with all our countrymen, feel a deep commiseration for our misguided citizens captured near Prescott, and now in confinement at Fort Henry, in Canada; and that while we acknowledge the right of the provincial authorities to condemn according to the laws of their country, in the exercise of this authority we hope to see justice tempered with mercy, and expect to witness magnanimous treatment toward these unfortunate men, worthy of a brave and generous people.

(Copy.)

Enclosure 6 in No. 1.

To his Excellency Sir GEORGE ARTHUR, Governor of Upper Canada.

SIR,

Lyme, December 13th, 1838.

Encl. 6 in No. 1.

THE petition of the undersigned inhabitants of the town of Lyme, in the county of Jefferson, and State of New York, respectfully sheweth, that they are informed that Charles Smith, late of the town of Lyme, in this county, is confined at Fort Henry, in Kingston, Upper Canada, and under sentence of death for participating in the late outrages committed in defiance of law upon the peaceable and unoffending citizens of Her Majesty's Government at the Windmill, near Prescott.

The undersigned, as citizens of the United States, feel the delicacy of their situation in soliciting your Honour to pardon an individual who has, by his own act, placed himself beyond our jurisdiction, by violating our own laws, as well as forfeiting his life to the offended laws of the country he has invaded; and nothing but the extreme solicitude we feel for the fate of this youth, our entire belief that gross misrepresentations led him to join in that act of wanton aggression, induces us to present the circumstances of his case for your consideration and mercy. The subject of this petition is a young man under twenty-one years of age, a native of England, and arrived in this country in company with a widowed mother (his father having died on the voyage), and three brothers, about four years since. His uniform good habits and conduct have endeared him to all who know him, and to them is a sure evidence that a misguided zeal alone led him to join in the perpetration of an outrage for which his life is forfeited. The undersigned, therefore, have nothing to present in extenuation for his crime, and on which they beg for mercy to be extended to this young man, but his age, his character, and the fatal delusion which they believe has governed his conduct.

(Signed)

Zebulon Converse,
Jonathan Howland,
Smith Bartlet,
Jere Carrier,
Nelson Potter,
S. S. Robinson,

Henry Ainsworth,
John Davillard,
J. T. Ainsworth,
Buel Trullen,
Orra Squires.

(Copy.)

Enclosure 7 in No. 1.

To his Excellency Sir GEORGE ARTHUR, Governor of Upper Canada.

SIR,

Albany, 22nd December, 1838.

Encl. 7 in No. 1.

I HAVE hitherto refused to take any part in applications addressed to you in behalf of individuals taken in arms within the Canadian territories. The case of Mr. Sweatman of this city, which is about to be presented to you, is a *peculiar* one. The application in his behalf is signed by some of the most respectable gentlemen in this city, and their statements are entitled to the fullest confidence. Under the circumstances I depart so far from the rule which I have hitherto observed, as to beg you to take the case of Mr. S. into your favourable consideration. I write you in great haste as the papers are to be dispatched immediately, and I beg you to be assured of the considerations of respect with which

I am, &c.

(Signed)

JOHN A. DIX.

(Copy.)

To his Excellency Sir GEORGE ARTHUR, Governor of Upper Canada.

Albany, 21st December, 1838.

WE the undersigned citizens of Albany, in the State of New York, respectfully represent to your Excellency that we have this morning learnt from the public papers that Daniel Sweatman, late of this city, has been taken prisoner for an hostile invasion in the province of Upper Canada.

Although we do most strongly deprecate every such aggression made on the soil of a country at peace with us, and more especially on that of a nation, not only so intimately connected with us by unbounded commercial transactions, but also by the stronger bonds of consanguinity and common language, we would in this instance most respectfully represent to your Excellency, that there are isolated and peculiar cases which call for mercy; that the crime should be considered with reference to the state of mind of the offender—and that this anomalous case of Sweatman's will induce your Excellency to consider him not unworthy of Her Majesty's clemency.

We, therefore, submit to your Excellency that we are credibly informed, Sweatman, at the time he left this city (November last) was considerably harassed in mind, that he was incoherent in his usual manner and language, and that he became incapable to deliberate on the rash act he undertook.

We believe that this imbecility of mind was occasioned by some pecuniary losses which he had recently experienced, and the fear of some of his creditors who were harassing him for their demands; and from an injury he received in 1835.

Being thus situated, he suddenly and precipitately fled from his home, scarcely conscious to what point he was wandering, (taking with him only 20 dollars,) and leaving an amiable wife (far advanced in pregnancy) totally destitute.

Since his departure we have understood he went towards the west, and we have no doubt that, being deceived by desperate and designing men on the borders, he was easily prevailed upon, in his infirm state of mind, to embark in the rash adventure in which he was taken prisoner.

We further beg leave to represent to your Excellency, that we consider Sweatman would not have thus acted had not the combined and unfortunate circumstances before alluded to occurred—circumstances which rendered him regardless of what might befall him—an imbecility of mind which incapacitated him from reflecting upon consequences.

We, therefore, most respectfully, but earnestly, hope that your Excellency will be pleased to take this case into your serious consideration. We consider the whole circumstances as truly deserving of commiseration—his crime was not the crime of the heart—reason lost its accustomed sway,—his reflection was incapable of exertion, and he became a prey to one of the most deplorable maladies which falls to the lot of humanity. We do, therefore, most earnestly entreat your Excellency to recommend his singular but unfortunate situation to Her gracious Majesty's clemency.

(Signed) James Fraser,

A. Hooghkirk,
Henry Crandall,
Erastus Miller,
Isaac Denniston, jun.
Rufus Wilson,
Leid L. Steele,
Teunis Brinkerhoff,
Henry Smith,
John Rickard,
John Devue,
Henry C. Southwick,
Wm. S. Shepard,
A. W. Seamens,
John W. Cramell,
Daniel S. Davis,
James Moore,
Henry Schermerhorn,
Peter Ganesvoort,
William Seymour,
E. S. M. Kinney,
Thomas Bayeux,
Lyman Lloyd,
J. V. N. Yates,
Geo. Gardener,
W. Crannell,
J. Gillespie,
J. B. Green,
Calvin Pierson,
James Bell,
John Hendrickson, jun.
William Hendrickson,

Sol. Hayes,
W. R. Hills,
Ira Porter,
William Winne,
H. V. Holcombe,
John J. Slingeland,
E. K. Norton,
Cornelius Vandubilt,
Wm. Sherwood,
R. R. Van Duesen,
Philip Van Derlip,
Nicholas Hitchcock,
Cornelius Glen,
Alexander Lovie,
John Reynolds,
George Nelson Westen,
Thos. Hilson, jun.
John Niblock,
Philo Shooz,
Philo B. Cole,
N. C. Flagg,
E. Crosswell,
James M. Kown,
J. V. Blanchard,
B. B. Whalen,
Thomas Taylor,
F. T. Remington,
W. D. Johnson,
John W. Hinkley,
David Newcomb,
William B. Kuower.

I certify that I am acquainted with most of the persons who have signed this petition. They are among several of our most respectable citizens, and their statements are, in my opinion, to be relied on for correctness.

Albany, 23rd December, 1838.

(Signed)

W. L. MARCY.

No. 1.

Sir George Arthur
to Lord Glenelg.
1st January, 1839.

Encl. 8 in No. 1.

(Copy.)

Enclosure 8 in No. 1.

SIR,

Government House, 17th December, 1838.

IN acknowledging the receipt of a petition signed by yourself and ten other citizens of the United States, soliciting the Lieutenant-Governor's merciful consideration of the case of Charles Smith, whom you represent to have formerly borne an excellent character, and to have been probably deluded by bad companions into the commission of the crime for which his life has been most justly forfeited, I am commanded by his Excellency to inform you, that the gentlemen who signed that petition should have addressed themselves to the government of the United States, which would have exercised its discretion in making their application the subject of a communication to Her Majesty's government, and his Excellency feels that it is irregular for him to take any notice whatever of your representation, as by doing so, he must depart from the course which has been established, in regard to the official channels of communication between the governments of different countries, on the clearest grounds of reason and propriety.

In reference, however, to the prayer of your petition, his Excellency cannot refrain from directing your attention, and that of the other individuals, who have attempted to interpose their good offices in behalf of Charles Smith, to the peculiar enormity of the offence for which he has been adjudged to suffer death; and his Excellency would put it to yourselves to say, whether, if in a time of profound peace, the territory of the United States had been six times audaciously invaded, and many of their virtuous citizens inhumanly murdered by a number of Her Majesty's subjects, without even the colour of a pretext for so atrocious a proceeding, you would have deemed any of the participators in so unhallowed an enterprise deserving in the smallest degree of commiseration and pity?

Yet whilst his Excellency is sensibly alive to the sacred obligation imposed on him by the station he fills, to secure the inhabitants of this province from further aggression and injury by well-timed examples of rigour and severity towards the criminal authors of the late disturbances and bloodshed, he is so far from carrying to the discharge of this painful duty any vindictive feelings; that he would eagerly and anxiously seize upon any occasion that may fairly present itself, in the investigation of the several cases now before him for the exercise of clemency—and with this declaration of the general principles by which his conduct will be guided in the determination of all the cases growing out of the recent invasion, his Excellency directs me to add, that the case of Charles Smith will be decided in strict conformity thereto.

I am also desired by his Excellency to assure you that he has observed with much satisfaction the decided manner in which you deprecate the infamous transactions which have lately occurred on this frontier; and his Excellency readily embraces the opportunity now afforded him of expressing his earnest hope and expectation that you, in common with all the respectable citizens of America, will exert your influence and active exertions to repress the unprovoked hostility of a part of your countrymen towards the inhabitants of the Canadas; and to restore that harmony and good understanding between the people of both countries, on which their mutual prosperity and comfort must ever materially depend.

(Signed)

I have, &c.

R. A. TUCKER,
Prov. Secretary.

Zebulon Converse, Esq.

Lyme, County of Jefferson, State of New York.

(Copy.)

Enclosure 9 in No. 1.

SIR,

Government House, Toronto, 1st January, 1839.

THE Lieutenant-Governor has received your letter of the 22nd ultimo, enclosing a representation from many of the most respectable citizens of Albany, on behalf of Daniel Sweatman, now a prisoner at Amherstburgh, who is stated on the authority of a medical affidavit, to be suffering under mental imbecility, from the effect of an injury in the head which he experienced a few years since; and whose former moral character is asserted to have been such as to entirely preclude the supposition that he would, if in possession of his reasoning faculties, have embarked in so criminal an enterprise as the invasion of a country at peace within herself, and in amity with all the world.

And, in reply to this communication, I am directed by his Excellency to assure you, that, whilst he feels most deeply the sacred obligation imposed on him of endeavouring to repress, by well-timed examples of rigour, the severe evils which have for some time past been wantonly inflicted on the unoffending inhabitants of this province, by the unprovoked aggressions of a lawless and unprincipled portion of the border population of the United States of America, he is equally anxious to practise every degree of lenity and clemency which he conscientiously believes to be compatible with this paramount duty of protection to the people committed to his charge; and he is accordingly disposed to seize with alacrity every opportunity which may fairly present itself for the exercise of mercy.

Encl. 9 in No. 1.

Under the strong influence of this feeling, his Excellency has perused with much interest the several documents transmitted by you, relative to the case of Daniel Sweetman; and satisfied by careful examination of them, that they exhibit sufficient proof of a defect of that reason, under the privation of which man cannot justly be deemed liable to punishment for any acts he may have committed, his Excellency has sincere pleasure in complying with your request, and that of the other numerous citizens of Albany who have interested themselves in the fate of this unfortunate individual, who will, in consequence, be immediately released from confinement, if his present situation will permit that course of proceeding to be adopted with safety; or otherwise, will merely be detained in custody until his friends shall be enabled to send for him.

In announcing to you this decision, I am further instructed by his Excellency to express his great satisfaction at the manner in which the flagitious conduct of the brigands is deprecated by the respectable citizens of Albany; and his earnest hope that, not content with barely cherishing these praiseworthy sentiments in their bosoms, they will manfully and zealously exert themselves to put a stop, by every means in their power, to a state of things which exposes us to the most unmerited injuries, and, at the same time, has a direct tendency to sever those bonds of friendship which it has been his Excellency's constant desire to preserve between Great Britain and the United States of America.

I have, &c.

(Signed) R. A. TUCKER,
Provincial Secretary.

P.S.—As a further exposition of his Excellency's sentiments, I am desired by him to enclose you the copy of an answer lately returned by me to an application from many of the citizens of Lyme, in favour of another of the prisoners now in confinement at Fort Henry.

John A. Dix, Esq.,
Secretary of State, Albany.

No. 1.
Sir George Arthur
to Lord Glenelg.
1st January, 1839.
Encl. 9 in No. 1.

(No. 3.)

No. 2.

COPY of a DESPATCH from Lieutenant-Governor Sir GEORGE ARTHUR, K.C.H.,
to LORD GLENELG.

MY LORD, Upper Canada, Toronto, 2nd January, 1839.

I INFORMED your Lordship in my Despatch of the 13th ultimo, No. 105, that I had directed a Militia General Court-Martial to assemble at London, for the trial of the prisoners taken in the late affair at Windsor; and in my Despatch of yesterday's date, No. 1, I further stated that a Report of the cases of these prisoners had just reached me, and expressed my belief that the enormity of the crimes committed would render necessary the infliction of very severe punishment on the perpetrators of them.

For Despatch 13 Dec.
No. 105, vide Papers
relative to British
North America.
Ordered to be printed
Feb. 1839—p. 369.

With reference to these Despatches, I have the honour to transmit a copy of the proceedings of the Court-Martial now assembled at London, in the case of Hiram Benjamin Lynn, the first of the Windsor prisoners who has been tried, and who, having been found guilty, has been condemned to death.

I likewise transmit a copy of the minute of the Executive Council on this case, by which your Lordship will perceive that, acting on the advice of the Council, I have approved the finding and sentence of the Court, and have accordingly directed that the culprit shall be executed at or near London, on Monday the 7th instant.

No. 1.
No. 2.
No. 3.

These documents are accompanied with copies of letters which have been addressed to me by the Judge Advocate at London, and by the Attorney-General of the province, both having reference to the subject in question.

Your Lordship will perceive, by the letter of the former gentleman, that the object which I contemplated in causing the prisoners to be removed for trial from Amherstburg to London, promises to be effectually attained, and that the measure has given very general satisfaction in the Western District. It is true that the expense incurred by these proceedings is onerous, but it will be considered trifling, if weighed against the advantages derived from the absence of the prisoners from the scene of their atrocities, where so much excitement and apprehension still continue to prevail.

I have, &c.

The Right Hon. Lord Glenelg, (Signed) GEO. ARTHUR.
&c. &c. &c.

No. 2.

Sir George Arthur
to Lord Glenelg.
2nd January, 1839.

Encl. 1 in No. 2

(Copy.)

Enclosure 1 in No. 2.

Government House, Toronto, Monday, 31st December, 1838.

Present:—His Excellency the Lieutenant-Governor; the Honourable Robert Baldwin Sullivan, William Allan, Augustus Baldwin, Richard Alexander Tucker.

The Council met, having been specially summoned by order of his Excellency the Lieutenant-Governor.

His Excellency was pleased to lay before the Council the following papers, which were read; viz.—

1st.—A letter from Henry Sherwood, Esq., Judge Advocate, dated London, 28th December, 1838, of the assembling of the court-martial at that place, and the conviction of Hiram Benjamin Lynn.

2nd.—Proceedings of the militia general court-martial on the trial, conviction, and sentence of Hiram Benjamin Lynn.

3rd.—Attorney-General's report on the above proceedings; and stating that he did not discover any legal objections to carrying the sentence of the Court into execution.

The Council having attentively perused the proceedings of the court-martial, and carefully considered the case of Hiram Benjamin Lynn, who was clearly proved to have been associated with the brigands at a very early period—to have been actively employed as adjutant, in drilling them, preparatory to the invasion—and to have borne a conspicuous part in their subsequent operations—were unanimously of opinion that the said Hiram Benjamin Lynn was, on every account, a proper object for capital punishment.

His Excellency the Lieutenant-Governor, concurring entirely in the recommendation of the Council, was pleased to approve and confirm the finding and sentence of the court-martial upon the said Hiram Benjamin Lynn, and to order that his execution should take place, at or near the common gaol of London, in the district of London, on Monday, the 7th of January next ensuing, between the hours of eight and nine o'clock in the forenoon.

(Copy.)

Enclosure 2 in No. 2.

SIR,

London, 28th December, 1838.

Encl. 2 in No. 2.

THE court-martial assembled here yesterday, and there was a very full attendance of members. As soon as the preliminary matters were gone through, I proceeded with the trial of an American by the name of Hiram Benjamin Lynn; and to-day, at twelve o'clock, the Court found him guilty, and sentenced him to death. The examination of witnesses was very long indeed; I have therefore been unable as yet to have a fair copy of the proceedings completed, but I shall have it prepared in a state to be transmitted to your Excellency early to-morrow morning.

Lynn was adjutant of the brigand force; and from all I can learn, was a very active and prominent man amongst them. He was captured in the woods near Stoney Point, on the river St. Clair, by a serjeant and three or four men of the embodied militia; and having refused to surrender, was fired upon by them and severely wounded in the arm. His appearance is that of a very active and resolute person, and I certainly think, if your Excellency intends that any of the party should suffer the extreme penalty of the law, he ought to be one of the number selected.

To-morrow I shall proceed with the trial of a person by the name of Bedford, whom I mentioned in my last letter to the provincial secretary. The evidence, I think, will be conclusive against him.

He was convicted of treason last year; or rather, availed himself of the provisions of the Act and petitioned, and was subsequently pardoned. Upon this occasion he officiated as a captain, and was, as I have been informed, amongst the most prominent of those who organized the invasion.

I am happy to have it in my power to inform your Excellency that I have no reason to apprehend any interruption to the proceedings of the Court from the want of evidence. The young gentleman whom I despatched to Sandwich has returned with some witnesses; and Mr. Givins is now there forwarding others. I have been a little disappointed by Colonel Airey not sending forward the prisoners from Amherstburg as he was ordered. They have not yet arrived.

I feel also happy in being able to inform your Excellency, that your views as expressed by the Assistant Military Secretary in his letter to Colonel Airey of the 20th instant (a copy of which was enclosed to me by the Provincial Secretary), as to the expediency and propriety of trying the prisoners here, are fully and properly appreciated by the inhabitants of the Western District. At least, the witnesses who have arrived here from that quarter, who are very respectable and intelligent persons, so express themselves, and say that such is the general feeling throughout their community. They say that the mass of intelligent and thinking men about Sandwich are clearly of opinion that there exists too much excitement amongst them to carry on the trials of those prisoners with anything approaching to impartiality.

I will lose no time in transmitting to your Excellency the proceeding of each trial as soon as it is completed.

His Excellency
Major Gen. Sir George Arthur, K.C.H.
&c. &c. &c.

I have, &c.
HENRY SHERWOOD.

No. 2.
Sir George Arthur
to Lord Glenelg.
2nd January, 1839.
Encl. 2 in No. 2.

(Copy.)

Enclosure 3 in No. 2

Attorney-General's Office,
Toronto, 31st December, 1838.

To His Excellency Major-General Sir GEORGE ARTHUR, K.C.H., Lieutenant-Governor
of Upper Canada, &c., &c.

May it please your Excellency,

In obedience to your Excellency's commands that I should peruse the proceedings of the militia-general court-martial, assembled at London, upon the trial of Hiram Benjamin Lynn, and report to your Excellency whether I discover any legal objection to carrying the sentence of the court into execution, I have the honour to state, that having perused the proceedings referred to, I do not discover any legal objection to carrying the sentence of the court into execution.

Encl. 3 in No. 2.

All which is respectfully submitted.

(Signed) CHARLES A. HAGERMAN.
Attorney-General.

(No. 8.)

No. 3.

COPY of a DESPATCH from Lieutenant-Governor Sir GEORGE ARTHUR,
K.C.H., to Lord GLENELG.

MY LORD, Government House, Toronto, 29th Jan., 1839.

REFERRING to my Despatch to your Lordship of the 4th instant (No. 5), I have the honour to transmit herewith a copy of a minute of the Executive Council, by which your Lordship will perceive that it has been my painful duty to order for execution, pursuant to their sentence, the three prisoners named in the margin, who have been tried before the Militia General Court Martial held at London, being parties to the late atrocious affair at Windsor, in which they took a very prominent part.

No. 3.
Sir George Arthur
to Lord Glenelg.
29th January, 1839.
For Despatch, 4th Jan.

The proceedings of the court in the cases of these criminals will be transmitted to your Lordship by an officer proceeding to New York in the course of three or four days, and will be accompanied by those in the cases of Daniel D. Bedford and Albert Clark, which have been already reported to your Lordship.

No. 5, vide Correspondence relative to the Affairs of British North America. Ordered to be printed, Feb., 1839—p. 381.

My desire to make your Lordship acquainted without delay with the result of these trials in every case in which capital punishment is resorted to, induces me to transmit this communication, together with two or three other despatches, through the medium of the post (which, independent of other objections, is nearly as expensive, if the package be a large one, as sending a special messenger) to the care of Mr. Moore, the British Agent at New York, with the view that they may be forwarded by the steam-ship "Liverpool" on her homeward voyage.

26th January, 1839
C. Cunningham
J. G. Doan
Amos Perley.

The Right Hon. Lord Glenelg,
&c. &c. &c.

I have, &c.
(Signed) GEO. ARTHUR.

No. 3.
 Sir George Arthur
 to Lord Glenelg.
 29th January, 1839.

(Copy.)

Enclosure No. 3.

MINUTE of the EXECUTIVE COUNCIL on the CASES of C. CUNNINGHAM, J. G. DOAN, and AMOS PERLEY.

Executive Council Chamber, Toronto,
 Saturday, 26th January, 1839.

Present—The Hon. Robert Baldwin Sullivan, Presiding Councillor; William Allan, William Henry Draper, Richard Alexander Tucker.

To his Excellency Sir GEORGE ARTHUR, K.C.H., Lieutenant-Governor of the province of Upper Canada, Major-General Commanding Her Majesty's Forces therein, &c. &c. &c.

May it please your Excellency,

Enclosure in No. 3.

THE Executive Council, pursuant to your Excellency's commands, have taken into consideration the cases of prisoners reported to be tried and convicted before the court-martial assembled at London, on the charge of being concerned in the late invasion at Windsor, in western district; and, upon the most mature deliberation, they are led to the conclusion of recommending to your Excellency that, in addition to the three cases in which warrants of execution have been issued, the following convicts be ordered for execution.

In all the cases reported, the Attorney-General has advised your Excellency that, upon perusal of the proceedings, that officer sees no objection in law to the carrying into effect the sentences of the court-martial.

The cases of these convicts, upon which the Council feel obliged to judge unfavourably, may be shortly stated as follows:—

1st. Cornelius Cunningham was a colonel amongst the brigands, and commanded the infantry division, or detachment, in the attack upon Windsor. Frequent mention is made in the proceedings on the other trials that he administered the oath of secrecy to some of the party, and was very active in furnishing them with information as to the disaffected state of these provinces. He resided in the province for some years, within about three miles of Woodstock. He has the appearance of being a very shrewd and active man. This statement was copied from the report of the Judge Advocate, and from an attentive perusal of the evidence, the Council found it strictly correct.

2nd.—Joshua Gillam Doan was a follower of Dymcombe in the rebellion last winter, and took so prominent a part on that occasion, as to induce the Government to offer a reward for his apprehension: he appears to have been active in the late invasion, to have been consulted by the officers, and there can be little doubt of his being one of those by whose misrepresentations respecting the feeling of the people of the province, the brigands from the United States were led to hope for a successful result of their incursion.

3rd.—Amos Perley appears, from his own defence, to have been an intelligent and active man: he came under the expectation at least of being a major under Colonel Harvil; and was treated as holding that command: his accession to the brigand force appears to have been extremely deliberate. He states himself to have been a major of militia in the United States; and he belongs to a class of society which makes his punishment beneficial as an example; and gives an inducement to merciful consideration to the cases of more obscure or less intelligent criminals.

The council forbear any present remarks upon the cases of the other criminals, upon which they have entertained doubt as to whether they should not be included in the number of the convicts for capital punishment; but they will, without any delay, consider the cases of the whole number of convicts, when the final report shall come before them.

It is therefore respectfully recommended that the respective finding and sentences of the Court Martial upon Cornelius Cunningham, Joshua Gillam Doan, and Amos Perley, be approved and confirmed, and that the said Cornelius Cunningham be executed on Monday the fourth day of February next; and that the said Joshua Gillam Doan and Amos Perley be executed on Wednesday the sixth day of the same month, at or near the common gaol of London, between the hours of eight and nine o'clock in the forenoon of the same days respectively.

All which is respectively submitted.

(Signed)

R. B. SULLIVAN, P. C.

Approved; and the Provincial Secretary will prepare the necessary warrants without delay.

(Signed)

GEO. ARTHUR.

(No. 12.)

No. 4.

COPY of a DESPATCH from Lieutenant-Governor Sir GEORGE ARTHUR,
K.C.H., to Lord GLENELG.

MY LORD,

Toronto, Upper Canada, 5th February, 1839.

I HAVE the honour to report to your Lordship that the case of the prisoner, Layman L. Lewis; having been considered in the Executive Council on the 2nd instant, the Council advised that he should suffer the extreme penalty of the law; which advice I have approved, and the convict is ordered for execution on Monday, the 11th instant.

This man's real name is Leach. There can be no doubt that he was a very active partisan in the "Patriot" cause: he was taken on the occasion of the descent made at Prescott, and was certainly concerned, second only to Johnston, in the destruction of the steam-boat "Sir Robert Peel."

The minute of the Executive Council with respect to this case is transmitted for your Lordship's information.

Inclusive of this prisoner, eleven of the brigands who made the descent at Prescott, and six of those who made the descent at Windsor, have now been ordered for execution. I am convinced your Lordship will rejoice to learn that, having considered the remaining cases with the greatest attention, as well as the present state of the province and the movements of the brigands on the opposite shore, I do not deem it necessary to carry capital punishment to a greater extent; in which opinion, as your Lordship will perceive from their minute, the Executive Council concur with me.

The case of every criminal doomed to suffer capitally has been weighed with the utmost deliberation, and I do hope that the selection has been wisely made, though it may undoubtedly be the fact, that some still more guilty have been spared. The difficulty of discriminating upon the strength of such information as was afforded, has been indescribably great, and your Lordship, I am persuaded, will readily appreciate the anxiety which, in consequence, I have undergone.

I have borne in mind throughout this painful tragedy, the deep repugnance with which Her Majesty's Government regarded the infliction of capital punishment; and, it may be, that I have exceeded the limit which your Lordship would have prescribed, could your instructions possibly have been received. At the same time, in such a painful situation as I have been placed, it is a great relief to me to know, that even the most humane class of persons in this province are of opinion, that in so far as it could be extended, the course of the Government has been a merciful one, whilst a necessity existed to crush the wicked conspiracy that had been formed to desolate the province, and which possibly, if indeed not probably, may be formed again.

The moderate and respectable class of the American citizens have expressed the same feeling strongly, and have spoken in terms of the highest admiration, at the calm deliberation and perfect justice with which, throughout, the trials of the prisoners have been conducted.

To such an extent has this feeling been carried, that although the prisoners were permitted to employ counsel, and their friends in the States were at first anxious to procure legal advisers for them, yet, after they witnessed the proceedings of the court, the strict impartiality, and the earnest desire of the members to yield in no way to excitement, but to afford them every protection and encouragement in making their defence, they abandoned all other assistance, and throw themselves entirely on the court.

It had not been the object either of the government or the courts-martial, in the conduct of these trials, to conciliate the American people, who possessed but little claim to any such consideration; but, as far as regards at least a considerable portion of them, it will be satisfactory, I am convinced, to Her Majesty's government to find, if assurances may be relied on, that such has been the result.

In constituting the courts, I had the most scrupulous regard to the qualifications of every member I selected; and in transmitting to your Lordship

No. 4.
Sir George Arthur
to Lord Glenelg.
5th February, 1839.

No. 1.
2nd February, 1839.

No. 4.
Sir George Arthur
to Lord Glenelg.
5th February, 1839.

with this despatch copies of the remainder of their proceedings, in addition to those already sent, I am sure I shall elicit the expression of Her Majesty's most gracious approbation of their conduct.

I cannot commend too highly the indefatigable exertions and great ability displayed by Colonel Draper and Lieut.-Colonel Sherwood, employed respectively in the capacity of Judge-advocate of the courts-martial assembled at Kingston and at Windsor.

No. 2.
No. 3.
No. 4.
No. 5.

Returns prepared by these officers respecting all the prisoners are enclosed herewith, accompanied with narratives in which they have embodied much useful information, elicited during the progress of the trials; besides many valuable remarks upon recent events and the present state of feeling incident to the trials.

The question now remains, what is to be done with the body of prisoners who are under sentence of death, and all of whom, with perhaps two or three exceptions, well deserved, from the enormity of their crimes, to have suffered the extreme penalty of the law?

To banish them would be of course no punishment; the only place of secondary punishment we have is the Provincial Penitentiary at Kingston, which is full of inmates already; and to employ such persons at hard labour on the roads or other public works, would be dangerous and injudicious in many respects, which will readily suggest themselves to your Lordship's mind.

Nothing remains, then, but transportation; but, on the other hand, the removal by this means, of the whole of the prisoners, would involve a very great expenditure, in addition to what has already been incurred on account of them.

These difficulties I have fully discussed with the Executive Council, who concur with me in opinion that, under all the circumstances, the best course to be pursued, is to grant at once a free pardon to all the prisoners whose youth and inexperience may plead in extenuation of their guilt, and transport the remainder.

No. 6.
4th February, 1839.

The subject is carefully considered in the Minute of Council, of which I have the honour to enclose a copy; and there are many advantages attending the adoption of such a course of proceeding as is suggested. By an act of clemency so extensive, and so unmerited by the culprits, the reflecting portion of the American citizens will see it established beyond all question, that we are not influenced by vindictive feelings; while the licentious and lawless portion of that people, will find that our laws are not to be trifled with, and that transportation to a convict settlement, which they dread exceedingly, is one among the penalties of their violation.

My present impression is that this course, if taken at all, should be taken at once. It would certainly be a great relief to me to be previously in possession of the sentiments of Her Majesty's government on a subject so important; but the effect which I wish to produce upon the people of America will be greatly diminished by delay in the employment of the means contemplated.

I shall therefore at once proceed to act upon the advice of the Council, after having ascertained from the Governor-General that, in his opinion, the affairs of the Lower Province would not be injuriously affected by the measure.

Your Lordship must not expect that it would prove a popular one in this province. The feeling of excitement is too great at present in many quarters to allow the exercise of a calm judgment: most disastrous results have accumulated upon Her Majesty's subjects—the depreciation of their property—the ruinous losses in many respects entailed upon them, and the general suffering they have endured—are all causes tending to agitate them exceedingly; and, while they have for some time past, looked to a war with the United States as the only panacea for all their grievances, they seemed determined to believe that the American citizens are enemies not to be conciliated.

Nevertheless, with the perfect knowledge I possess of the actual state of this province, my deliberate judgment is, that no greater calamity could happen to it than a war with the United States. All I can add is that, certainly, it is possible, such an act of clemency as I propose may fail to produce the intended conciliatory effect; but it surely ought to produce it, and, I trust, would do so. At all events, I cannot yet bring myself to think so harshly of human nature as to suppose that not only those who may be pardoned, but

their friends, relatives, and connexions, would be unmoved by the spontaneous act of the Government in restoring to society a number of individuals who have acknowledged themselves guilty of the flagrant violation of our laws, and to be deserving of the severest punishment for their crime.

I have, &c.

(Signed) GEO. ARTHUR.

The Right Hon. Lord Glenelg,
&c. &c. &c.

No. 4.
Sir George Arthur
to Lord Glenelg.
5th February, 1839.

Copy.) Enclosure 1 in No. 4.

Minute of the Executive Council respecting the case of LYMAN L. LEWIS.

Executive Council Chamber, Toronto, Saturday, 2nd February, 1839. Present:—The Honourable Robert Baldwin Sullivan, Presiding Councillor; William Allen, Augustus Baldwin, William Henry Draper, Richard Alexander Tucker. Enclosure 1 in No. 4.

To his Excellency Sir GEORGE ARTHUR, K.C.H., Lieutenant-Governor of the province of Upper Canada, Major-General Commanding Her Majesty's Forces therein; &c. &c. &c.

May it please your Excellency,

THE Executive Council have, according to your Excellency's command, examined the cases of the prisoners convicted at Kingston before the court-martial lately assembled there, with a view to make a concluding report, as to the extent to which it now appears necessary to carry capital punishment:

The Council would have felt much relieved had there been no strong grounds for adding to the list of those for capital punishment, and they regret to find the case of a convict, named Lyman L. Lewis, or who assumed that name, his real name being Leach.

Besides the case clearly made out against him, upon which he was convicted, it appears in evidence that he had joined himself to the notorious Johnson, at Fort Wallace, so early as the month of July last; and he is moreover stated, though not in evidence, as indeed no examination on that point could regularly take place before the court-martial, to have been second in command at the destruction of the "Sir Robert Peel." This accounts for his change of name, and forces upon the Council the belief that he was concerned in that outrage. The Council do not intend that the prisoner should be punished for an offence for which he has not been tried, but they do not hesitate to say, that in selecting objects for merciful consideration, they cannot feel safe, or right, in including a person, whose accession to the conspiracy against the province, at the time when it was most dangerous, is fully proved; and when they know that the hostile outrages for the purpose of which it was formed, were commenced by the destruction of a British steam-boat in American waters; and when it is further considered that the plot has been from the beginning to the present time carried on with persevering malignity and obstinacy on the part of the original conspirators.

It is, therefore, respectfully recommended, that the finding and sentence of the court-martial upon Lyman L. Lewis be approved and confirmed, and that the said Lyman L. Lewis be executed on Monday the 11th February instant, between the hours of eight and nine o'clock in the forenoon of the same day, at or near Fort Henry, in the Midland district.

The Council have further considered the cases of the convicts tried at London, in the London district charged with being concerned in the Windson invasion.

The Council have already expressed the opinion, that the reiteration of invasion in this last instance, called for more strict enforcement of the extreme penalty of the law than the previous hostile incursions.

The council are gratified to be able to offer their opinion, that even consistently with this view, the offended laws of the province have been, in the case of the Western invasion, sufficiently vindicated, when the numbers who perished on the field, and those who have been ordered for execution, are considered. The invaders at Windsor have suffered very much, and very justly; and although the injured inhabitants of the Western district may not at present be of opinion that capital punishment has been carried to its utmost proper extent, the government cannot allow itself to participate even in justly-excited feelings; and the Council now think, that examples in the way of capital penalty have been carried far enough to demonstrate the determination of this government to punish the criminals, without regard to intimidation from the neighbouring country, and to show that no threats or exhibition of hostility directed against private loyalists, or against the public generally, can avail to save the invader from the just penalty of the law. They now gladly feel themselves at liberty to turn to the more agreeable task of recommending to mercy which they will lose no time in bringing to a conclusion—in the hope that future circumstances will not force upon the government any renewal of the painful and harassing duty of the distributing life and death amongst the members of a community with whom, if they will allow the people of Upper Canada to remain in peace, there is no reason why the most friendly relations may not be maintained between them, and an interchange of good offices take place,—of unprovoked outrage on the one side, and the infliction of just punishment on the other.

All which is respectfully submitted,

(Signed) R. B. SULLIVAN, P. C.

G

No. 4.
 Sir George Arthur
 to Lord Glenelg.
 5th February, 1839.
 Encl. 2 in No. 4.

(Copy.)

Enclosure 2 in No. 4.

Toronto, 26th January, 1839.

SIR,

As the court-martial assembled at London, by order of your Excellency, for the trial of such prisoners as might be brought before it, charged with being in arms against Her Majesty within this province, contrary to the provisions of an Act passed in the first year of Her Majesty's reign, entitled "An Act to protect the inhabitants of this province against lawless aggressions from subjects of foreign countries at peace with Her Majesty," has for the present closed its proceedings, I beg leave, in addition to the reports I have already made to your Excellency upon the different trials as they have taken place, to state that, of the forty-nine prisoners who were taken after the attack upon Windsor, in the Western District, forty-four were brought to trial, forty-three were convicted, and one was acquitted. Two were severely wounded that they could not be removed from their place of confinement at Sandwich, in order to take their trial at London; one was pardoned by your Excellency, and two others who were produced as witnesses on the part of the prosecution remain in custody untried, there being no evidence against them, except their own admissions, made under oath, a species of testimony to which I did not think proper to resort.

The trials commenced on the day appointed by your Excellency for the assembling of the court-martial, and continued without interruption until all the cases were disposed of. Of the forty-four tried thirty-two are citizens of the United States, and twelve are British subjects, as will appear upon reference to a return of the names of the prisoners in alphabetical order accompanying this report. As nearly as I could collect from the evidence in course of the investigation, I think there must have been about two hundred persons in the party of brigands which crossed over from Detroit to Windsor; and that nine-tenths of that number were citizens of the United States.

A person by the name of Biree, an American citizen, and a lawyer, residing in the state of Ohio, and who styled himself "Major-General," commanded the party. After they were attacked at Windsor and dispersed by the loyal militia, this man, with about fifty others, escaped to the American side. Though there were a few British subjects amongst the invading party, some of whom had fled from this province on account of having been engaged in the insurrection here in December, 1837, still the invasion, in my humble judgment, cannot be looked upon in any other light than strictly an *American invasion*. It was evidently one of a series of attacks which were determined upon, being made about that time upon different points in the two provinces, for the purpose of wresting from Her Majesty this valuable portion of Her dominions. And this scheme was not set on foot by the disaffected and rebellious within Upper and Lower Canada, or by such of them as had fled to the United States, but it was a plan devised and matured by American citizens in the different States of the Union, by means of secret societies, the ramifications of which extended, and do still extend, throughout almost every one of the United States; and the existence of those societies—the object for which they were formed, and for which they continue formed—and the alarming extent to which they have been carried, are facts well known and well understood by the American government; and not only well known and well understood, but generally encouraged, by the American people, at least, in the Frontier States.

I feel myself warranted in making these assertions, not from general observations alone, but from the information I received in the course of the late trials in which I officiated as Judge-Advocate.

One criterion by which the feelings of a people can in general be determined is the public press; and it is a well-known fact, that a great majority of the managers and conductors of the American presses throughout the states of Vermont, New York, Ohio, Michigan, and Illinois, have contributed all in their power to aid and assist in the plot, by inflaming the public mind against everything *British*; by circulating knowingly and wilfully the grossest misrepresentations in regard to the feelings and views of our inhabitants, and in regard to the conduct of those concerned in the administration of our government and laws; also by calling on their fellow-citizens in the name of patriotism to arm themselves to assist in giving liberty and laws to the oppressed Canadians—and even after repeated attacks have been made upon our soil, and the invaders have either been killed or taken prisoners by our loyal and gallant population—by circulating, through the medium of their presses, false and wicked statements, declaring the complete and triumphant success of the patriots over the British troops and militia.

As a further proof that the overthrow of our institutions and laws had not entered the minds of a few individuals only, but that it is a subject in which the American people generally have taken deep interest, I will simply advert to the mode which was adopted (as appeared in evidence) by the patriots, as they term themselves, to raise funds to carry on their operations. Besides private donations, a bank was established, called the *Bank of Upper Canada*, a president was chosen, who is a merchant residing in Cleveland, in the State of Ohio by the name of Smith, under whose management the stock was to be sold, and the proceedings arising from the sale thereof were to be applied in carrying on war against the Canadas; each share was to be 50 dollars; articles of association were drawn up, and executed, and each stockholder was to be considered a creditor of Upper Canada, to the amount of his stock, and was to be repaid the principal invested with interest, by the inhabitants of Upper Canada, so soon as they succeeded in changing our present form of government, and in establishing a Republic, either by a direct tax, or by the sale of our lands. The capital stock of the bank was 7,000,000 of dollars; and it appeared in evidence, that the greater proportion of this stock was actually sold: now when it is considered that the formation of this bank took place in one of the largest com-

mercial towns in the State of Ohio,—that the stock was there publicly offered for sale upon the terms I have mentioned, and that a large amount was actually purchased, it becomes a matter of astonishment how a doubt can exist in the mind of any one as to the feelings of the American people, and as to the extent of their participation in the late unjustifiable and wicked outrages which have been committed upon us. As an inducement to persons to enlist in the patriot army, which was organizing to invade Upper Canada, it also appeared in evidence, besides an offer of eight dollars per month, individuals assuming to be Major-Generals and Commanders-in-Chief of the Patriot forces, had publicly, within the United States, offered 160 acres of the lands of this Province to each person who would enlist.

Prior to the late invasion at Windsor, by American citizens, their preparations were all made at and near Detroit, the capital of the State of Michigan, and the residence of the Governor of that State. Their encampment was within three miles of that city, and they were visited daily by many of its most respectable inhabitants. One of the prisoners, in his statement, voluntarily made before magistrates, asserts that Mr. Mason, Governor of the State of Michigan, was not only friendly to the cause in which they had embarked, but that it was supposed and believed amongst the brigands that he was a member of one of their secret societies.

On the evening of the 3rd of December last, on their way to embark on board the steamer which was to carry the party across to the Canadian shore, they all formed and marched through Detroit, and passed near enough to be within sight of the sentinels stationed at the public arsenal there, without any interruption whatever, and on the following morning, when the attack was made upon Windsor, the wharfs, steam-boats, and vessels at Detroit, directly opposite to Windsor, were filled with people, to the number (as is estimated by some of the witnesses) of 5000 persons, cheering the brigands on; and when their flag was unfurled upon Canadian ground, the air was rent with shouts of applause from the assembled multitude on the American shore.

It is really alarming to reflect, that in a neighbouring country, at peace with our parent State, a deep laid and extensive conspiracy can be publicly formed against our lives and property—that, to obtain means to carry the conspiracy into effect, a banking association can be openly entered into in that country, and the stock offered for sale, upon the security of lands, and that arms and ammunition can be openly furnished to the conspirators, without the existence of any efficient law to punish those concerned in it, or in fact, without any effectual attempt being made by the general or local Governments, to check or control the evil.

There are many other circumstances which I might detail to your Excellency to prove that the repeated attacks which have been made upon this Province, and in which several of our most respectable inhabitants have been murdered, were planned and directed by a very extensive and alarming organization of American citizens of all ranks; but it is my desire in this report to confine myself to the information which I elicited during the late trials before the Courts-Martial at London.

In conclusion, I beg leave to suggest to your Excellency, the propriety of demanding from the American Government the individual called *General Birce*, under whose direction the party of brigands acted in their late attack upon Windsor, in order that he may be put upon his trial here, for the murder of our peaceable and unoffending fellow-subjects, who lost their lives by the hands of some of the party which he commanded.

It was clearly proved in the course of the trials at London, that, after Dr. Hume, an officer of the British service, was inhumanly murdered, and his body shockingly mangled, by some of the brigands, Birce possessed himself of his sword, which he carried with him to the United States.

I have, &c.

(Signed) HENRY SHERWOOD, Judge Advocate.

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

(Copy)

Enclosure 3 in No. 4.

Sir,

Toronto, 4th February, 1839.

In transmitting to your Excellency the brief sketch I drew up of the proceedings of the invaders of this province at Windmill Point, I omitted to state that many of the observations which I have had the honour to submit were founded on conversations with many respectable American citizens, some of them holding judicial appointments, who called on me at Kingston, while I was discharging the duty of Judge Advocate.

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I now beg leave to supply this statement for your Excellency's information.

I have, &c.

(Signed) W. H. DRAPER.

His Excellency the Lieutenant-Governor,
&c. &c. &c.

(Copy)

Notwithstanding the excitement and alarm that had existed during the preceding winter, by the month of June, 1838, the province was comparatively tranquil, and began to recover from the effects of the insurrection in the home and London districts, as well as of the hostilities committed on the western and St. Lawrence frontiers during the early part

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of the year 1838. And, although there were many of the inhabitants hostile to British supremacy, who had wished well to the insurgents and invaders, and who, perhaps, had secretly assisted them, they saw plainly that the voice of the majority was against them, that the arrival of troops had destroyed the hopes which had been indulged in the winter of 1837-8, and that the cause of rebellion was desperate. The extraordinary clemency and forbearance of the Government, although distasteful (because it was thought in the highest degree impolitic and dangerous) to the loyal population of Upper Canada, could not have been without good effects upon a portion of the disaffected, and might probably not, looking beyond the limits of the province, have in the end proved wise and salutary.

Rumours were, indeed, prevalent that the refugee traitors from Upper Canada had by no means abandoned their design, that repeated discomfitures had taught them the necessity of greater preparation, and of more prudence in their enterprises, but had failed to deter them from similar attempts, and that a deep-laid plot was in progress, supported by a secret but extensive organization of American citizens, for the overthrow of our institutions, and the forcible wresting of the provinces from the British Empire. The destruction of "the Sir Robert Peel" steam-boat, the invasion of the Niagara district, and the almost simultaneous attack on the St. Clair frontier, were immediately regarded as the explosion of this conspiracy; and the accounts first received of the great number of the invaders, supported by the information given from some official channels in the United States, gave colour to an opinion that the moment of a desperate struggle had arrived, and that all the military forces, as well as the individual energies of the inhabitants, would be required to repel the aggressors. When, however, the truth became known, when the numbers of the invaders, the quantity of arms and ammunition, and the full extent of their preparations, were correctly ascertained, the madness of the attempt became so self-evident as almost to justify a belief (erroneous, however, as subsequent events have shown) that a political character was given to the enterprise, to cloak rapine and robbery, and that, while the invaders pretended to have in view the amelioration of the political institutions of the province, their real object was the plunder of its inhabitants. The only excuse or explanation that the prisoners tried for these attacks could give was, that they had been deluded and deceived; that they had been told that the people of the country were ripe for rebellion, and ready to join them, and that success in the attempt to revolutionize the country was certain.

The total failure of these criminal attempts, and the absence of any aid to them from the inhabitants of the province, coupled with the zeal and energy displayed by the sedentary militia in pursuing and bringing in as prisoners those who took part in them, again gave rise to an apparently well-founded hope that peace and tranquillity would soon be restored. The visit of his Excellency the Earl of Durham, Governor-General of the provinces, about this time, to Upper Canada, tended also to strengthen these expectations. In the confidence expressed by him in the national honour and good faith of the Americans, in the frank and liberal hospitality extended to them by his Lordship while in the Niagara district, and in the number of inhabitants of the American frontier who became his guests, and professed the most friendly feelings, additional reasons were found for indulging in these flattering expectations. Time has, however, established, that, while the conduct, and it may be reasonably assumed the representations, of the Americans who visited his Lordship, both in this and the lower province, had induced in his mind a belief that feelings of hostility which had been entertained against the people of this province were suppressed, and had been replaced by a desire to cultivate relations of peace and harmony, a deep and extensive conspiracy for the invasion of Upper Canada, and the entire subversion of British authority therein, was in progress in the United States: and it is not a very improbable supposition that, even among those who availed themselves of the hospitality of the Governor-General at Niagara Falls, might be found individuals leagued in a design to subvert the authority of the Sovereign he represented in British North America.

From various quarters information continued to be received of the organization of lodges of a secret society, under the denomination of "Hunters," or "Patriot Hunters," bound together by oaths, having secret signs and pass-words, and whose object and design was to revolutionize Upper Canada. The number of persons represented to have become "Hunters," although immense, was probably, not at all magnified; and at all events there can be no doubt that from Maine to Michigan, along the whole frontier of the two Canadas, and to a considerable distance in the interior of the adjoining states, lodges of this description were established; that they were secretly providing arms and munitions of war; that funds to a large extent were subscribed as bank stock, to be charged as a public debt against the province when conquered, on the faith of which paper was to be issued, that many people of wealth and influence had joined them; that agents were busily employed in Upper Canada to organize the disaffected, and form them into "Hunter's lodges" — prepare them to rise in rebellion; and that at a convention held at Cleveland, in the state of Ohio, officers of the intended government of the state of Upper Canada were elected by delegates from the different lodges throughout the whole country. It was in the meantime uncertain where the blow was to be struck: Kingston, Toronto, and several intermediate harbours, Hamilton, the Niagara frontier, different places on Lake Erie, and the eastern frontier of the province, were all spoken of as the intended points of attack. Many of these reports were probably put into circulation by the leaders in the enterprise, to distract attention, and to cover their real design; but not a question can exist that the intention was to overrun the province by making descents at various points,

where they confidently expected to be numerous joined by disaffected persons in the province. In the first week in November the insurrection in Lower Canada broke out; and on the first and following days of that month the "Hunters," south and east of Oswego began to move and concentrate. It appears, from the declaration of the prisoners, there were lodges at the following places in the different counties, ranging from near Oswego, taking a southerly sweep to Ogdensburg, viz. :—

Oswego,
Salina,
Liverpool,
Syracuse,
Auburn,
Great Bend on the Black River,
Pamela,
Dexter,
Evan's Mills,
Watertown,
Brownville,

Lerayville,
Sackett's Harbour,
Cape Vincent,
Chaumont,
Millen's Bay,
Alexandria,
Orleans,
Flat Rock,
Ogdensburg,
Rossie Village;

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and that, between the first and tenth of November, persons who had been sworn in at "Hunter's" lodges, held at these different places, embarking at different ports and bays, concentrated together, and landed in hostile array about a mile-and-a-half below Prescott.

Muskets and bayonets in considerable quantities had been previously collected, packed in cases, and were shipped on board the steam-boat "United States," either at Oswego, or in some of the bays where that boat puts in on her way down the St. Lawrence. At Millen's Bay, which lies on the south side the St. Lawrence, between Sackett's Harbour and French Creek, two schooners—which had been engaged for the use of this expedition, and on board which three or four pieces of artillery, with ball and barrels of powder, were shipped—lay three or four days, waiting till the steam-boat "United States" came down. On board these vessels also were embarked the greater number of men from the towns or villages in that neighbourhood. The steamer "United States" left Oswego on or about the 10th November, having on board Von Shultz (who was afterwards in command of the invaders), with a number of his followers, called at Sackett's Harbour, where numbers more came on board, and thence proceeded down the river. It is worthy of remark, that in some of the Oswego papers the departure of a number of strangers was noticed, who, it was said, had been loitering about there some days for no avowed purpose, but who embarked on board the steam-boat "United States" soon after the arrival of an individual who appeared to be their leader. The tone of the article leaves no reasonable ground to doubt that the object of these parties was well understood at the time. The two schooners were taken in tow by the steam-boat some few miles below Millen's Bay on Sunday evening the 11th November, and during the night a number of the passengers on board the steamer were transferred to the schooners. It further appeared that passage-money was not demanded on board of the steam-boat from these men; they had tickets which freed them, and the sum of one hundred dollars was paid by Daniel George for their passage and the towing the schooners, as was shown by a receipt afterwards taken on his person.

On arriving a few miles above Prescott the schooners were cast loose, and the steamer proceeded to Ogdensburg. The original plan of the party was to land at Prescott in the night, and silently make their way to Fort Wellington, which they expected to surprise, and master without resistance. In this, however, they were foiled, partly by some mismanagement of the vessels. Alpheus Jones, Esq., an active and zealous magistrate, who was also the collector there, went promptly down to the wharf, and hailed them. At this time the two vessels were lashed together, one only having her sails set. After being several times hailed, they answered it was the schooner "Charlotte," from Toronto. By this time several persons had collected in arms round Mr. Jones, and it was obvious to the party on board that there was no further prospect of surprising the place, and they made sail out into the stream. In going out from the wharfs they struck upon an abutment, which was covered with water, with great violence, making a crash sufficiently loud to be heard a long distance. The moment they got out, the vessels parted, and each made sail down the river. Mr. Jones went off directly to Brockville, to give the alarm and obtain assistance.

About half a mile below Prescott the larger of the two schooners grounded on a bar, which still more embarrassed the proceedings of the party. On Monday morning, however, those on board the smaller schooner landed at Windmill Point, about a mile-and-a-half below Prescott; and in the course of that day the men from on board the other vessel were, by the aid of the small steamer "Paul Pry," from Ogdensburg, and of a scow and some smaller boats, put ashore at the same place, with three pieces of artillery, an abundant supply of muskets, bayonets, and rifles, with cartridges and barrels of powder. A number of them also carried pistols and bowie knives. They immediately took possession of a strong stone mill, and some stone houses near it; planted their artillery in front of the mill, and erected a breastwork before the door. The whole number who landed were about two hundred. A much larger number was engaged in the expedition, but remained at Ogdensburg, instead of crossing the river. They were commanded by a Pole, named Von Schultze; and one Abbey, a printer, of Cassenovia, was second in command. Some of the inhabitants were made prisoners by them, to whom they spoke freely of their

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designs, expressing their confident anticipation that they would be joined by large numbers of the people of the country.

Information had, however, in the mean time reached Kingston of the movements of the parties, indicating an intention to attack the province, and Captain Sandom, R.N., in the steam-boat "Queen Victoria," with a detachment of 30 Royal Marines, under Lieutenant Parker—having also under his command the steam-boat "Cobourg," on board which was embarked a detachment of 40 rank-and-file of the 83rd Regiment, under Lieut. Johnson—left Kingston to cruise along the St. Lawrence, and prevent an enemy crossing. He first sent to Sackett's Harbour, where information was given that the "United States" steamer had gone down the river with 400 of these brigands.

Following immediately, he heard at Gannanoque that Prescott was attacked, or taken, and at once proceeded thither. Early in the morning of the 13th November the troops were disembarked, and Colonel Young, who commanded in the Johnstown District, made immediate arrangements for the attack of the invaders.

In addition to the actual landing at Windmill Point, the "United States" steamer had, on the 12th, twice approached Prescott, filled with men, and apparently to force a landing. Lieut. Fowell, R.N., commanding the little steamer "Experiment," fired on her repeatedly, and drove her back. It is said that some of the brigands seized the "United States" by force at Oswego, and took her out of the hands of the Captain for their own use. However this may be, when the receipt given by the clerk of the boat to Daniel George—the number of the party who embarked at Oswego and other places—the transfer of them in the night to the schooner (an occurrence quite out of the ordinary course of business)—the arms and ammunition provided and on board, and the evident knowledge at Oswego of the objects of this party, are considered, it seems, impossible but that the Captain of the "United States" must have been fully aware of the character of his passengers, and must have been tacitly, at least, favourable to these designs. If it were otherwise, he would not have neglected the opportunity afforded, while in Sackett's Harbour, of communicating with Colonel Worth, who would have found no difficulty in putting a stop to the further progress of the enterprize.

Immediately after the landing of the detachment of the Royal Marines at Prescott, Colonel Young, who had already collected a force of Militia, divided his men into two parties, putting the left wing under the command of Colonel Fraser, and retaining the direction of the right. After a sharp struggle of fifteen or twenty minutes, the brigands—who, probably, influenced by the small number of the assailing force, had advanced to meet them—were driven back to the shelter of the mill and stone houses. The strength of this position, and the want of artillery, rendered unavailing the daring efforts of our men to dislodge the pirates, and, after a close and deadly contest, they were withdrawn, having suffered severely from the enemy's fire, who had the advantage of a secure cover, a position peculiarly favourable, if not essential to the skill of American marksmen.

It was then determined by Colonel Young to make no further attack until the arrival of artillery from Kingston should enable him to force the position. The walls of the mill in particular being so thick that the field-artillery was of no service. In the meantime the Militia, who flocked in from every quarter to repel or destroy the invaders, surrounded the brigands by land, keeping up a close and unremitting watch to prevent their escape, while an equal vigilance prevailed on board the steamer "Experiment" which was cruising up and down the river. Notwithstanding these precautions there was every night some communication to and from the American shore by means of small boats, of which very many of the officers of the invaders availed themselves to make their escape.

It was not until late in the afternoon of the 16th November, that every preparation was completed: Colonel Dundas had come down from Kingston with four companies of the 83rd regiment, with an artillery force and Major M'Bean, and shortly before dusk a fire was opened as well from the steam-boats under Captain Sandom as by land, on the mill and stone houses. The party in the mill held out a flag of truce, and Captain Sandom, who had landed, sent Lieutenant Leary to answer it, and about eight in the evening the brigands in the mill, to the number of about sixty or seventy, surrendered unconditionally. Those who were in the stone houses, notwithstanding the white flag had been hung out from the mill, still kept up a dropping fire by which one man of the 83rd regiment was killed, and Captain Sandom had a narrow escape from a ball which struck him on the chest, and passed through his clothes without doing further injury. After the surrender of the men in the mill, those in the houses, among whom was Von Schoultz, attempted to escape under cover of the darkness, and conceal themselves among the bushes. The militia made the most rigid search, and succeeded in capturing nearly every one of them.

The total loss of the British troops and militia in these affairs amounted (including those who subsequently died of their wounds) to nearly twenty killed, and sixty wounded.

Of the invaders there were as nearly as can be ascertained, about fifteen killed, and twenty-five or thirty wounded: with regard to the killed, however, it is very probable that many more fell, of whose death no account has been received. The whole number of prisoners taken, amounted to 159, of whom twenty-eight were taken on the 13th, and the residue on the days following.

The great bulk (more than 100) were captured on the 16th, three pieces of artillery, consisting of two six, and one three-pounder, a great number of stands of small arms, rifles, and some pikes, together with a large quantity of ammunition fell into the hands of our troops and militia. The prisoners were removed to Kingston, and lodged in Fort Henry to await their trial for their infraction of the laws.

The invaders were chiefly American citizens, as the following statement will show. The whole number who landed in the province was, as already stated, 200. Of these there were killed or taken, eighteen British subjects, eleven Europeans not British subjects, leaving a residue of killed, taken, or escaped of Americans, amounting to 171.

It is a matter of infinite satisfaction to know that not a single inhabitant of Upper Canada joined these people after they landed. Whatever may have been held out by Canadian refugees as to the disloyalty of their fellow-countrymen, the result here, as heretofore has shown, that though there may be many who would rejoice at a change of Government, and still more who would indifferently watch the contest, and contentedly join the successful party, the majority of the people are decidedly loyal, and that the danger from internal treason, unsupported by foreign assistance, is not of a formidable character.

The prisoners taken generally concur in representing that the impression of the Americans along the frontier was, that the inhabitants of Upper Canada were ripe for revolt, and wanted only to be furnished with arms to achieve their revolution. Those who freely admit their participation in the invasion, declare that they expected to be joined by the inhabitants, *en masse*; some say that they were told that the attack of Quebec and Montreal would be simultaneous with their own on Prescott; that in three weeks the whole matter would be over; that they should receive twenty dollars bounty;—ten dollars a month while on service, and 160 acres of land when the new Government was established; that there would be no fighting or bloodshed, and that they were discharging a duty in assisting to give the oppressed Canadians their liberty; and while they complain of being deluded and deceived by the leading men of the party, it is obvious that it was with respect to the means and prospects of success that the deception was practised, not the object and design of the association; and few, very few among them seem to have looked upon the enterprise as in any degree criminal in its character, or to have reflected in the slightest degree on the misery and suffering it must inevitably have occasioned.

A very considerable number of the prisoners, however, deny that they were connected with the party, and assert that they were mere passengers down the river on their own affairs; that they were forced out of the steam-boat into the schooners, and confined in the hold, and landed against their wills, and in despite of their resistance at the windmill. Some go on to say that they took arms by compulsion, but would not use them, or only fired one harmless shot; others that they refused to take arms at all; some that they remained all the time concealed in cellars or out-of-the-way places, and others that they were kept confined the whole time from the landing to the surrender. It is probably too much to say that there was not an individual case of this description, but it is self-evident that, generally speaking it is impossible that these statements can be true. The testimony of those of their associates who were permitted to turn Queen's evidence of the officers and men who took part in the attack, of the inhabitants of the neighbourhood who were taken by them, and of the long list killed and wounded, unite to prove the contrary, and of the latter it may be sufficient to notice this fact, that in the short action of the 13th, out of the detachment of thirty Royal Marines, eighteen, together with their officer, were wounded.

It is painful to be compelled to allude to a circumstance so revolting to humanity as the mutilation of the body of Lieutenant Johnson. It is necessary, however, to advert to it to show thoroughly of what atrocities some of these men were capable—and a similar outrage inflicted on the body of Mr. Hume at Windsor, by the brigands there, gives strength to the truth of the charge. Some of the prisoners asserted that the hogs had got at the body and had done the injury, but the testimony of the surgeon of the 83rd regiment is positive, that the mutilation was performed by some sharp instrument. Acts of this description form a striking contrast to the philanthropic professions of these liberty-extending Americans, and at the same time afford a just criterion to decide upon the real character of their "sympathizing" efforts for the welfare of the Canadians.

The trial and prompt punishment of many of these offenders have, by exciting the fear of those in the United States who have relations among the prisoners, extorted a very different expression of opinion from what prevailed before. Some public meetings have been held, at which resolutions declaring their determination to maintain the obligations of treaties, and to oppose all further attempts for the invasion of Upper Canada, have been passed. It is, however, worthy of remark, that in several instances they speak of their observation of *neutrality*, as if there were two belligerent parties in Upper Canada, instead of our only danger proceeding from the hostile incursions of their own citizens. Let these resolutions be contrasted with the tone pervading the American frontier press, while these expeditions were in progress, with the public notoriety of the proceedings of the conspirators, with the evidence of Mr. Brown, a Judge of one of the Courts of Common Pleas, in the state of New York, given on the trial of Kimball—with the wild extent of the ramifications of this plot—with the manner in which some of the highest public functionaries have referred to these proceedings, and the studied and most suspicious silence of others on the same subject, let it be remembered that as soon as the hope of the present success in these unallowed efforts was blasted, hints and suggestions, in the shape of fabricated reports, were put forth, indicating individual assassination, and the destruction of private property, as the course to be followed by the "Patriots," and some idea may be formed of the bitter and unrelenting hostility which prevails throughout so large a portion of the American states, against every thing British in this province. And it is not the least mortifying reflection, that many towns to the rise and prosperity of which British capital has, it is understood, mainly contributed, have

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been among the most favourable to the dismemberment of the British empire. Something, however, is gained by this changed expression of public opinion, since it has proved that the fear of the execution or other punishment of their relations and friends, has infinitely more effect upon them than the mild forbearance of the government on former occasions, which they seem to have been utterly unable to appreciate or understand, and this may further help to point out the true mode of obtaining, at their hands, redress for past injuries, and security from future aggression.

The hitherto successful resistance to these incursions will avail little for our future security unless followed by a vigorous and decisive course on the part of the Home Government. Had the military defence of the province been secured by the erection of fortifications long since recommenced, much of the past evil would have been avoided, and recent events have only confirmed the opinions heretofore expressed of their necessity. The injury already inflicted on the province is immense. Public credit is shaken, and public improvements consequently must languish, while private enterprize is in danger of being utterly stagnated. Neither capital nor emigration can flow into a country threatened with successive lawless invasion, against which no effectual security seems to be provided; and under such circumstances it seems an inevitable consequence that the most enduring loyalty will be worn out, and that men will be driven to submit to, if not to desire, almost any change which may bring with it a reasonable hope of peace and tranquillity. If at the present crisis the Government of Great Britain afford the needful protection and assistance, they will rivet the link which unites these provinces to the mother-country, and establish a firm bulwark against the encroachments of our republican neighbours: if this opportunity be neglected or lost, a few years must inevitably deprive Great Britain of all her possessions in North America.

(Signed) Wm. H. DRAPER,

Toronto, 21st January, 1839.

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Enclosure 4 in No. 4. ALPHABETICAL LIST OF PRISONERS taken at or near WINDMILL POINT, below PRESCOTT, in the District of JOHNSTOWN, charged with the hostile invasion of this Province on the 12th November, 1838, with an Abstract of their Cases, and the Decisions thereon.

No.	Name and Particulars of Case, embracing Age, Country, &c.	Persons living in the United States accused by the Prisoner as advising or taking part.	Decision, &c.
1	AUSTIN, SAMUEL, native of Jefferson County, State of New York, labourer, age 17 years; declares he landed against his will and refused to take arms, is not a Hunter. A Methodist was taken prisoner on Tuesday, 13th November.	Captain Sprague.	Convicted and sentenced to death.
2	ANDERSON, DUNCAN, native of Livingston County, State of New York, labourer, aged 48; joined Captain Kimball's company; walked from Brownville and embarked at Millen's Bay; was on guard at the mill on Tuesday 13th November, in arms; says he did not fire, and that before landing he tried to get away. A Presbyterian was taken prisoner on Friday, 16th November.	John B. Kimball of Brownville.	Convicted, sentenced to death, and executed.
3	ALLEN, CHARLES, native of Onondaga County, State of New York, labourer, aged 24 years; says he was hired by one Carlton to get out cedar timber; and on 11th November, was put on board the United States steamer, and carried to Ogdensburgh; and on the morning of the 13th November, was ferried over to the Windmill; was taken prisoner on the night of the 14th; professed entire ignorance of the expedition.	Carlton of Oswego.	Convicted, sentenced to death, and recommended to mercy.
4	ALLEN, DAVID, native of the State of Massachusetts, labourer, aged 37 years; says he embarked at Oswego on the 10th November, 1838, to go to Ogdensburgh on his own business, and was put on board a schooner in the river St. Lawrence against his will; that he was landed at Windmill Point; was asked to take arms, but refused; is of the Baptist Church; was taken prisoner on Friday the 16th November.		Convicted and sentenced to death.

No.	Name and Particulars of Case, embracing Age, Country, &c.	Persons living in the United States accused by the Prisoner as advising or taking part.	Decision, &c.
5	<p>ABBEY DORRIS, native of the State of Connecticut, Printer, aged 47 years; became a sworn Patriot in the summer of 1838, at Watertown; embarked on board the steam-boat "United States," at Oswego, on the 11th November, 1838; was second in command under Von Schoultz in this expedition; knew that Von Schoultz had been previously engaged collecting his countrymen for this expedition; had been a Colonel in the militia; was taken prisoner on Friday the 16th November; of no religion.</p>	<p>Daniel Fields, John B. Kimball of Brownville.</p>	<p>Convicted, sentenced to death, and executed.</p>
6	<p>BERENDS, ERNEST, native of Cracow, Poland, aged 41 years; stated that he had been a lieutenant in the Polish army; was on his way to Canada to procure work; that he casually fell in with Von Schoultz at Salina, and accompanied him to Oswego, and thence to Windmill Point, in utter ignorance of the expedition or its object, and did not take arms; was taken prisoner on the 13th November. From the statement of other prisoners there is no doubt this prisoner engaged with Von Schoultz at New York; and was brought by him thence for this expedition.</p>		<p>Convicted, sentenced to death, and recommended to mercy.</p>
7	<p>BARLOW, HIRAM, W., native of St. Lawrence County, State of New York, labourer, aged 19 years; sworn in a Hunter at Rosser Village by Captain Wells; embarked at Millen Bay in a schooner; landed on the 12th November at Windmill Point; took part in the action on the 13th November; of no church; never was baptized; was taken prisoner on the 16th November.</p>	<p>Poleman of Morristown; Wells, Saml, Ellenwood, Farmer, near Edwardsville.</p>	<p>Convicted and sentenced to death.</p>
8	<p>BUGBEE, CHAUNCEY, native of Jefferson County, State of New York, farmer; aged 22 years; sworn in a hunter at Millen's house on the 11th November; went on board a schooner at Millen's Bay, and says he could not get on shore again though he wished; was aware of the objects of the party; landed at Windmill Point; fought with the others on the 13th, and was taken prisoner on the 16th November; of no religion.</p>	<p>Millem, of Millem Bay.</p>	<p>Convicted and sentenced to death.</p>
9	<p>BERRY JOHN, native of Columbia County, State of New York, labourer, aged 40 years; was engaged by Captain Benedick at 16 dollars a month to assist in fortifying an island between Ogdensburg and Morristown as winter quarters for the Patriots preparatory to their attacking Canada; went on board a steam-boat at Oswego; says he wished to land at Sackett's Harbour, when he found out they were going to make an immediate attack, but could not; landed at Windmill Point on the 12th; took part in the action on the 13th, and was taken prisoner on the 16th November; a Presbyterian.</p>	<p>Benedict of Oswego.</p>	<p>Convicted and sentenced to death.</p>
10	<p>BAKER THOMAS, native of the town of Minden, State of New York, labourer, aged 47 years; sworn in a Hunter at Oswego about the 4th November last; was told, he says, the object was to change the Government of Canada; that there would be no fighting; landed at Windmill Point on the 12th; took part in the action on the 13th, and was taken prisoner on the 16th November; a Methodist; lived in Canada before the last war.</p>		<p>Convicted and sentenced to death.</p>
11	<p>BULKLEY, CHRISTOPHER, native of Salina, State of New York, Salt Manufacturer, aged 25 years; sworn in as a Hunter, at Salina, in October 1838, by Erasmus Stone. It was stated at the meeting that governors Kent and Mason were in favour of the invasion of Canada; crossed from Ogdensburg to the Windmill on Monday the 12th November; from what he heard after landing, he desired to abandon the scheme, but Abbey Leach (<i>alias</i> Lyman L. Lewis) opposed him; appeared fully aware of the objects of the party; was made prisoner on the 16th November; a book was found in the woods after the defeat and capture of the Brigands, which tended strongly to show that the prisoner had been active in raising men in the United States.</p>	<p>Erasmus Stone, Postmaster at Salina; Judge Grant; J. G. Parker, Tavern Keeper of Oswego; Bagley, of Watertown; Prendergast, Bronson, of Oswego; J. Birge.</p>	<p>Convicted, sentenced to death, and executed.</p>

No. 4.
 Sir George Arthur
 to Lord Gladstone
 5th February, 1839.
 Encl. 4 in No. 4.

No. 4.
 Sir George Arthur
 to Lord Glenelg.
 5th February, 1839.
 Enclosure 4 in No. 4.

No.	Name and particulars of Case, embracing Age, Country, &c.	Persons living in the United States accused by the prisoner as advising or taking part.	Decision, &c.
12	BROWN, CHARLES S., native of Oswego County, State of New York, labourer, aged 20 years; says he knew nothing of the expedition, but was travelling from Oswego to Ogdensburg in the steamer "United States," and was put on board a schooner, and landed at Windmill Point on the 12th November; taken prisoner on the 16th; is of no church; thinks he never was baptized.		Convicted and sentenced to death.
13	BENNET, ROUSE, native of Herchmer County, State of New York, Carpenter, aged 17 years; sworn in a Hunter by Bagley, of Watertown; embarked at Millen Bay; received arms on board the schooner; fought with the others and was taken prisoner on the 16th November; says there were 200 people at the meeting at Watertown, at Philing's tavern.	Bagley, of Watertown; — Aldridge; J. Birge.	Convicted and sentenced to death.
14	BROWN, GEORGE T., native of Jefferson County, State of New York, Blacksmith, aged 22 years; says that one Wells promised to get work for him, and that at Wells's request he went on board a schooner at Millen's Bay; he there learnt the object of the party; he was landed at Windmill Point, and was taken prisoner just after the action on the 13th November; he denied any connexion with the party; of no church; never was baptized.		Convicted and sentenced to death.
15	BLODGET, ORLAN, native of Jefferson County, State of New York, Carpenter, aged 23 years; sworn a Patriot or Hunter, about the 1st November, 1838, at the Great Bend, Black River, by Mr. Granis, the chairman; took arms on board a schooner in Millen's Bay on the 11th November; landed at Windmill Point on the 12th, and took part in the action of the 13th; was taken prisoner on the 16th; when he was sworn in he was promised ten dollars a month, eighty dollars bounty, and 160 acres of land; is of no religion.	Mr. Granis, Great Bend, Black River.	Convicted and sentenced to death.
16	BLONDEAU, GEORGE, native of Lower Canada, labourer, aged 19 years; says he was employed by some strangers to ferry them from Ogdensburg across the river; that they went on board a schooner, and landed at the Windmill Point on the 12th November, against his will; was forced to take a gun; that he tried to get away; was taken on the 16th.		Convicted and sentenced to death.
17	BRADLEY, JOHN, native of County of Antrim, Ireland, Hatter, aged 30 years; says he was standing on the wharf at Ogdensburg on the 12th November, and was seized by three men; forced into a skiff and taken across the river to Windmill Point; he was taken prisoner on the 16th; is a Roman Catholic; says he was all the time hid in a cellar.		Convicted and sentenced to death.
18	BREWSTER, JOHN A., native of Rutland County, State of New York, Wheelwright, aged 19 years; was taken prisoner at the Windmill, with the party, on the 16th November; he says he was coming to Upper Canada to see his father, and embarked on board the steam-boat "United States" at Sackett's Harbour; was put on board a schooner, and landed at Windmill Point; on the 13th was placed on guard at the Mill; knew nothing of the party or their designs; tried to escape from them to Ogdensburg.		Convicted; sentenced to death, and strongly recommended to mercy.
19	CURTIS LYSANDER, native of the State of Vermont, Shoemaker, aged 33 years; was wounded in the action on the 13th November, and taken prisoner on the 16th.		Convicted and sentenced to death.
20	CROSSMAN CHARLES, native of Jefferson County, State of New York; Wagon Maker, aged 19 years; was sworn a Hunter at Pamela in September; was (he says) prevailed on by Abbey, Sigourney, and Clark to come to Canada; landed at Windmill Point on the 12th November; was taken prisoner at the Mill on the 16th; says he did not fight, and tried to escape; a Baptist.	Mr. Sigourney, and Lynn Clark, at Sackett's Harbour.	Convicted and sentenced to death.
21	CONROD, PHILIP, native of Germany, aged 22 years, labourer; has been 18 months in the United States; says he was hired for the winter by a stranger, taken to Oswego, and landed		Convicted, sentenced to death, and re-

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No.	Name and Particulars of Case, embracing Age, Country, &c.	Persons living in the United States accused by the Prisoner as advising or taking part.	Decision, &c.
	on the 12th of November at Windmill Point; was taken prisoner on the 16th; denies any knowledge of the designs of the party.		commended to mercy.
22	COLLINS, ROBERT G., native of the State of New York, shoemaker, aged 21 years; crossed from Ogdensburg on the evening of the 12th November, took arms the following day, and was taken prisoner on the 16th.		Convicted and sentenced to death.
23	CERVANTER, PASCHALL, native of Windham County, State of Vermont, labourer, aged 20 years; about the 1st of October was induced to become a "Hunter;" on the 11th of November took passage in the steamer United States for Ogdensburg; had no particular business; was put on board a schooner, and landed on the 12th at Windmill Point; was taken prisoner on the 16th; says he did not fight; of no religion; never was baptized.	Clark, of Rutland.	Convicted and sentenced to death.
24	CLARK ELI, native of Oswego County, State of New York, labourer, aged 60 years; embarked at Oswego on the 11th of November on board the steamer United States, as he says, for Kingston; went on board a schooner, and landed at Windmill Point on the 12th; was taken prisoner on the 16th with the others; has been an officer in the United States militia artillery 16 years; says he did not fire; his brother is said to be a senator of the State of New York; a Presbyterian; owns a farm.		Convicted and sentenced to death.
25	CLARK, CULVER S., native of Franklin County, State of New York, labourer, aged 18; left Watertown and went to Sackett's Harbour; went on board the steam-boat from curiosity, and was carried down the river; landed at Windmill Point on Monday, November 12th; fought and surrendered with the rest on the 16th; belongs to no church; never baptized.		Convicted and sentenced to death.
26	CRONKHITE, JOHN, native of Oswego County, State of New York, blacksmith, aged 30 years; came to Millen's Bay on Sunday, the 11th of November, went on board a schooner there, and was not (he says) allowed on shore till landed at Windmill Point on the 12th; surrendered with the others on the 16th.	Prendergast or Prendergrass.	Convicted and sentenced to death.
27	CRONKER, PETER, native of Jefferson County, State of New York, labourer; embarked at French Creek in a schooner and landed at Windmill Point on the 12th of November; took part in the action of the 13th, and surrendered on the 16th; of no particular church; not baptized.		Convicted and sentenced to death.
28	CUMMINGS, JAMES, native of Upper Canada, yeoman, aged 38 years. It was proved that he was subject to fits and temporary derangement.		Acquitted.
29	CALHOUN, HUGH, native of Ireland, labourer, aged 25 years; says he was at the village of Geddes, and was engaged by a person unknown to come to Canada to work at 12 dollars a month; was sent to Oswego and his passage paid, and was told to take the steam-boat, which would carry him where he was wanted; landed at Windmill Point on the 12th of November, and surrendered on the 16th; got a ticket from his employer which procured his passage, meals, &c.; does not know his employer's name; a member of the Church of England.		Convicted and sentenced to death.
30	DELINO LEONARD, native of Jefferson County, State of New York, blacksmith, aged 25 years, owns a small farm; was sworn in about the 1st Oct. at Dexter; embarked in a schooner in Millen's Bay on the 11th November; landed at Windmill Point on the 12th; sent his rifle from his home before him; took part in the action on the 13th, and surrendered on the 16th; a member of the episcopal church.	John B. Kimball; Bagley, of Watertown	Convicted and sentenced to death.

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No.	Name and Particulars of Case, embracing Age, Country, &c.	Persons living in the United States accused by the Prisoner as advising or taking part.	Decision, &c.
31	DRUMMOND, JOSEPH, native of Oswego County, State of New York, labourer, aged 21 years; embarked at Oswego in the steamer United States, and on the 12th November, 1838, was landed from a schooner at Windmill Point; says he did not take arms, but remained in and about the houses till he was taken prisoner on the 16th; a Presbyterian.	Saml. Davis, Salina.	Convicted and sentenced to death.
32	DENIO, WILLIAM, native of Lerayville, State of New York, labourer, aged 18 years; joined the party at Sackett's Harbour on the 11th November; and landed next day at Windmill Point; surrendered on the 16th with the rest; says he did not fire.	J. Bire.	Convicted and sentenced to death.
33	DARRY LUTHER, native of the State of Massachusetts, aged 48 years; was persuaded at Watertown to join; embarked on the 11th November in a schooner at Millen's Bay; landed at Windmill Point on the 12th; took part in the action on the 13th, and surrendered on the 16th; knew the designs of the party; expected to be paid; no religion.	D. Fields, a tavern-keeper near Sackett's Harbour.	Convicted and sentenced to death.
34	DRESSER, AARON, jun., native of Jefferson County, State of New York, aged 22 years; embarked at Sackett's Harbour on the 11th November, and landed the next day at Windmill Point; was taken while crossing the river after the action on the 13th, with four others, by Lieut. Leary, R.N.; denies that he was an officer; but a paper in cypher was taken at the same time, which, being deciphered, turned out to be a commission to him as second lieutenant; a baptist.	Arch. Fisher, a tavern-keeper at Alexandria; Squire Jenkins of Pamela.	Convicted and sentenced to death.
35	DEFFIELD, DAVID, native of Upper Canada, aged 22 years, labourer; embarked at Oswego on the 11th November; landed next day at Windmill Point; and on the 13th, after the action commenced, surrendered himself; of no religion; denies any knowledge of the enterprise till after he embarked, and could not then get away, he says.	Coffin, of Oswego.	Convicted and sentenced to death.
36	DODGE, JOSEPH, native of Montgomery County, State of New York, labourer, aged 30 years; was taken prisoner on the 16th, near Prescott; according to his own statement he crossed from Ogdensburg, to see a friend living 13 miles from Prescott, and landed between Prescott and the Windmill on the night of the 14th November; lay that night in a barn; next morning hid for some time under a bridge, and then in a clump of bushes, and lay in the woods on the night of the 15th; does not know who he crossed with; of no particular church.		Convicted, sentenced to death, and recommended to mercy.
37	DUTCHER, MOSES A., native of Montgomery County, State of New York, carpenter, aged 23 years; was taken prisoner on the 16th of November, back of Prescott; says he came from Dexter to Ogdensburg on the 13th November, crossed the river, and landed about a mile from Windmill Point; was ferried over by a stranger; spent the 14th and 15th going about through the woods, endeavouring to find his way to his uncle in Camden; a methodist.		Convicted and sentenced to death.
38	ELMORE, JOHN, native of Jefferson County, State of New York, tinsmith; aged 18 years; sworn in a Hunter last spring at a meeting on Evans' Mills; came to Ogdensburg on 12th November, 1838; crossed to Windmill Point; was taken prisoner with the others on the 16th; says he did not fight; is of no particular church; never christened.		Convicted and sentenced to death.
39	FELLOWES ELON, native of the State of New York, cooper, aged 23 years; sworn in a Hunter about 1st October, 1838, at Dexter; embarked at Millen's Bay on board a schooner on the 11th November; landed at Ogdensburg and crossed to the Windmill; on the 12th took arms, and surrendered with the others.	Stirling, of Brownville.	Convicted and sentenced to death.
40	FRAER, MICHAEL, native of the State of New York, aged 23 years, cooper; landed from the schooner at Windmill Point on the 12th November; was taken prisoner on the 16th;		Convicted and sentenced to death.

No.	Name and Particulars of Cases, embracing Age, Country, &c.	Persons living in the United States accused by the Prisoner as advising or taking part.	Decision, &c.
41	says he did belong to the party, but was not sworn; showed humane attention to Mr. Fraser, who was wounded and fell into the hands of the brigands. GARISON, EMANUEL J. , native of the State of Vermont; blacksmith, aged 26 years; sworn in a Hunter about the 1st October, 1838, at Dexter; embarked on board a schooner at Sackett's Harbour, by order of his Captain; landed at Windmill Point on the 12th November; fought; surrendered with the others on the 16th.	John B. Kimball.	Convicted and sentenced to death.
42	GOULD, DAVID , native of the State of New York, labourer, aged 24 years; was persuaded to go on board one of the schooners at Millen's Bay, and was prevented from going back, he says; landed at Windmill Point, and was taken prisoner on the 16th with the others; denies making use of any arms; an episcopal methodist.	Ward, a stage driver.	Convicted and sentenced to death — recommended to mercy.
43	GAYNION, FRANCIS , native of Lower Canada, labourer, aged 18 years; was taken prisoner endeavouring to escape from the party on the 15th November; he says he was taken across the river from Ogdensburg while in a state of intoxication on the 12th November, and ran off from the Windmill as soon as he could find an opportunity; the party who made him drunk and took him across, were all strangers to him.		Convicted and sentenced to death — recommended to mercy.
44	GRIGGS, JERRY E. , native of Connecticut, labourer, aged 22 years; landed at the mill on the 12th November, and was taken prisoner on the 15th several miles from Prescott; he says he was in Oswego on the 11th November, and took passage in the United States steam-boat for Sackett's Harbour; was not asked for passage money; in the night was forced on board a schooner, and landed on the 12th at Windmill Point, and ran away from them next morning; a methodist.		Convicted and sentenced to death.
45	GRIGGS, NELSON T. , native of Onondaga County, State of New York, labourer, aged 28 years; was at Oswego on the 10th November, 1838; embarked in the steamer United States, and landed at Windmill Point on the 12th; says he was induced to come to assist the patriots in Canada by false representations.	Jas. Bulkley, of Salina.	Convicted and sentenced to death.
46	GATES, WILLIAM , native of the State of New York, labourer, aged 23 years; was taken prisoner on the 13th November, 1838; crossing in a boat from Windmill Point towards the American shore by Lt. Leary, R.N.; was sworn in a Patriot at Cape Vincent; took part in the action on the 13th before leaving.	Prendergast.	Convicted and sentenced to death.
47	GOODRICK, CORNELIUS , native of Salina, State of New York, labourer, aged 16 years; says he was hired by Mr. Coffin to take care of his trunks; left Oswego on the 11th November, and went in a steam-boat to Ogdensburg; and crossed on the evening of the 12th to look for Coffin; was taken prisoner near the mill on the 13th; of no church; thinks he never was baptized.	Coffin, of Liverpool, or Salina.	Convicted and sentenced to seven years in the Penitentiary.
48	GOODRICH, GIDEON , native of the State of Massachusetts, labourer, aged 43 years; father to the foregoing; joined the Hunters' Society at Liverpool; landed at Windmill Point on the 12th November, 1838; surrendered with the others on the 16th; of no church.	Nathan Coffin.	Convicted and sentenced to death.
49	GILMAN, JOHN , native of Oneida County, State of New York, labourer, aged 38 years; sworn in a Hunter at Brownville on the 31st October, 1838; embarked at Millen's Bay on the 11th November, and landed at Windmill Point on the 12th; was taken prisoner on the 16th; says he volunteered freely; understood there would be no fighting; expected he was rendering a service to mankind in assisting the people of Canada to obtain a free Government; never joined any church; never was baptized.	J. B. Kimball.	Convicted and sentenced to death.

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No.	Name and Particulars of Case, embracing Age, Country, &c.	Persons living in the United States accused by the Prisoner as advising or taking part.	Decision, &c.
50	GEORGE, DANIEL, native of the United States, teacher, aged 28 years; acted as paymaster in receiving and disbursing monies for transport, provisions, &c.; was taken prisoner after the action on the 13th November in a small boat, crossing from Windmill Point to the American shore, by Lieut. Leary, R. N.		Convicted, sentenced to death, and executed.
51	HICKS, GARRET, native of Jefferson County, State of New York, farmer, aged 27 years; was at the Windmill on the 13th in arms, and was taken prisoner on the 15th or 16th; he denies ever having any knowledge of the party, or their designs, or having been at the mill; says he was going to South Crosby, where he has a piece of land with a crop in it. This man is mentioned by Lyman L. Lewis, alias Leach, as one with whom he had business in coming to this province; belongs to no church.		Convicted and sentenced to death.
52	HOWTH, DAVID, native of Montgomery County, State of New York, labourer, aged 24 years; embarked at Millen's Bay on the 11th, landed at the Windmill on the 12th, and was taken prisoner on the 16th November, 1838; he says he was hired by some stranger to chop, at no particular wages; this took place at Grayelly Point; and he went as directed to Millen's Bay, where this same person sent him on board the schooner; and that he knew nothing of the party; was never baptized, and is of no religion.		Convicted and sentenced to death.
53	HUSTIS, DANIEL D., native of Cheshire county, State of New Hampshire, grocer, aged 27 years, sworn in a Hunter at Watertown, about the 1st October, 1838; embarked on the 11th November, 1838, on board the United States steamer; went on board a schooner in the night, and was landed at Windmill Point, on the 12th; surrendered with the others on the 16th; says he did not take arms; of no church; was stated to have worn a sword at the mill, as an officer.		Convicted and sentenced to death.
54	HOLMES, EDMOND, native of Clinton county, State of New York, labourer, aged 29 years; was taken prisoner with the others who came out of the Windmill on the 16th November, 1838; says he resided in Syracuse, and was hired to cook for 30 or 40 men; was told to go to Ogdensburg for that purpose; went there, leaving Oswego on the 11th Nov., and crossed to the Windmill on Wednesday night, the 14th, and could not get back again; of no particular church or religion.	Stone, of Salina. — Aldrige, of Salina.	Convicted and sentenced to death.
55	HOREY, CHARLES, native of France, labourer, aged 22 years; was taken prisoner at the Windmill, on the 16th November; was proved to have been doing as the rest were; he declares he was taken there against his will, and that though arms were put into his hands, he never used them.		Convicted, — sentenced to death, and recommended to mercy.
56	HALL, HIRAM, native of Jefferson county, State of New York, aged 15 or 16 years; was taken prisoner near Prescott on the evening of the 16th November; states that he crossed over from Ogdensburg on Thursday morning the 15th; landed at Prescott; entirely ignorant of any difficulty, except that the boy who ferried him over said there had been a battle on the Tuesday before; of no church; never baptized.		Convicted, and sentenced to the Penitentiary for seven years.
57	JONES, JOHN, M., native of the State of New Jersey, hatter, aged 37 years; went on board a schooner at Miller's Bay, and was landed at Windmill Point; took part in the action on the 13th November, 1838; ran away that night from the party, and was taken prisoner the following morning; he says he had no intention of joining, and was forced to take arms; no religion.		Convicted, and sentenced to death.
58	JANTZER, HENRY, native of Germany, aged 29 years; was asked by Von Schoultz, in New York, about the 22nd October, to come to Canada; on the 1st November left New York with three Germans; Von Schoultz came to		Convicted, — sentenced to death — and recommended to mercy.

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	Salina with O'Koinski and another Pole; they all came together to Oswego; Von Schoultz paid the expenses; on the 11th November embarked, and on the 12th landed at Windmill Point, and was taken prisoner on the 16th; denies taking arms.		
59	INGLIS, JAMES, native of Paisley, Scotland, weaver, aged 30 years; landed at the Windmill on the 12th November, and was taken on the 16th, some distance in the country; says he took a gun, but did not fight.	Truman, Lord of Brownville.	Convicted and sentenced to death.
60	KINNEY, HIRAM, native of Onondaga county, State of New York, labourer, aged 20 years; landed at Windmill Point on the 12th November; was taken prisoner on the 16th; declared he was landed against his will, and was prevented by Abbey from going to Ogdensburg as he intended; of no church.		Convicted — sentenced to death, — and recommended to mercy.
61	KIMBALT, GEO. H., native of the State of Vermont, aged 19 years; landed at the windmill on the 12th, and was wounded during the action on the 13th November; is a brother of John R. Kimbalt, one of their officers who escaped.		Convicted and sentenced to death.
62	LEWIS, LYMAN L., (alias) LEACH, native of West Chester county, State New York, dealer, aged 28 years; was proved to have been at the mill on the 12th November, and to have passed by the name of Leach; is believed to have aided in the destruction of the Sir Robert Peel; was taken prisoner near Prescott, in the evening of the 16th Nov.; he denies belonging to the party, or ever having been at the mill, or that he was ever known by any name but that of Lewis; on one occasion he said his business in Canada was to look at a lot of land, which he proposed to buy from Garret Hicks also a prisoner.		Convicted and sentenced to death.
63	LEFORTE, JOSEPH, native of Lower Canada, aged 29 years; crossed to the windmill on the 13th; was taken prisoner between the mill and Prescott, and sent to Kingston on the 16th; says he was employed by three strangers to ferry them over; that they landed below Prescott, a little above the mill, and went off; that he walked up the bank to look round, and when he returned his boat was gone, and he could not get away.		Convicted and sentenced to death.
64	LAWTON, SILVESTER, a native of the State of New York, farmer, aged 23 years, was sworn in a Hunter at Sheino; landed at Windmill Point on the 12th November; and was taken prisoner on the 16th; was aware of the designs of the party, but says he was told the people of Canada would join.	Philip P. Gage — Bagley, of Watertown. J. Berge.	Convicted, sentenced to death, and executed.
65	LEE, JOSEPH, native of Oswego county, State of New York, joiner, aged 21 years; landed at the Windmill Point on the 12th, and remaining there till taken prisoner on the 16th November; was sworn a Hunter at Palermo; understood the object of the party, but says he was forced by Abbey and Von Schoultz to land; denies taking arms; no religion.		Convicted and sentenced to death.
66	LEPPER, ANDREW, native of Harrison county, State Kentucky, labourer, aged 42; became a Hunter on the 9th November, 1838; on the 11th embarked at Millen's Bay; landed at Windmill Point on the 12th; took part in the fighting, and was promised 50 dollars bounty and 10 dollars a month while on service; he had worked in Canada, boating for two seasons; was brought up a member of the Church of England.	Prendergast.	
67	LISCOM, DANIEL, native of the State of New York, aged 22 years; landed at Windmill Point on the 12th November, 1838; was taken prisoner on the 13th, below Prescott, having ran away from the party; says he was promised eighty dollars the moment he landed, and 160 acres of land after the conquest of the country; a Methodist.	Prendergast.	Convicted and sentenced to death.

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No.	Names and Particulars of Case, embracing Age, Country, &c.	Persons living in the United States accused by the Prisoner as advising or taking part.	Decision, &c.
68	LAWTON, OLIVER, native of Albany, State of New York, waggon maker; had his passage from Sackett's Harbour to Ogdensburgh paid by a stranger; landed on the 12th Nov. at Windmill Point; surrendered with the others on the 16th; says he did not take arms; was brought up a Presbyterian.	— Thompson, said to be from Town, to William Johnson.	Convicted and sentenced to death.
69	LOOP, HIRAM, native of Oswego County, State of New York, labourer, aged 26 years; landed at Windmill Point on the 12th November, and was taken prisoner during the action on the 13th; says he was forced to take arms and go out, and that he surrendered without firing a shot; no religion.	Coffin.	Convicted and sentenced to death.
70	MATHERS, CALVIN, native of Onondaga County, State of New York, labourer, aged 24 years; landed at the Windmill on the 12th November; was taken prisoner the day after the general surrender of the brigands; says he was brought among them against his will, and left them before the battle on Tuesday, and was occupied trying to get across the river till he was taken; of no church.		Convicted and sentenced to death.
71	MILLER, PHARES, native of Jefferson County, State of New York, waggon maker, aged 18 years; sworn in a Hunter, at Watertown, about the 1st November, 1838; landed at Windmill Point on the 12th November; took part in the action on the 13th, and was taken prisoner on the 16th; was promised 80 dollars bounty and 160 acres of land, as a reward for his services; no religion.		Convicted and sentenced to death.
72	MARTIN, FOSTER, native of Onondaga County, State of New York, labourer, aged 32 years; was proved to have been assisting working the artillery at the Windmill on the 13th November; was taken that day; says he was going from Watertown to collect about 6 dollars from a man who lives in rear of Brockville, and wished to take his passage on board the United States steamer, but hearing of schooners in Millen's Bay going down the river, he went there and embarked in one, and was forced to land at the Windmill with the party.		Convicted and sentenced to death.
73	MORE, ANDREW, native of Saratoga County, State of New York, labourer; aged 26 years; landed at Windmill Point on the 12th November, 1838; was severely wounded on the 13th, in the action; and was taken on the 16th; he says he was on board the steam-boat and wished to leave at Millen's Bay, but was not allowed, and also at Ogdensburgh; but was prevented by Abbey, Birge, and others; denies taking arms; a Methodist.	— Field. — Birge.	Convicted and sentenced to death.
74	MEYER, PETER, native of France, aged 21 years; landed at Windmill Point on the 12th November, 1838, and was taken prisoner with the rest on the 16th; says he was boiling salt at Salina, for Mr. Richmond, who sent him with others to Oswego, where he was put on board the United States steam-boat, and carried down the river; denies firing.	Richmond of Salina.	Convicted and sentenced to death — recommended to mercy.
75	MARTIN, TEHIEL H., native of Grafton County, State of New Hampshire, mason, aged 31 years; landed at Windmill Point on the 12th November; took part in the action on the 13th, and was taken prisoner with the others on the 16th; he says that he did not understand an immediate invasion of Canada was intended, only that a party were to take possession of an island in the St. Lawrence, and prepare winter quarters in order to be ready to assist the party desirous of making a change in the government of the Canada; and he was advised to assist them, and he would be paid; is a Presbyterian.		Convicted and sentenced to death.
76	MEYERS, SEBASTIAN, native of Bavaria, aged 21 years; landed at Windmill Point on the 12th November; was wounded in the action of the 13th, and surrendered on the 16th; says he was hired as cook by Mr. Stone of Salina; put on board	Mr. Stone of Salina.	Convicted — sentenced to death — recommended to mercy.

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	the steam boat United States, and transferred to a schooner, from which he landed.		
77.	MATHERS, CHAUNCEY, native of Onondaga county, State of New York, aged 24 years; a twin-brother of Calvin Mathers; landed at the Windmill Point on the 12th Nov.; was taken prisoner on the morning of the 13th by the militia; says he was coming down the river in search of a brother, and was forced along with this party, and was escaping from them when taken prisoner.		Convicted and sentenced to death.
78	MIRIAM, JUSTUS, native of the Newcastle district, Upper Canada, shoemaker, aged 17 years; was taken on the 13th November, 1838, coming from the direction of the Windmill, a little below it; says that he had been travelling through part of the States, having worked there, and was on his way to join his father in the Newcastle district; that he arrived about dusk on the river opposite Johnstown, and got on board a skiff, and crossed over below the Windmill, intending to go to Prescott, and was taken a prisoner by the brigands.		Convicted — sentenced to death — and recommended to mercy.
79	MORRISSETTE, JOHN, native of Lower Canada, labourer, aged 22 years; landed at Windmill Point on the 12th November, and was taken prisoner on the 16th with the others; says he was hired in Louisbourg by a Yankee, at 10 dollars a month; was by him put in charge of another person at Millen's Bay, and was put on board a schooner and taken down the river; that he did not know the design of the party.		Convicted and sentenced to death.
80	NORRIS, JOSEPH, native of the State of Vermont, carpenter, aged 35 years; taken prisoner on the 17th November.		Acquitted.
81	O'KOINSKI, JOHN, native of Poland, aged 31 years; came with Von Schoultz from New York to Oswego; came from thence in the steam-boat United States, on the 11th November; went on board a schooner going down the river, and was put ashore at Windmill Point on the 12th; was taken prisoner on the 13th; denies taking arms, or knowing any thing of the expedition. (Vide Berends, E., and Jantzer, H.)		Convicted — sentenced to death — and recommended to mercy.
82	O'NEILE, WILLIAM, native of Jefferson County, State of New York, labourer, aged 38 years; taken prisoner on the 13th November, 1838.		Acquitted.
83	OWEN, ALSON, native of Oswego County, State of New York, labourer, aged 24 years; landed at Windmill Point—having come with David Allen from Ogdensburg, on the 12th November, and surrendered with the others on the 16th; says he knew nothing of the expedition; took arms, because he was threatened, and was on guard at the mill on the 13th during the action. An Episcopal Methodist.		Convicted and sentenced to death.
84	PENNY, ETHEL, native of Jefferson County, State of New York, labourer, aged 18 years; went on board a schooner at Millen's Bay; he says he went to look for his rifle, which somebody had brought from Watertown, and was not allowed to land again; was put ashore at Windmill Point, on the 12th November; took part in the action of the 13th, and was taken prisoner on the 16th.	— Runlet — 30 miles from Millen's Bay.	Convicted and sentenced to death.
85	PECK, LAWTON S., native of Jefferson County, State of New York, labourer, aged 20 years; sworn in a hunter at Brownville, on 1st September, 1838; landed at the Windmill on the 12th November, and was taken prisoner on the 16th; says he did not take arms, and wished to leave the party when he found there was to be fighting; a Baptist.	— Bucklin, a lawyer of Watertown.	Convicted, — sentenced to death, — and recommended to mercy.
86	PIERCE, JAMES, native of Onondaga County, State of New York, labourer, 22 years of age; landed at Windmill Point on Monday, November 12, and surrendered with the rest on the Friday following. He says he went on board a schooner at		Convicted and sentenced to death. I

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No.	Name and Particulars of Case, embracing Age, Country, &c.	Persons living in the United States accused by the Prisoner as advising or taking part.	Decisions, &c.
87.	<p>Millen's Bay, having no object; fell asleep in the hold, and was carried off; denies taking arms; never baptized; of no religion.</p> <p>PEELER, JOEL, native of the State of New York; farmer, aged 50 years; sworn in a Hunter 29th October, 1838, at Lerayville; landed at Windmill Point on the 12th November; took part in the action of the 13th; and surrendered with the others on the 16th; knew the object of the expedition; had a wife and seven children.</p>	<p>Elisha Clark, of Lerayville. Squire Usher, of Phelt's Mills. Brown, a Tavern-keeper at Phelt's Mills. Squire Howard of Lockport. Wm. Estis.</p>	<p>Convicted, sentenced to death, executed.</p>
88	<p>POLLY, IRA, native of the State of New York, carpenter, aged 23 years; landed from the schooner at Windmill Point on Monday, 12th November; was in the action on the 13th; ran away, and was taken in a barn about 5 miles from the mill.</p>		<p>Convicted and sentenced to death.</p>
89	<p>PHELPS, RUSSELL, native of Jefferson County, State of New York, tailor, aged 50 years; landed at the Windmill Point on 12th November, and was taken prisoner in one of the stone houses on the 16th. His account is that he was hired by William Estis to go limbering; no particular wages were mentioned; went on board a schooner at Millen's Bay on the 11th November, to go to Lewiston, for which place Estis said the schooner was bound; but she was towed down the river by the United States steamboat, and landed them all at Windmill Point; says he knew nothing of the party, and did not take arms; of no church; brought up a Presbyterian.</p>	<p>Wm. Estis, of Cape Vincent. Wm. Johnson.</p>	<p>Convicted and sentenced to death, and executed.</p>
90	<p>PUTMAN, LEVI, native of Montgomery County, State of New York, labourer, aged 21 years; landed at Windmill Point on the 12th November; was taken on the 16th a short distance from Prescott; says he was hired by Seldon Wells on the 9th November, for quarrying stone, chopping, &c., at 16 dollars per month, and was told he would not be wanted more than three weeks, and to bring but few clothes; was taken by Wells' brother to Ogdensburg, and thence crossed to Windmill Point; denies taking arms, and says he escaped on Tuesday night; a Presbyterian.</p>	<p>Seldon Wells.</p>	<p>Convicted and sentenced to death.</p>
91	<p>PADDOCK, JACOB, native of Jefferson County, State of New York, labourer, aged 18 years; came from Salina, landed at Windmill Point on 12th November, and was taken prisoner on the 16th; denies taking arms, and says he was pulled on board the steamboat United States, at Oswego, by order of Abbey, and brought against his will.</p>		<p>Convicted and sentenced to death.</p>
92	<p>PRIEST, ASA, native of the state of Massachusetts, aged 40 years; landed at the Windmill on the 12th November, and was taken prisoner on the 16th in one of the stone houses; says he came from Auburn to Oswego to get the price of a cow, and finding his debtor had left with the patriots he followed him to Millees Bay, and found him on board one of the schooners; that he fell asleep on board, and was brought down the river and forced to land; denies fighting.</p>		<p>Convicted and sentenced to death.</p>
93	<p>PUTNAM, JACOB, native of the United States, labourer, aged 19 years; crossed from Ogdensburg on the 13th November with 5 men, all strangers to him; says he saw the party there; that the firing commenced shortly after he landed, and that he immediately ran off into the country; he was taken in company with Ferry C. Gregg, at a tavern about twenty miles back from Prescott, early on the morning of the 15th; of is a Methodist.</p>		<p>Convicted, sentenced to death, and recommended to mercy.</p>

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No.	Name and Particulars of Case, embracing Age, Country, &c.	Persons living in the United States accused by the Prisoner as advising or taking part.	Decisions, &c.
94	ROBIN, TIMOTHY P., native of Jefferson County, State of New York, blacksmith, aged 21 years; was taken prisoner on the 13th November, crossing the river in a small boat from Windmill Point towards the American shore, in company with Daniel George, by Lieut. Leary, R.N.; says he was a passenger on board the United States, and was brought into the expedition against his will; a Methodist.	Tracey Prindle	Convicted and sentenced to death.
95	Reynolds, William, native of the State of New York, labourer, aged 33 years; landed at Windmill Point on the 12th November, and was taken prisoner on the 13th, 5 miles from Prescott; he says he left the party on Tuesday the 13th, before the action, but gives no account of where he spent the intermediate time; he accuses many leading men of fomenting the invasion, and says that the families of the married men were to be taken care of during the absence their husbands.	Col. Smith. —Parsons, Esq. —Marble, Esq. Dr. Cushman. All of Orleans.	Convicted and sentenced to death.
96	RICHARDSON, ASA H., native of Oswego, 23 years old, a labourer; had land in Upper Canada; landed at the Windmill Point on the 12th November, and was taken prisoner with the others on the 16th; says he was brought against his will, and kept prisoner in the mill till the evening.		Convicted and sentenced to death.
97	REILLY, LAWRENCE, native of Vermont, labourer, aged 43 years; landed on the 12th November, 1838, and surrendered with the rest on the 16th. He says he was hired at Sackett's Harbour by Wm. Estis as a brewer to go to Lewiston, and went on board the steam-boat United States on the 11th November; that the boat took two schooners in tow; that he went on board one and was told by W. Estis they were going to attack Prescott; that he remonstrated with Estis for deceiving him, but could not get away though he desired it; that Johnson superintended the landing, but refused to take him (prisoner) back; denies fighting; brought up a Methodist.	Wm. Estis. Wm. Johnson. —Potter.	Convicted and sentenced to death.
98	REYNOLDS, SOLOMON, native of Washington county, State of New York, labourer, aged 33 years; was taken prisoner at the mill on the 16th November; says he came to Sackett's Harbour with Silas Aldridge and another for company; Aldridge paid the expenses; embarked on the 11th November in the steam-boat United States; was put on board a schooner; volunteered to go in a small boat from one of the schooners to Ogdensburg; took some person to see General Birge; that on Thursday night he came over to take off Aldridge, and was not allowed to come back; of no church.	Silas Aldridge	Convicted and sentenced to death.
99	RICHARDSON, ANDREW, native of St. Lawrence County, State of New York, carpenter, aged 38 years; landed at Windmill Point on Monday November 12th; was taken prisoner on the 13th together with Foster Martin; declares he was crossing the river in a small boat on Monday evening the 12th, when a boat with muffled oars and eight or ten men rowed up; that they made him prisoner and took him to the mill; and that after the action commenced he got away and was taken by the militia.		Convicted, sentenced to death, and recommended to mercy.
100	STEWART, JOSEPH, native of Mifflin County, State of Pennsylvania, clothier, aged 25 years; sworn in a hunter at Syracuse; landed at Windmill Point on the 12th November; was taken about 10 or 11 on Friday night following in the bushes back of the Windmill; says he was going to Ogdensburg to see his brother, and took a passage in the steam-boat United States; in the night was ordered on board a schooner, and from that put on shore; had no intention of invading Canada; denies taking arms; of no church.	Coffin of Liverpool.	Convicted and sentenced to death.
101	SMITH, OWEN W., native of the State of Vermont, farmer; aged 26 years; was sworn in a hunter at Orleans about three months ago; landed at Windmill Point on the 12th November, and surrendered on the 16th; says he was induced to join in the invasion of Canada by false representations, and		Convicted and sentenced to death.

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102	<p>that he prevented the effusion of blood as much as possible.</p> <p>SHEW, HENRY, native of Jefferson County, State of New York, pedlar, aged 23 years, sworn in a patriot in the Quakers' Settlement about 1st November, 1838; embarked at Millen's Bay in a schooner on the 11th; landed at Windmill Point on the 12th, took part in the action on the 13th, and surrendered on the 16th; of no church; never was baptized.</p>	<p>N. Coon, of Philadelphia, Jefferson County. — Wells. — Fields.</p>	<p>Convicted, and sentenced to death.</p>
103	<p>SWETE, SYLVANUS, native of Northampton, State of New York, cooper, aged 18 years; sworn in a patriot in August last at Flat Rock; landed at Windmill Point on the 12th; took part in the action of the 13th; surrendered with the others on the 16th November; says he was told the Canadians and British soldiery would join them; expected, if the Canadians gained their liberty to be remunerated; of no religion.</p>	<p>Dr. Dunton of Flat Rock. Geo. Dudley.</p>	<p>Convicted, sentenced to death, and executed.</p>
104	<p>SWETE, DENNIS, native of Northampton, State of New York, cooper, aged 20 years; brother to the last; sworn a patriot at Flat Rock; embarked at Sackett's Harbour to invade the province on the 11th November; landed next day at the Windmill, and surrendered with the others on the 16th.</p>	<p>Capt. Dudley.</p>	<p>Convicted and sentenced to death.</p>
105	<p>SESTER, PRICE, native of Ohio, aged 18, chairmaker; sworn in at Auburn about the middle of October; on the 1st November left Auburn with nine others; twelve or fourteen men followed the same evening; sailed on the forenoon of the 5th November from Oswego in a schooner; lay three or four days in Millen's Bay; sailed down the river on the 11th, and landed at Ogdensburg; on the evening of the 12th crossed to the windmill; acted as cook to the party till they surrendered on the 16th; showed great contrition.</p>	<p>— Stow, sheriff at Auburn. John Richardson of Auburn. — Thompson. — Ward. — Patton, all of Auburn. Wm. Johnson.</p>	<p>Convicted, sentenced to death, and recommended to mercy.</p>
106	<p>SMITH, ANDREW, native of the State of New York, aged 21 years; joined the patriots about the 1st October, 1838, at Orleans; went on board the steam-boat United States, at French Creek, on the 11th November; landed next day at Windmill Point; took part in the action on the 13th, and was taken prisoner on the 16th. Of no religion.</p>	<p>Aldridge, Birge, George Dudley, of Alexandria.</p>	<p>Convicted and sentenced to death.</p>
107	<p>STOCKTON, THOMAS, native of Jefferson county, State of New York, blacksmith, aged 26 years; was taken prisoner between Prescott and the Windmill on the 13th November, in the morning; says he arrived in Prescott on the evening of the 12th November, from Wilson Town, and left Prescott the next morning, on his way to Montreal, looking for work, and was taken by the militia going down. A Methodist. On his trial he said that he had been stopped by the people at the mill, and was forced to take a gun and bayonet. It was positively proved he was in arms among the brigands on Monday the 12th.</p>		<p>Convicted and sentenced to death.</p>
108	<p>SHARP, HIRAN, native of Orondago County, State of New York, labourer, aged 24 years; embarked in the steam-boat United States on the 11th November, and landed next day at Windmill Point; was taken with the others on the 16th November; denies taking arms, or knowing anything of the designs of the party.</p>	<p>Benson, of Oneida.</p>	<p>Convicted and sentenced to death.</p>
109	<p>SNOW, JAMES L., native of the Oswego County, State of New York, labourer, aged 21 years; embarked at Oswego, and landed at Windmill Point on the 12th November; was taken prisoner on the 16th; denies taking arms; of no church.</p>	<p>— Williams.</p>	<p>Convicted and sentenced to death.</p>
110	<p>STEBBINS, WILLIAM, native of Jefferson County, State of New York, aged 18 years; embarked at Millen's Bay, and landed at Windmill Point on the 11th November; was taken with the others on the 16th; says he was compelled to take arms, but did not fire.</p>	<p>Wm. Lord of Brownville.</p>	<p>Convicted and sentenced to death.</p>

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No.	Name and Particulars of Case, embracing Age, Country, &c.	Persons living in the United States accused by the Prisoner as advising or taking part.	Decision, &c.
111	SWANBERG, JOHN G., native of the city of Philadelphia, in the State of Pennsylvania, labourer, aged 27 years; was taken prisoner on the 16th, with the others, and brought up to Kingston, and delivered into Fort Henry the following day; he declares he crossed about daylight in the morning of the 16th from the States, but does not know in what part of Canada he landed; says he knew nothing of an invasion of Canada till he was taken prisoner on the morning of the 17th; says he was sent from Prescott to Kingston on the 19th.		Convicted and sentenced to death.
112	SMITH, CHARLES, stated himself to be a native of Jefferson County, State of New York, but was, after his trial, discovered to be an Englishman, aged 21 years; sworn a patriot on September, 1838; embarked pursuant to orders at Millen's Bay, and landed at Windmill Point on the 12th; a commission was found in cipher, to the prisoner, in his pocket-book; was taken, on the 13th November, crossing with four others from Windmill Point to the American shore, by Lieutenant Leary, R.N. George, who was in the boat, advised him to say he was an American.	Wm. Estis of Cape Vincent, Prendergast.	Convicted and sentenced to death.
113	TIBBETT, SAMUEL, native of the State of New York, labourer, aged 19 years; says he was asked by Christopher Bulkley to cross with him from Ogdensburg to Windmill Point to help him to take away some friends; went over on the evening of the 14th; and, as the boat was filled, he agreed to wait till it returned; says he could not get back, and was taken on the 16th, with the rest; denies taking arms; of no church; never was baptized.		Convicted and sentenced to death.
114	TRUAX, NELSON, native of Jefferson County, State of New York; saddler, aged 20 years; was taken prisoner on the morning of the 13th November, 1838, between the Windmill and Prescott; says he knew nothing of the expedition, and had heard no firing till he got across; denied having been with the party; a Presbyterian.		Convicted and sentenced to death.
115	THOMAS, JOHN, native of the town of Madrid, aged 26 years, dealer; joined the patriots at Ogdensburg on the 11th November; crossed over to the Windmill on the 12th; took part in the action of the 13th, and surrendered with the others on the 16th; lived in Canada some years ago.		Convicted and sentenced to death.
116	THOMPSON, JOHN, native of Northumberland, England, carpenter, aged 44 years; was formerly in the 68th Regt.; was at the Windmill on the 12th with the party, and was taken prisoner the next morning early; says he was travelling on board the steam-boat, and was forced to land with them, and ran away from them the first opportunity.		Convicted, sentenced to death, and recommended to mercy.
117	TUCKER, OLIVER, native of the State of Connecticut, labourer, aged 18 years; landed at Windmill Point, on the 12th November; took part in the action of the 13th; surrendered on the 16th; says he was ignorant of their design when he embarked; was hired at Sackett's Harbour.	Hungerford.	Convicted and sentenced to death.
118	TOWNSEND, ABNER, native of Jefferson County, State of New York, labourer, aged 17 years; was sworn in a patriot about the 1st November, 1838; joined the expedition, and landed at Windmill Point on the 12th November, and was taken prisoner with the others; says he did not fight, but hid in a cellar during the action of the 13th November; of no religion.	Clement Granger, Bagley, of Watertown.	Convicted and sentenced to death.
119	THOMPSON, JOSEPH, a native of Jefferson County, State of New York, labourer, aged 22 years; sworn in a Hunter, in Chem, about the 1st of October, 1838; landed at Windmill Point on the 12th November; took part in the action of the 13th, and surrendered on the 16th; member of no church.	John Marcy	Convicted and sentenced to death.

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No.	Name and Particulars of Case, embracing Age, Country, &c.	Persons living in the United States accused by the Prisoner, as advising or taking part.	Decision, &c.
120	VON SCHOULTZ-NILS SZOLTEVKI, native of Poland, aged 31 years; had been residing at Salina, and was introduced to the Patriots by Mr. Stone, merchant of that place; was in New York in October, 1838, and gave commissions or certificates there to persons joining the "Patriot army" (these words written in cipher), which he signed as "commander"; brought some Poles and Germans as recruits for that service, and paid their expenses; had the command of the invaders at Windmill Point, and after the surrender of a great number of them at the mill, was found concealed in some bushes; a Roman Catholic.	Birge, of Casenovia; Mr. Stone, merchant, of Salina; W. Johnson.	Convicted, sentenced to death, and executed.
121	VAN SLIKE, MARTIN, native of Jefferson County, State of New York, labourer, aged 21 years; taken prisoner on the 13th November.		Acquitted.
122	VANWERNER, CHARLES, native of Jefferson County, State of New York, mason, aged 21 years; was taken prisoner, and brought up to Kingston at the same time as the great majority; states that he crossed in company with Garret Hicks, and was taken prisoner with him (<i>vide</i> Hicks, G.); belongs to no church; never was baptized.		Convicted and sentenced to death.
123	VAUGHAN, HUNTER C., native of the United States, gentleman; his father is in the American navy; was sworn in at Sackett's Harbour; crossed over to Windmill Point on the 12th November, 1838; was taken prisoner a day or two after the general surrender; (there is reason to believe he held a commission among the invaders.	— Birge, Prendergast, Sackett's, of Sackett's Harbour.	Convicted and sentenced to death.
124	VAN AMBER, GEORGE, born in Grenadier Island, in the St. Laurence River, aged 17 years; sworn in a Hunter last fall, in Alexandria; embarked in a schooner in Millen's Bay, and landed at Windmill Point on the 12th November; was taken on the Friday following; did belong to the Methodist church.	Amos Dutton, of Alexandria; Prendergast.	Convicted and sentenced to death.
125	WHITE, PATRICK, native of Limerick, Ireland, labourer, aged 22 years; a Roman Catholic; landed at Windmill Point on the 12th November; acted as sentry on the morning of the 13th; was taken that morning below Johnstown; says he was forced among the party, and made his escape as soon he could.	Dudley	Convicted and sentenced to death.
126	WEBSTER, SIMON, native of the State of New York, labourer, aged 20 years; on Sunday, the 11th November, embarked on board the steamer, United States; landed the following morning at Windmill Point; was taken prisoner on the 14th; says he ran away from the party before the action on the 13th; is of no church or religion.	Harris, Britain, of Green Point.	Convicted and sentenced to death.
127	WOOLCOTT, WILLIAM, native of Montgomery County, State of New York, blacksmith, aged 20 years; landed at Windmill Point on Monday, 12th November; was wounded in the action the following day; denies belonging to the party, or taking arms; belongs to no church.		Convicted and sentenced to death.
128	WINEGAR, JEREMIAH, native of the State of New York, labourer, aged 59 years; was sworn in a Hunter in October last, at Dexter; embarked on board a schooner on the 11th November, at Millen's Bay, and landed next day at Windmill Point; took part in the action on the 13th, and was taken with the rest on the 16th November; says his son was engaged to come with the expedition against Canada, and being lame, the prisoner volunteered to take his place; says he heard ministers of the Gospel encouraging the people to support the Patriot Hunters.	— Sterling, John B. Kimball.	Convicted, sentenced to death, and recommended to mercy.
129	WHITING, NATHAN, native of the State of Connecticut, labourer, aged 48 years; landed at Windmill Point on the 12th November, and was taken on the 14th some miles below; says he was forced to land with the party, and made his escape from them on Monday night; of no church or religion.	W. Johnson	Convicted and sentenced to death.
130	WRIGHT, STEPHEN S., native of Lewis County, State of New York, carpenter, aged years; landed at Windmill Point		Convicted and

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No.	Name and Particulars of Case, embracing Age, Country, &c.	Persons living in the United States accused by the Prisoner, as advising or taking part.	Decision, &c.
	on the 12th November; was wounded during the action on the 13th; says he was forced into the party by Abbey; denies taking arms, and says he was in a house up stairs, keeping out of the way, when wounded.		sentenced to death.
131	WOODBURY, BENIS, native of Massachusetts, aged 25 years; landed at Windmill Point on the 12th November; was wounded during the action of the 13th; says he was in a house cooking potatoes, and was wounded through the door; was taken prisoner on the 16th November.		Convicted and sentenced to death.
132	WILSON, EDWARD, native of the town of Pompey, Onondaga County, State of New York, cabinet-maker, aged 23 years; crossed from Ogdensburg, with two others, to Windmill Point on the 12th, about midnight; he says from curiosity, and that the boat was taken away; had a musket in the mill on the 13th, but denies using it; surrendered on the 16th; of no particular church.	Birge.	Convicted and sentenced to death.
133	WHITNEY, REILLY, native of Vermont, labourer, aged 27 years; landed at Windmill Point on the 12th November; was taken prisoner on the 16th; denies taking arms; says he hid in a cellar during the action; helped to cook for the wounded.	Woodruff of Watertown; Birge.	Convicted and sentenced to death.
134	WASHBURN SAMUEL, native of Warren County, State of New York, aged 25 years; embarked at Oswego; landed at Windmill Point on the 12th, and was taken prisoner on the 16th November; says he was sick all the time, and did not take arms; is of no particular church, but holds to the close communion baptists.	Coffin.	Convicted and sentenced to death.
135	WOODRUFF, MARTIN, native of Salina, State of New York, aged 40 years; sworn in a patriot in August, 1838; embarked at Oswego on the 11th November; had a ticket which cleared his passage; landed at the Windmill Point on the 12th November, 1838; was taken prisoner on the 16th; is believed to have been an officer among the patriots; is also said to have been sheriff of Salina; he says Von Scholtz was a hunter; he saw him at the meeting; says he did not expect to fight; denies taking arms; says all the respectable people in Salina and Syracuse were in favour of the projects.	Erasmus Stone of Salina; — Ward of Auburn.	Convicted, sentenced to death, and executed.
136	WILSON, CHARLES, native of Jefferson County, State of New York, labourer, aged 18 years; landed at Windmill Point on the 12th, and was taken prisoner on the 13th; says one Prendergast persuaded him to cross over.	Prendergast, at Cape Vincent.	Convicted and sentenced to death.
137	WAGNER, JOSEPH, native of Germany, salt-boiler, aged 22 years; was working at Salina; became one of the Patriots about 1st November, 1838; embarked at Oswego on the 11th November; landed at Windmill Point on the 12th; took part in the action of the 13th, and was taken prisoner on the 16th November.	— Richmond of Salina; & Bayley, of Watertown.	Convicted, sentenced to death, and recommended to mercy.
138	WILKIE, HONRA C., native of Jefferson County, State of New York, labourer, aged 19 years; embarked at Millen's Bay, and landed at Windmill Point on the 12th November; was taken prisoner on the 13th, in a stone house near the mill; had arms, but denies using them; a Methodist.		Convicted and sentenced to death.
139	WOODRUFF, CHARLES, native of the State of New York, labourer, aged years; landed at Windmill Point on the 12th November; took part in the action on the 13th, and surrendered with the rest on the 16th.	— Stone, postmaster of Salina.	Convicted and sentenced to death.
140	WILEY, SAMPSON, native of Watertown, Jefferson County, State of New York, apprentice, aged 20 years; was sworn in a Hunter, at Watertown, last summer; embarked at Sackett's Harbour; landed at Windmill Point on the 12th November; and surrendered on the 16th with the rest; says he left home for the purpose of meeting other young men going to the west, where he understood an attack upon Canada was to be made; denies taking arms; says he saw the action on Tuesday from the Windmill.		Convicted and sentenced to death.

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ALPHABETICAL LIST of PRISONERS taken at or near WINDSOR, in the Township of SANDWICH, in the Western District, charged with the hostile Invasion of this Province, on Tuesday, the 4th day of December, 1838, with an Abstract of their Cases, and the Decisions thereon.

No.	Name and Particulars of Case, embracing Age, Country, &c.	Persons living in the United States accused by the Prisoner as advising or taking part.	Decision, &c.
1.	ATTWOOD, ISRAEL GIBBS, a native of the town of Jefferson, in the State of New York, labourer, aged 18 years; states that he went on board the boat to see the Patriots start, and was forced to remain on board, and landed in Canada above Windsor; that he refused to join the party; was taken prisoner on the 4th of December by Mr. Ironside.		Convicted and sentenced to death.
2.	ATCHISON, JAMES MILNE, a native of Scotland, crossed over from Detroit in the steam-boat Champlain, on the morning of Tuesday, the 4th of December, 1838; states that he came over to inquire for a letter at the Post-office, and was forced to march with the Patriots, but made his escape as soon as possible; was taken prisoner that same day near Windsor.	Gen. Birce.	Convicted and sentenced to death.
3.	BEDFORD, DANIEL DAVIS, a native of the township of Hope, in the Newcastle District and Province of Upper Canada, aged 27 years, farmer; states that he has resided the last fourteen years in the township of Norwich, in the London District; was travelling from Norwich to Michigan, and was taken prisoner on the St. Clair on Thursday, the 6th, or Friday, the 7th of December, 1838; that he was out under Dr. Charles Duncombe last year, and surrendered himself, and was released on bail.		Convicted, sentenced to death, and executed.
4.	BARTLET, WILLIAM, a native of the State of New York, aged 31 years; states that he crossed with the party and marched with them to Windsor, where he saw the barracks burning; and afterwards ran into the woods, and was arrested on the 5th of December on the St. Clair.		Convicted and sentenced to death, but recommended to mercy.
5.	BARNUM, HENRY VERRELON, a native of Charlotteville Long Point, Upper Canada, aged 25 years; denies the charge alleged against him; states that he crossed over from Detroit in a small boat on Monday, the 3rd of December, 1838, and landed near Windsor; that on Monday and Tuesday he travelled towards Chatham; heard the firing of cannon on Tuesday morning; on Wednesday struck across towards Gosfield, and was arrested on Wednesday evening in company with Fero, who was with him on the whole route.		Convicted and sentenced to death.
6.	BARBER, SIDNEY, a native of Connecticut, aged 35 years; states that he crossed with the patriots on the 4th of December on board the steam-boat Champlain, and marched to Windsor, where they were fired upon by the British, which drove them into the woods; was wounded during the firing, and was arrested on the middle road on the night of the 9th of December.	Dr. Post and — Eastman, a lawyer, both of Adrian.	Convicted and sentenced to death, but recommended to mercy.
7.	CLARK, ALBERT, a native of New Hampshire, in the United States, aged 21 years, followed boating on the Ohio Canal; states that he crossed from Detroit to Canada on Sunday, the 2nd of December, 1838, in company with a man named Snow, and one Bartlett came to look at the land; owns one-half of a canal boat on the Ohio Canal; was arrested by militia men on guard on the St. Clair.		Convicted, sentenced to death, and executed.
8.	CRANDELL, OLIVER, a native of the State of New York, aged 41 years; states that he came to Detroit sometime last November, where he met Generals Brice and Putman, and was taken by them into the woods where the Patriots were assembled, where he drank some brandy, after which he can recollect nothing, till Wednesday morning, the 5th of December; was arrested on the 5th of December, 1838.		Convicted and sentenced to death.

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No.	Name and Particulars of Case, embracing Age, Country, &c.	Persons living in the United States, accused by the Prisoner as advising or taking part.	Decision, &c.
9	CUNNINGHAM, CORNELIUS, a native of the State of Vermont, aged 32 years; states that he has lived eight years in Canada, but never took the oath of allegiance; left Canada for Michigan in May last, was induced to join the Patriots through the representations of General Putnam and Elisha Hall, and crossed with the party; was arrested on the shore of Lake St. Clair on the morning after the battle, at about eight o'clock A.M.	Elisha Hall.	Convicted and sentenced to death.
10	DOAN, JOSHUA GILLAM, was born at Sugar Loaf, in Upper Canada; states that he went down to the steam-boat to see an acquaintance, and could not afterwards leave the boat; that he cut the tiller ropes to prevent them crossing, but was compelled to go with them, and that he left the party as soon as possible after landing; was arrested on the bank of the Detroit river the day after the battle, attempting to cross to the United States.		Convicted and sentenced to death.
11	FERO, JAMES DELVITT, a native of Upper Canada; states that he crossed from Detroit to Upper Canada on the 3rd of December, in company with Barnum; is not connected with the Patriots; was arrested on the 5th of December, together with Barnum.		Convicted and sentenced to death.
12	GUTRIDGE, JOHN SEYMOUR, a native of Cayuga County, in the State of New York; states that, believing the Canadians to be in a state of revolt, he crossed over with others to assist them; belonged to the Secret Society; before arriving at Windsor he ran into the woods; was promised eight or nine dollars a month and 300 acres of land.		Convicted and sentenced to death.
13	GRASSON, JOSEPH, a native of the London District, in Upper Canada; aged 19 years; states that he joined the patriots of his own accord near Ypsilanti; was promised eight dollars a month and 160 acres of land if successful; and if unsuccessful, only eight dollars a month; was sworn in as a "hunter;" crossed over with the party, and was arrested near Stoney Point.	Jsa. Phillips, — Fowler.	Convicted and sentenced to death.
14	GOODRICH, HARRISON PETER, a native of the State of Vermont; denies the charge alleged against him; says that he was going to Lockport, by way of Hamilton, to see his father; was arrested on the morning after the battle, in company with Cornelius Cunningham, on the shore of Lake St. Clair.		Convicted and sentenced to death.
15	HORTON, JOSEPH, a native of Vermont, aged 15 years; states that he went on board the boat to look for a trunk, and was forced to cross over with the party, but never acted with them; was arrested on the 4th of December, about six hours after the battle, five miles above Sandwich.		Convicted and sentenced to death.
16	HORTON, EZRA, a native of Vermont, aged 16 years; states that he went on board the boat to look for his baggage, and the boat started without his knowledge; that he left the party as soon as they landed, and, when the firing commenced, turned up the river; was arrested on the 4th of December, about six hours after the battle, five miles above Sandwich, and that, being frightened of the Indians, he tried to escape, when he was fired at and wounded by them.		Convicted and sentenced to death.
17	HAY, DAVID, a native of Scotland, aged 18 years; states that he crossed over from the States about two miles above Maldon, on the 5th Dec.; that he was brought over by a Frenchman in a canoe, and was not connected with the Patriots; was arrested on the bank of the river Detroit the day after the battle, in company with Joshua G. Doan and James P. Williams.		Convicted and sentenced to death.
18	HIGGINS, CORNELIUS, a native of Vermont, aged 17 years; states that he crossed from Detroit, on the 3rd of December, in a small boat, and landed above Windsor; that he came over to look for work; was arrested on the day after the battle, in company with Oliver Crandell and Riley M. Stewart.		Convicted and sentenced to death.

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No.	Name and Particulars of Case, embracing Age, Country, &c.	Persons living in the United States accused by the Prisoner as advising or taking part.	Decision, &c.
19	JONES, WILLIAM, a native of the State of New York, aged 29 years; states that he crossed from Detroit to Windsor, on Monday, the 3rd of December, in a small boat, and travelled towards Chatham, but missed his road and turned back toward Sandwich; was arrested eight miles above Windsor on the night of the battle, about ten or twelve o'clock, armed with a musket and cartouch box.	.	Convicted and sentenced to death.
20	KENNEDY, DANIEL, a native of the State of New York, aged 20 years; states that he crossed over from Detroit in a canoe, and landed two miles and a half above Windsor; that he came over from curiosity, about 10 o'clock on the day of the battle, to see what had been done; denies being connected with the patriots; was arrested about two miles and a half from Windsor, on the day of the battle, in the bush, in company with Charles Read.	.	Convicted and sentenced to death.
21	LYNN, HIRAM BENJAMIN, a native of the United States, aged 26 years; states that he came into Canada on board the steam-boat, in company with the Patriots; was arrested in the woods, near Stoney Point, along with Joseph Grason and Elizur Stevens; was arrested with a musket and dagger.	.	Convicted; sentenced to death, and executed.
22	MEADON, STEPHEN, a native of Albany, aged 20 years; states that he crossed over with the Patriots, on board a steam-boat, on the morning of the 4th of December, 1838; received 15 dollars from Doctor Duncombe, at Lockport, to assist him.	Gen. Birce, — Harris, Dr. Rolph, Dr. Duncombe — Fuller.	Convicted and sentenced to death.
23	MAYBEE, ORIN JOHN SNIDER; states that he crossed over with the Patriots, on board a steam-boat, on the morning of Tuesday, the 4th of December, 1838; attempted to escape, but was compelled to go forward.	.	Convicted and sentenced to death.
24	M'DODGALL, DAVID, a native of Scotland, aged 25 years; states that he crossed with Patriots, on the steam-boat, Champlain, on the 4th of December; that he is a member of the Secret Society; marched to Windsor; saw the steam-boat Thames, and the barrack on fire, and saw Doctor Hume shot.	Elisha Hall, Walter Chase, — Chapman, — from Chip- pawa; and — Wilcox, — Knowles, — Putney, & E. Crawford, of Detroit.	Convicted and sentenced to death, but recommended to mercy.
25	MORIN, MICHAEL, a native of Lower Canada, aged 31 years; states that he crossed, on the 6th of December, from Detroit to the foot of Lake St. Clair; and was arrested that same day; denies being connected in any way in the invasion.	.	Convicted and sentenced to death.
26	MARSH, ROBERT, a native of the State of New York; denied being connected with the Patriots; and refused to make any further statement.	.	Convicted and sentenced to death.
27	NOTTAGE, WILLIAM, a native of Halifax, Nova Scotia; states that he went on board the boat for the purpose of being brought over to Canada, and that when the Patriots took possession of the boat they asked him to take arms, which he refused; was arrested on the shore of Lake St. Clair, within 12 miles of the Thames.	.	Convicted and sentenced to death.
28	PUTNAM, GEORGE, a native of the London District, in Upper Canada; states that he crossed with the Patriots, on board the boat, on the 4th of December; that he is a member of the Secret Society, and was induced to join by his uncle, General Putnam.	.	Convicted and sentenced to death, but recommended to mercy.
29	PURLEY, THOMAS, a native of St. John's, New Brunswick; states that he has become a citizen of the United States; was induced to join the Patriots from the statements he heard concerning unsettled state of Canada; was arrested about 11 o'clock, A.M., on the 5th of December, within about 14 miles of Sandwich; in bed, with his clothes on.	.	Convicted and sentenced to death.

No.	Name and Particulars of Case, embracing Age, Country, &c.	Persons living in the United States accused by the Prisoner, as advising or taking part.	Decision, &c.
30	READ, CHARLES, a native of England, aged 17 years; states that he went on board the boat, as he heard she was going up the River Thames; that he was forced off the boat when she reached the Canada shore; that he followed the party about three quarters of a mile towards Windsor, and then turned off towards the woods; and was arrested that evening two miles and a half from Windsor, along with Daniel Kennedy.	• •	Convicted and sentenced to death.
31	SNOW, SAMUEL, a native of Massachusetts, aged 38 years; states that he crossed with the Patriots, on Tuesday, the 4th of December, 1835, from Detroit to Windsor; saw the barrack on fire, and heard the firing; when he went into the woods; is a member of the Lodge of "Hunters;" was arrested on Thursday, on the River St. Clair.	Mr. Birce, a lawyer at Portage, Ohio.	Convicted and sentenced to death.
32	STEVENS, ELIZUR, a native of the United States; states that he is a member of the Secret Society; was induced to join by a promise of 160 acres of land, and eight dollars per month; came over in the steam-boat with the Patriots.	• •	Convicted and sentenced to death.
33	SWEET, ALVIN BURROUGHS, a native of the State of New York, aged 22 years; states that he crossed in the steam-boat with the party, having taken a passage for Bear Creek, but was forced on shore near Windsor; that he went with them towards Windsor, and saw the barrack burning; but as soon as the firing commenced turned up the river, about six or seven miles, when he was arrested along with Israel Awood.	• •	Convicted and sentenced to death.
34	SHELDON, CHAUNCEY, a native of Vermont, aged 52 years; states that he came over on the boat with the Patriots, having business in Canada, but that he refused to join them; followed the party towards Windsor, and heard the firing; when the Patriots retreated, turned up the river, and was arrested about five miles from Windsor.	• •	Convicted and sentenced to death.
35	SPRAGGE, JOHN, a native of the State of New York, aged 28 years; states that he crossed over in the steam-boat, Champ-lain, with the Patriots, on the 4th of December; that he was intoxicated, and dragged on board; that when they landed he sat down on a log for about two hours, and was arrested by a Frenchman.	• •	Convicted and sentenced to death.
36	STEWART, RILEY MONSON, a native of Massachusetts, aged 31 years; states that he crossed over from Detroit to Canada in a small boat, on the 4th of December, to look for work; was arrested on the 5th of December, in company with Oliver Crandwell and Cornelius Higgins.	• •	Convicted and sentenced to death.
37	SIMMONDS, JOHN HENRY, a native of the State of New York, aged 23 years; states that he crossed over to Canada a week before the battle, to look for work; was arrested about eight o'clock on the night of the 5th of December, on a back road near the mouth of the Thames; in company with William Nottage.	• •	Convicted and sentenced to death.
38	TYRELL, JOHN B., a native of Malahide, in Upper Canada; states that he is a member of the Secret Society; crossed over to Canada with the brigands, on the 4th of December; that when they landed orders were given to shoot any one who attempted to escape, and he was forced to march with them; but, as soon as he could, he deserted from them.	• •	Convicted and sentenced to death.
39	TIFFANY, ABRAHAM, a native of the State of New York, aged 48 years; states that he was travelling through Canada to Michigan; that when he got near Sandwich, was advised to turn back, as he might meet with difficulty; that he turned back, and was arrested as he was going to Gosfield.	• •	Acquitted.
40	WOODBURY, TRUMAN, a citizen of the United States; states that he crossed over on board the steam-boat with the party, and tried to remain on board, but was forced off by Colonel Cunningham; deserted the party about half an hour after crossing.	• •	Convicted and sentenced to death.

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No.	Name and Particulars of Case, embracing Age, Country, &c.	Persons living in the United States accused by the Prisoner, as advising or taking part.	Decision, &c.
41	WHITNEY, ROBERT, a native of the State of New York; states that he was hired to cook for a company that was going hunting; that he crossed over to Canada with the party, but as soon as he found out their object he endeavoured to get back, but could not; when the party landed, turned up the river, and travelled about ten miles, when he was arrested.	Jeremiah Fuller, a Justice of the Peace at Cleveland, Ohio.	Convicted and sentenced to death.
42	WILLIAMS, JOHN CHESTER, a native of Vermont; states that he came over from Detroit to Canada with a body of armed men, on board a steam-boat, to assist the Patriots in Canada; that he did not march to Windsor with the party.	.	Convicted and sentenced to death.
43	WOODMAN, ELIJAH CROKER, a citizen of the United States; states that he has lived in Canada about six years, but never took the oath of allegiance; went on board the boat, as he heard she was going to Black River, in the State of Michigan; and was forced off when she anchored on the Canada side; that he was arrested on the road towards Chatham, on the 5th of December.	.	Convicted and sentenced to death.
44	WILLIAMS, JAMES PETER, a native of the State of New York, aged 24 years; states that he has been in Canada since the 12th or 13th of November, travelling about looking for an uncle, named Joseph Williams; was arrested between Malden and Sandwich, on the morning after the battle, in company with John G. Doan; endeavouring to cross to the United States.	.	Convicted and sentenced to death.

(Copy.)

Enclosure 6 in No. 4.

Executive Council Chamber,
Toronto, Monday, 4th February, 1839.

Present.—The Honourable Robert Baldwin Sullivan, Presiding Councillor; the Honourable William Allan; the Honourable Augustus Baldwin; the Honourable William Henry Draper; and the Honourable Richard Alexander Tucker.

To his Excellency Sir GEORGE ARTHUR, K.C.H., Lieutenant-Governor of the Province of Upper Canada, Major-General Commanding Her Majesty's Forces therein, &c. &c. &c.

May it please your Excellency,

THE Executive Council, in obedience to your Excellency's commands, have carefully considered the important question which now arises, as to the disposal of the cases of the remaining prisoners, convicted under the Act of the Provincial Parliament, 1st Vic., cap. 3.

The Executive Council have hitherto placed, as much as possible, out of view the great difficulties with which this question is surrounded, because they wished to advise your Excellency in the selection of criminals for capital punishment, giving to the side of humanity and mercy all the weight which regard to the public safety permitted, without bringing forward any considerations of expediency or policy which might in any way countervail them.

Had the Council taken the difficulties, which now force themselves upon their notice, into consideration, and permitted them to have weight in their decisions, respecting the selections for capital punishment, economy, and perhaps sound policy, might have guarded against these embarrassments, by infliction of the punishment of death on a much larger portion of the prisoners, and by free pardon or dismissal of the remainder. Thus the whole, by a simple and inexpensive process, would have been disposed of; the ends of justice would have been satisfied, and the public security provided for. But under present circumstances, the humane policy of the Imperial Government—the utter defeat which has attended the attempts of the invaders—and the present security afforded by the large armed force embodied in the province—joined to the repugnance which the council feel, and which they know your Excellency entertains, to the taking of human life, have left to be disposed of by the government, a number of criminals who have been spared from capital penalty, but whom it would be unsafe and unjust to pardon altogether.

One of the great obstacles to a free pardon of the whole of the criminals is, the certainty which now exists of the continuance of hostile intentions on the part of the class of American citizens to which the prisoners belong. If the government of the United States could, or would, assure Her Majesty's territory against a renewal of invasion—if the leading invaders could find no refuge in the United States—if the movements and machinations of the enemy were strictly watched, suppressed and punished in the country in which they arise—the council might consider the war at an end, and, satisfying itself with the punishment of the

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chief criminals, have discharged others, who, however guilty, would have been innoxious for the future. This province had no interest in the individual amendment of the prisoners, and could not be called upon to bear the expense and inconvenience of inflicting secondary punishments, either for the sake of the parties themselves, or for their fellow-citizens. If the prisoners were wicked and demoralized, so long as they would be kept out of the Canadas, it would signify little to the people of Canada what their moral degradation might be, and, therefore, when public security should be provided for, no inducement but that of revenge, which ought never to influence public measures, would remain, for this government troubling itself, either with the custody of the prisoners or with their punishment; and the sooner they were got rid of, the sooner would the province be restored to its ordinary state of tranquillity.

Allowing, however, the American government to be sincerely desirous of preserving peaceable relations between its border citizens and the subjects of Her Majesty in Canada—the denunciations of the frontier press—the threats of secret assassination of Canadian loyalists—reports of new organizations of patriot associations—and, above all, the protection and encouragement afforded in the United States to the leading criminals, who have repeatedly violated the laws of both countries, by invading Canada—show, beyond dispute, that the province is indebted for its present safety solely to the presence of a large regular and militia force, and by a cordon of military guards along the whole extent of frontier. Such being the case, it would seem weak and abortive policy to fight, defeat, and capture enemies in the field, and, after a great expense of blood and treasure in the operation, to let them return to the very place in which they might commence their former course anew, with the additional instigators of revenge and retribution for their former defeat and sufferings.

Were the American government to consider the protection afforded to fugitives for political offences forfeited when abused by repeated aggression upon the neutrality of the United States, and by repeated hostile organization within the American territory against a neighbouring friendly power, and a consequent endangerment of the peace of the two nations—were it positively understood that such men as Johnson, Birge-Birce, and Mackenzie, would be seized and delivered up as having violated the refuge afforded them, there would be no objections to the release of hundreds of obscure criminals—because we might be assured that if certain punishment awaited the leaders, notwithstanding their escape across the border, the whole conspiracy would fall to the ground for want of leaders, as none would be found to place their lives at the chance of a single invasion, upon the failure of which certain and condign punishment would await them.

In the absence of this power of punishing the leaders, who usually are careful to keep themselves in safety within the United States, or to retreat there upon the first prospect of danger, this Government is bound to protect the province by retaining dangerous, though subordinate, prisoners; and it also has to bear all the burden of producing a moral, deterring, and intimidating effect upon the hostile portion of the United States citizens on the frontier, by carrying into effect extensive secondary punishments upon those who fall into our hands; this being, in fact, the only means within the power of the Canadian government of deterring the inimical American citizens, who intend to invade the province, from carrying their intentions into effect, unless the burdensome and inconvenient one, which is also necessary, in maintaining a large military force in the province.

Assuming that it would not be safe, or politic, to dismiss from imprisonment the whole of the remaining criminals, and, moreover, that it is necessary for the sake of deterring example to visit a considerable portion of them with punishment, the next consideration which forces itself upon the Council is, the mode and extent of commuted penalty which is to be awarded.

Within the province it may be said there are no means of carrying secondary penalty into effect. The only prison in which the convicts could be placed to labour, or even for secure custody for any length of time, is the public Penitentiary. That building is now full of prisoners for strictly civil offences, and a few traitors of a particular class; and, moreover, much of evil, if not of danger, appears likely to arise from the imprisonment within its walls of the class of offenders whose cases are now under consideration.

It would seem at the first glance to be a very appropriate punishment to put the convicts to hard labour on the public works or fortifications; but the extent of the frontier, and its proximity to the places of imprisonment, offers too many opportunities for escape, or rescue, to make this course advisable.

The only remaining method of punishment appears to be transportation to one of Her Majesty's penal colonies; and the Council are led to the conclusion, that there can be no medium adopted between this course and a free pardon.

One great objection to transportation of criminals in large numbers is, the expense, which your Excellency is aware this province can ill afford. Large sums have been expended in the transportation of prisoners, and the Council feel the greatest reluctance in advising a recourse to the punishment of transportation, and thereby adding to the burdens which the state of disquiet in which the province has been latterly placed have imposed upon the country.

The Council hope they may be excused for suggesting, that, possibly, upon your Excellency's application, the removal of the convicts to England, on the way to their destination, may be accomplished by means of returning transport-vessels or ships of war, and that the heavy expense, amounting hitherto to 20% sterling, for each prisoner, may be avoided.

With these preliminary observations the Council proceed to advise your Excellency, as respects the distribution of the prisoners into two classes—one for pardon, and the other for transportation to one of Her Majesty's penal colonies.

The Council commence with the class which, in their opinion, may, with comparative safety,

No. 4.
Sir George Arthur,
to Lord Glenelg.
5th February, 1839.
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No. 4.
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be set at liberty. These consist of persons of 21 years of age and under, who have been selected on the grounds of inexperience and a supposed immaturity of judgment, and of individuals who have been recommended by the court-martial to the merciful consideration of the government. The former division comprises 58, and the latter 22 persons, making an aggregate of 80, to whom the Council respectfully recommend that a free and unconditional pardon should be granted; after deducting these 80 from the whole number of convicts now in confinement, there will remain 85 individuals who, for the reasons already detailed, the Council conceive ought to be punished with transportation.

All which is respectfully submitted.

(Signed) R. B. SULLIVAN, P. C.

(No. 32.)

No. 5.

COPY of a DESPATCH from Lieutenant-Governor Sir GEORGE ARTHUR, K.C.H.
to LORD GLENELG.

My LORD,

Toronto, Upper Canada, 18th February, 1839.

No. 5.
Sir George Arthur
to Lord Glenelg.
18th February, 1839.

In transmitting to your Lordship the accompanying documents respecting a prosecution instituted in one of the courts of this province against an individual named Howland Hastings, for an assault committed by him upon a British subject in the city of Detroit, State of Michigan, I have to express my very deep regret at the occurrence; and lament that the Justices who composed the Court of Quarter Sessions for the Western District gave such strong evidence of their total want of legal knowledge.

I am sorry to be thus thrown upon defending or explaining our proceedings in this or any other matter, wherein we are manifestly wrong, but I do not apprehend any serious evil results, and the full explanation which I have afforded to the American authorities will, I trust, prove satisfactory.

From the perusal of my Despatch to Mr. Fox, forming one of the enclosures, your Lordship will perceive that, treating on this matter, I have availed myself of the opportunity to bring under his Excellency's notice two cases wherein the grievance is reversed, and we are ourselves the complainants.

The state of public feeling at Sandwich and Windsor continues, I am sorry to say, to be very excited.

I have, &c.

The Right Hon. Lord Glenelg,
&c. &c. &c.

(Signed) GEO. ARTHUR.

Enclosure in No. 5.

Documents forming the Enclosure in Sir GEORGE ARTHUR'S Despatch, No. 32, of the 18th February, 1839.

- Enclosure in No. 5.
- No. 1. Mr. Fox to Sir G. Arthur, dated 1st February, 1839.
 2. Sir G. Arthur to Mr. Fox, 15th Feb. 1839.
 3. Letter from Governor Mason, 11th Jan. 1839.
 4. Reply from Lieutenant-Governor, 19th Jan. 1839.
 5. Mr. Prince's Report, 12th Jan. 1839.
 6. Mr. Macaulay to Mr. Prince, 24th Jan. 1839.
 7. Attorney-General's Opinion, 22nd Jan. 1839.
 8. Mr. Macaulay to the Sheriff of the Western District, 24th Jan. 1839.
 9. Mr. Prince to Mr. Macaulay, 2nd Feb. 1839.
 10. Mr. Macaulay to Attorney-General, 9th Feb. 1839.
 11. Attorney-General to Mr. Macaulay, 9th Feb. 1839.
 12. Mr. Macaulay to Mr. Prince, 12th Feb. 1839.
 13. Mr. Macaulay to the Sheriff of the Western District, 12th Feb. 1839.
 14. The Lieutenant-Governor to Governor Mason, 14th Feb. 1839.
 15. Mr. Macaulay to the Sheriff of the Western District, 15th Feb. 1839.
 16. Mr. Macaulay to C. Baby, Esq., Clerk of the Peace, Western District, 15th Feb. 1839.
 17. Memorial of Mr. O'Reilly.
 18. Ditto of Mr. Duggan.

(Copy.)

No. 1.

Washington, 1st February, 1839.

I have the honour to transmit to your Excellency the copy of a letter addressed to me, by direction of the President, by the United States Secretary of State, enclosing a paper received from the Executive of Michigan, which purports to be the copy of a presentment of the Grand Jury of Upper Canada, against a person of the name of Howland Hastings, for an

No. 1.

assault committed in the city of Detroit in said State of Michigan, and requesting an explanation upon the subject of that paper. I shall feel obliged to your Excellency to furnish me with such information as it may be in your power to give upon the subject. The facts of the case are not very intelligibly stated in the enclosed papers. If both the parties are British subjects, I presume that the action for assault may be brought in a Canadian court of justice, although the said assault may have been committed within the confines of the United States. If, on the contrary, one of the parties be an American-born citizen, there may be found to have been some irregularity in the proceeding.

His Excellency Major-Gen. Sir George Arthur, K.C.H., I have, &c.
&c. &c. &c. (Signed) H. S. FOX.

No. 5.
Sir George Arthur
to Lord Glenelg.
15th February, 1839.
Enclosure in No. 5.

(Copy.)

SIR, Department of State, Washington, 28th January, 1839.

By the President's direction I have the honour to transmit to you the copy of a paper recently received at this department from the Governor of the State of Michigan, purporting to be the copy of a presentment of the Grand Jurors of the Western District of the province of Upper Canada, against Howland Hastings, for an assault and battery, committed at Detroit in said State, on the 1st of December last.

Although some of the public journals of the day assert that there has been, in a tribunal of Canada, a trial, condemnation, and sentence, of a person charged with an offence committed at Detroit, this communication is now made to you in the hope that you may have it in your power, by an application in the proper quarter, to procure and furnish to me, without needless delay, a satisfactory explanation of the proceedings in question, the President being utterly unable to persuade himself that the judicial tribunals of Her Majesty's Canadian provinces can have asserted a right to try offences committed within the jurisdiction of the United States.

I am, &c.
(Signed) JOHN FORSYTH.

His Excellency Henry S. Fox,
&c. &c. &c.

(Copy.)

Western District, to-wit.—The jurors for our Lady the Queen, upon their oaths present, that Howland Hastings, late of the township of Sandwich, in the Western District aforesaid, labourer, on the first day of December, in the second year of the reign of our Sovereign Lady Victoria, with force and arms, at the city of Detroit, that is to say, at the township aforesaid, in and upon one Samuel Wilcox, then and there did strike, beat, wound, imprison, and ill-treat, and other wrongs to the said Samuel Wilcox, then and there did to the great damage of the said Samuel Wilcox, and against the peace of our Lady the Queen, her crown and dignity.

I certify the above to be a true copy of the original filed of record.
(Signed) W. R. WOOD, D. C. P.
Clerk of the Peace's Office, Sandwich, Western District.
10th January, 1839.

(Copy.)

No. 2.

SIR, Government House, Toronto, 15th February, 1839.

In acknowledging the receipt of your Excellency's letter of the 1st instant, enclosing the copy of a communication to you from the United States Secretary of State, respecting a prosecution instituted in one of the courts of this province against a person of the name of Howland Hastings, for an assault committed by him in the city of Detroit, in the state of Michigan, I have the honour to transmit you herewith several documents relating to this "untoward," and, I may add, very improper proceeding on the part of the General Quarter Sessions for the Western District of Upper Canada.

From the perusal of these papers, your Excellency will discover that an order for the liberation of Hastings was despatched by me to the Sheriff of Sandwich, the moment I had ascertained from the report of the Attorney-General that the sentence pronounced on Hastings was illegal; and you will perceive that the subsequent detention of this individual has been occasioned by his inability to procure security for his keeping the peace towards Colonel Prince, who has formally preferred a charge against him, upon oath, of a design against his life.

Your Excellency will easily conceive that occurrences of this kind cause me the greatest anxiety, and you will at the same time understand how difficult, or rather how impossible, it is to prevent them altogether, under the extraordinary excitement of feelings to which the atrocious events of the past year have naturally given rise. To allay this excitement, by inspiring the people of Upper Canada with due confidence in the protection of Government, and to maintain the "vantage ground" we have gained by our moderation and forbearance, under circumstances of the most unprovoked aggression, have, I can assure your Excellency, been the objects of my constant and unceasing efforts; and though, as in the case of Hastings, some things have occasionally taken place which have given

No. 5.
 Sir George Arthur
 to Lord Glenelg.
 18th February, 1839.
 Enclosure in No. 3.

me much pain, it yet affords matter of congratulation that they have not been more numerous.

I avail myself also of this opportunity of drawing your Excellency's attention to two representations which have been addressed to me by Mr. O'Reilly and Mr. Duggan, the former a magistrate, and the latter a militia officer of this province, complaining of the treatment they have most unjustly experienced whilst on visits to the neighbouring states, in consequence of their conduct in the faithful discharge of their professional duties.

These cases obviously differ in a material point from the case of Howland Hastings, and I do not, consequently, by any means offer them to your Excellency as a complete "set off" against the irregularity of the proceedings of the General Quarter Sessions of the Western District; but they will at least lessen surprise that even a British court of justice should have been betrayed into a very glaring error, under a sentiment of strong indignation pervading all the members of the court at the annoyances which are repeatedly practised, and in every possible variety of form, on the peaceable and unoffending inhabitants of this country.

In forwarding you the statements of Messrs. O'Reilly and Duggan, it is merely my wish to make your Excellency acquainted with the facts detailed by them, and I leave it entirely to your Excellency's judgment to make use of them as you may deem proper.

His Excellency H. S. Fox.
 &c. &c. &c.

I have, &c.
 (Signed) GEO. ARTHUR.

(Copy.)

No. 3.

For Copy
 of Indictment, vide
 Enclosure No. 1.

SIR,

Executive Department, Detroit, January 11th, 1839.

I ENCLOSE to your Excellency a copy of an indictment of the Grand Jurors of the Western District of the Province of Upper Canada, against Howland Hastings, for an assault and battery committed "AT THE CITY OF DETROIT," against the peace and dignity of the Queen of Great Britain.

This case seems to be unconnected with the unhappy disturbances which have existed on our frontier, and I feel assured that a proceeding so totally at variance with every principle of English law, will receive the prompt interference of your Excellency.

Hastings is a resident of this state, and I have to request that your Excellency, under the circumstances presented, will order his discharge.

I have, &c.
 (Signed) S. T. MASON.

Sir George Arthur, K.C.B., &c. &c. &c.

(Copy.)

No. 4.

SIR,

Brentford, January 19th, 1839.

I HAVE the honour to acknowledge the receipt of your letter of the 11th instant, with its inclosure, but as it embraces a legal subject, it is necessary that I submit it for the opinion of the law-officers of the crown, and which I will do the instant I arrive at Toronto.

I beg leave, at the same time, to assure you of my intention to treat the subject with every consideration and justice in my power.

I have, &c.
 (Signed) GEO. ARTHUR.

His Excellency Governor Mason,
 &c. &c. &c.

(Copy.)

No. 5.

May it please your Excellency,

Sandwich, Upper Canada,
 12th January, 1839.

FOR the information of your Excellency, I beg leave, as chairman of the quarter-sessions, to state that Howland Hastings (on whose behalf you received this day some application from Mr. Mason the governor of Michigan), was tried at our last quarter-sessions of the peace, for an assault on one of my volunteers, named Wilcox; and being convicted, was sentenced to six months imprisonment; and the facts, as stated by the evidence, are as follows:—

A few days after the battle at Windsor, Wilcox (who is a very excellent and respectable young man) happened to have business at Detroit, and he met in a house there the prisoner Hastings and four or five other men, who professed themselves to be "Patriots," and who were reviling the British, as usual, and boasting how many they had destroyed at Windsor. He listened to them, when the prisoner at length got into conversation with him, and having ascertained that he came from this side, their conversation turned upon me. The prisoner after some time said to Wilcox, *that if he would bring to Detroit Mr. Prince's head he should receive 800 dollars for it, and 100 if he would bring Mr. Prince* offer, when the prisoner clapped him upon the shoulder, called him a "damned tory," and said "You are my prisoner," and he remained a prisoner in the house for upwards of an

On Christmas Day the prisoner made his appearance in *Sandwich*, and was taken up by Captain Thebo and a file of men, on suspicion of being a spy from Michigan, or a person of worse character. He could not give any account of himself, and I have no doubt whatever, and the general opinion was and still is, that he came over for some hostile purpose against our people or myself. After he had been in custody a short time, Wilcox suddenly came in, and immediately recognized him as the same man who had assaulted and imprisoned him (Wilcox) in Detroit about three weeks before, and who had offered a reward for myself, and he went before a magistrate (Major Girty), and made oath of the facts, and the prisoner was committed to *Sandwich* gaol to take his trial for the assault at our last sessions. The prisoner cross-examined Wilcox with great adroitness: he did not take any objection to the jurisdiction of the Court, or its power to try him; nor did Mr. William Elliott, who was present, and who *over alive*. This was said seriously and in earnest. He indignantly remarked upon the hour, when he escaped from them. He swears that he was in bodily fear the whole time. The above is the substance of the evidence:

conversed with him at his trial, though not ostensibly his counsel. His only defence was, that Wilcox had mistaken his person, for that he had never seen him; Wilcox, in his life until he was taken into custody at *Sandwich* on Christmas Day. In charging the jury, I particularly directed them to dismiss altogether from their minds the offer of a reward for my head, and that the only question for their consideration was whether an assault had or had not been committed by the prisoner upon Mr. Wilcox. They returned a verdict of guilty in less than three minutes; and the Court sentenced the prisoner to six months imprisonment.—I, of course offering no opinion as to what the sentence ought to be.

The general idea in Detroit (and so the papers express) is, that the prisoner was tried and imprisoned for having offered a reward for me, dead or alive. That of course is utterly erroneous; and, should your Excellency or the Attorney-General desire it, I will send a copy of the evidence which I took down fully at the trial. Indeed, I can send to Mr. Hagerman the original minutes if he wishes to peruse them.

The foregoing is a correct statement of facts, and I do hope that your Excellency will not authorize the discharge of his prisoner (should you be advised to discharge him) until he has at least given ample security to keep the peace for a limited time towards all Her Majesty's subjects, and especially towards myself, for whose head he has offered a large pecuniary reward. I think that your Excellency and Her Majesty's officers will see that we are, at least, entitled to that protection. Your Excellency cannot fail to observe how tenacious the Americans are of the liberty of one of the meanest of their citizens, while their hands of murderers and brigands, who, in broad day and in the face of Detroit, commit all sorts of atrocities on us, are allowed to stalk abroad with impunity, unnoticed and unmolested,—by them the professed advocates of liberty and rights of man. Indeed, the very prisoner, whom they now interfere for with your Excellency, has been proved to be one of the brigand crew.

I trust that your Excellency will protect us, because I have no doubt whatever that the prisoner is an assassin. In conclusion, I take the liberty of suggesting most respectfully, that it may be well to send this letter to Her Majesty's Attorney-General at Toronto.

I have, &c.

(Signed) JOHN PRINCE.

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

(Copy.)

No. 6.

Government-House, 24th Jan., 1839.

WITH reference to your report, as chairman of the quarter-sessions of the western-district, dated 12th instant, upon the case of Howland Hastings, convicted by the court at *Sandwich* of an assault at the city of Detroit, in the state of Michigan, upon the person of Samuel Wilcox, and sentenced to six months imprisonment, I am commanded to transmit to you a copy of the opinion of the Attorney-General to whom the case has been submitted; and to inform you that as that officer has declared the prosecution illegal, his Excellency has necessarily directed the discharge of Hastings by the sheriff.

The Lieutenant-Governor does not consider it requisite to send any directions respecting the demand of security for good behaviour, which you are of opinion that Hastings should give, as a proceeding of that nature can only be the result of a complaint by the party apprehending injury before a justice of the peace.

I have, &c.

To John Prince, Esq.
Chairman, Quarter Sessions, *Sandwich*.

(Signed) JOHN MACAULAY.

(Copy.)

No. 7.

SIR, Attorney-General's Office, Toronto, 22nd Jan., 1839.

WITH reference to the case of Howland Hastings, convicted at the court of general quarter-sessions for the western district, of an assault and battery committed at the city of Detroit in the United States of America, on one Samuel Wilcox, and upon the legality of which conviction I have been desired by his Excellency the Lieutenant-Governor to state my

I.

No. 5.
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to Lord Glenelg.
18th February, 1839.
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to Lord Glenelg.

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opinion, I have the honour to report; that in my opinion, the prosecution of this person upon the charge mentioned was altogether illegal, and that he should be discharged from any punishment awarded in consequence of his conviction.

It appears from Mr. Prince's letter to his Excellency the Lieutenant-Governor, of the 12th instant (herewith returned), that there was strong reasons for suspecting that Howland Hastings meditated personal violence towards that gentleman,—if the justices of the peace before whom he may be brought should be of opinion that there is danger of his being guilty of any breach of the laws when discharged, it will be their duty to exact from him reasonable security that he will keep the peace towards *all* Her Majesty's subjects (for a stated period) before they set him at liberty.

I have, &c.

(Signed)

CHAS. A. HAGERMAN,

Attorney-General.

The Hon. John Macaulay, Civil Secretary,
&c. &c. &c.

(Copy.)

No. 8.

SIR,

Government-House, 24th January, 1839.

WITH reference to the report made on the 12th instant by John Prince, Esq., chairman of the quarter-sessions of the western district, upon the case of Howland Hastings, who was recently convicted at Sandwich of an assault and battery committed upon Samuel Wilcox at the city of Detroit, in the state of Michigan; and who was thereupon sentenced to six months imprisonment in the district gaol, I am commanded to transmit to you a copy of the report of the Attorney-General, by which you will learn, that in the opinion of that officer the prosecution was contrary to law.

His Excellency therefore considers that Howland Hastings should not be subjected to any punishment in consequence of this illegal prosecution, and directs his discharge from your custody, unless he should be detained under some other legal proceeding.

I have, &c.

(Signed)

JOHN MACAULAY.

To the Sheriff of the Western District.

(Copy.)

No. 9.

SIR,

Sandwich, 2nd February, 1839.

ON my return from Malden yesterday, I found your letter of the 24th ultimo, enclosing a copy of the Attorney-General's opinion upon the case of *Howland Hastings*, and that officer having reported his opinion to be against the legality of the prosecution, it appears that his Excellency has, upon the strength of that opinion, directed the discharge of Hastings by the sheriff; and I presume that the necessary order for that purpose is contained in the letter forwarded by you to me at the same time for the delivery to the sheriff. But before I deliver it I feel it due to myself, as well as others who have become "marked men" by reason of our sacrifices and exertions in the cause of loyalty, to state the fact, that on the 17th ultimo I went before Joseph Woods, Esq., J.P.W.D., and proved to that magistrate's entire satisfaction that Hastings did on or about the 8th of December last offer to one Samuel Wilcox 800 dollars for my head, or 1000 dollars for my body alive, if brought over to Detroit; that Hastings declared they would have me at any rate; that he belongs to the people called "Patriots," and that I believed his meaning to be that he or his gang would attempt to take or murder me; that on the 25th of last December he was arrested in the town of Sandwich upon suspicion of being a spy and a person of dangerous character from Michigan, and arrived here for some hostile and illegal purpose; and that from the facts above stated I am apprehensive that he will do me some bodily harm, and I therefore prayed that he might be required to find sufficient sureties to keep the peace and be of good behaviour towards myself, and the deposition concluded in the usual form.

I then accompanied Mr. Woods to the gaol, and there he read over the deposition to Hastings, and swore me to it in his presence. He did not deny the allegations. He has not been able to find sureties, and a warrant under Mr. Wood's hand and seal has been lodged against him in the gaoler's hands for want of sureties that he will appear at our next general quarter sessions, and will be of good behaviour, and will keep the peace towards all Her Majesty's subjects, and especially towards myself in the meanwhile.

With this information before his Excellency, I beg leave to inquire whether the prisoner is now to be discharged or not.

I have, &c.

(Signed)

JOHN PRINCE

The Hon. John Macaulay,
&c. &c. &c.

(Copy.)

No. 10.

DEAR SIR,

Government House, 9th February, 1839.

By his Excellency's direction I enclose you a letter from Colonel Prince, dated the 2nd instant, in which that gentleman states that he has withheld the letter to the sheriff directing the liberation of Hastings, while at the same time that individual has been informed against before a magistrate, and called on to give security for good behaviour, and for the keeping of the peace.

The withholding of the letter to the sheriff was an act, which under the peculiar circumstances of the case, was not anticipated; but a duplicate can, of course, be immediately forwarded to the sheriff.

The object of my present note is to request that you will report for his Excellency's information upon Colonel Prince's inquiry, "whether the prisoner is now to be discharged or not."

With reference to this question, I have to state that the sheriff has been directed to liberate Hastings, only so far as regards the sentence of the court of quarter sessions.

The order to the sheriff was sent under cover to Mr. Prince, for the purpose of ensuring him an opportunity of compelling the prisoner, before he could escape to Michigan, to give security for good behaviour; which object might have been effected without withholding the letter in the manner stated in Colonel Prince's communication.

To the Attorney-General,
&c. &c. &c.

(Signed) I am, &c.
JOHN MACAULAY.

No. 5.
Sir George Arthur
to Lord Glenelg.
18th February, 1839.
Enclosure in No. 5.

(Copy.)

No. 11.

SIR, Attorney-General's Office, Toronto, 9th Feb. 1839.

I HAVE the honour to acknowledge your letter of this day enclosing a communication from Colonel Prince, in which he informs you that he had detained the order sent to him addressed to the Sheriff of the western district, directing the liberation of Howland Hastings from imprisonment, so far as respects the sentence of the court of Quarter Sessions, until he should be informed whether it was intended that Hastings should be discharged, notwithstanding a warrant had been lodged for his detention until he found sureties to keep the peace upon grounds detailed in Col. Prince's letter, and requesting me to report for his Excellency's information, whether the prisoner is now to be discharged or not.

It is to be regretted, that Col. Prince withheld the letter which was placed in his hands directed to the Sheriff; had he delivered it he would have discovered that it was not the intention of his Excellency to interfere with the proceedings of the magistrates upon any other accusation than that for which he had been illegally indicted and convicted, and I am of opinion, that his Excellency should still limit his interference to that matter.

It appears to me, from the statement made by Col. Prince, that he was justified in making the affidavit he represents having made, and that the magistrate applied to, was right in requiring sureties for the peace from Hastings, and that those sureties may still be required of him before he is finally liberated. Notice being given to him to that effect, when the order of his Excellency for his discharge upon the conviction is communicated to him.

(Signed) I have, &c.
C. A. HAGERMAN, Attorney-General.
The Hon. John Macaulay, Civil Secretary,
&c. &c. &c.

(Copy.)

No. 12.

SIR, Government House, 12th February, 1839.

I HAVE had the honour to receive and lay before the Lieutenant-Governor your letter of the 2nd instant, in which you state the circumstances under which on the 17th instant, you made complaint to Mr. Woods, a Justice of the Peace for the western district, against Howland Hastings, and demanded that he should give security to keep the peace and be of good behaviour; and you proceed to enquire, before you deliver to the Sheriff the order for his discharge from custody, on account of the sentence of the court of Quarter Sessions, whether with this information under his notice, his Excellency will consent that the prisoner be discharged or not.

In acknowledging this communication, I have in the first place, to express the concern with which his Excellency has learned that you have thought it necessary to withhold the letter for the Sheriff, directing the prisoner's discharge, which had been put under cover to you solely for the purpose of enabling you to learn the time, when the sentence of the court of Quarter Sessions (pronounced in opposition to law) upon Howland Hastings, would cease to have effect, for if you had caused that letter to be duly delivered to the Sheriff, you might have ascertained that the Lieutenant-Governor had no intention of interfering with the proceedings of the magistrates upon any other accusation against the prisoner, than that which was the ground of his being illegally convicted, and sentenced to six months imprisonment by the court of Quarter Sessions.

I am next directed to acquaint you, that his Excellency continues to adhere to the view which he was originally induced to take of the procedure in the case of Hastings, and that I have, in conformity to his Excellency's pleasure, sent to the Sheriff a duplicate of the letter, which you have retained in your possession.

The course taken on the complaint you made to the magistrates, of threats having been made by Hastings, that he would use violence against you, appears perfectly regular, and their worships will doubtless consider it their duty to demand the production by that person, of sufficient securities for his good conduct, before they will finally consent to his liberation.

John Prince, Esq.,
&c. &c. &c.
Sandwich.

(Signed) I have, &c.
J. MACAULAY.

No. 5.
 Sir George Arthur
 to Lord Glenelg.
 18th February, 1839.
 Enclosure in No. 5.

(Copy.)

SIR,

Having reason to believe that my original letter, dated 24th ult., has failed to reach you, I have now the honour to transmit you a duplicate, and to request that you will conform thereunto.

It appears that Howland Hastings has been subjected to another proceeding by a justice of the peace, on the information and complaint of Colonel Prince. It is therefore necessary that Hastings, when his discharge upon the conviction before the Quarter Sessions is communicated to him, should receive notice that he is still bound to furnish sureties for keeping the peace towards Colonel Prince and all other subjects, as the magistrates may lawfully require.

R. Lachlan, Esq. Sheriff,
 Western District, Sandwich.

I have, &c.
 (Signed) C. J. MACAULAY.

(Copy.)

SIR,

WITH reference to my letter of 19th January last, addressed to your Excellency from Bramford, I have now the honour to state, that upon making inquiry into the proceedings of the court of Quarter Sessions of the western district, in the case of Howland Hastings, represented to be a citizen of the state of Michigan, who was convicted at Sandwich of an assault and battery committed at Detroit, and sentenced to imprisonment for the space of six months in the gaol at the former place, I became satisfied that those proceedings were unsupported by law, and immediately directed the Sheriff to discharge the prisoner.

It appears, however, that on the 17th ult. an information was laid by Colonel Prince against Hastings, for threatening, on several occasions, to take his life, and that the magistrate before whom this complaint was made, has directed that Hastings should remain in custody at Sandwich until he gives security for keeping the peace, and for his future good behaviour.

Upon this ground alone, therefore, I beg your Excellency to understand that Hastings is now detained at Sandwich; and I have no reason to suppose that he will be subjected to imprisonment for a moment after he shall have furnished that assurance of his future good behaviour which has been required of him by the magistrate.

Having thus given your Excellency a statement of the facts connected with the case of Hastings, I have to express the deep regret which I felt on discovering that the court of Quarter Sessions of the western district had so misunderstood and transcended its powers on this occasion; more especially since the individual whom they had improperly convicted is represented as being a foreigner, and a citizen of a country with which I am most solicitous that those relations of amity and confidence which long existed towards this colony, but which a recent unhappy course of events upon the frontier has greatly disturbed, should be fully and permanently re-established.

While I thus advert to the erroneous proceedings in the case of Hastings, I think it right to inform your Excellency that complaints have recently been transmitted to me by certain of Her Majesty's subjects resident in Upper Canada, who, while travelling in the prosecution of their private business in the United States, have been obliged to submit to judicial proceedings of a most irritating and vexatious character, founded generally, as it would appear, on political enmity towards the individuals thus aggrieved.

It is in my opinion most desirable that proceedings of this nature should cease; and it only remains for me to assure your Excellency that I shall always most cordially and readily unite with your Excellency and the constituted authorities of the other states bordering on this province, in endeavouring to restrain the violence, to protect the peaceable, and to enforce with impartiality and firmness those salutary rules of law and justice in which the happiness of individuals and the peace and welfare of nations must ever necessarily depend.

I have, &c.
 (Signed) GEO. ARTHUR.

His Excellency, Governor Mason, &c. &c. &c.

(Copy.)

SIR,

By his Excellency's command, I have the honour to transmit, for your information, a copy of the letter which his Excellency has addressed to Mr. Mason, the Governor of the state of Michigan, respecting the case of Howland Hastings, said to be a citizen of that state, who was recently sentenced to imprisonment by the Court of Quarter Sessions at Sandwich, on conviction for an assault and battery committed at Detroit, and from which sentence you have been directed to relieve him, by discharging him from the gaol, unless he should be detained on some other legal procedure.

Colonel Prince has reported to the Lieutenant-Governor that, on the 17th ultimo, he complained to Joseph Woods, Esq. that he was apprehensive of bodily injury from Howland Hastings, and demanded security for his good behaviour, which security had not

No. 15.

Government House, 15th February, 1839.

at the latest date, been furnished; I am therefore directed to request that you will have the goodness to call upon Mr. Woods for a copy of the deposition upon which the mittimus for Hastings was founded; and transmit the same to me, with a copy of the mittimus, and a report upon the case, for his Excellency's information.

You will also have the goodness to report the amount for which Mr. Woods has demanded surety of the peace from the prisoner, and communicate to me what surety has been tendered, and whether Hastings still remains in your custody, or if not, when he was discharged.

R. Lachlan, Esq., Sheriff,
Western District, Sandwich.

I have, &c.
(Signed) J. MACAULAY.

No. 5.
Sir George Arthur
to Lord Glenelg.
19th February, 1839.

Enclosure in No. 5.

(Copy.)

No. 16.

Sir, Government House, 15th February, 1839.
I AM commanded to request that you will have the goodness, as soon as may be practicable, to transmit me copies of the whole of the proceedings in the case of Howland Hastings, said to be a citizen of the state of Michigan, who was recently tried, convicted, and sentenced to imprisonment by the court of Quarter Sessions of the Western District, for an assault and battery committed at Detroit, and who has been relieved from the sentence of the court, on the ground of its illegality, by the Lieutenant-Governor's orders.

This report is required for his Excellency's information; and you will have the goodness to make it full and complete.

Charles Baby, Esq., Clerk of the Peace,
Western District, Sandwich.

I have, &c.
(Signed) J. MACAULAY.

(Copy.)

No. 17.

Sir, Belleville, 23rd January, 1839.
I HAVE the honour to enclose, for the consideration of his Excellency the Lieutenant-Governor, the memorial of Peter O'Reilly, Esq., a magistrate of this district. I am aware, personally, of most of the facts stated therein, and the affidavit and certificates annexed to the memorial from the magistrates of the county will, it is hoped, convince his Excellency that the arrest of Mr. O'Reilly arose wholly from political motives connected with the late unjust crusade against the British provinces by the frontier population of the United States; and there can be the less doubt of this, since this same person, Samuel D. Day, is one of the most notorious of the Sympathisers, and was one of the secretaries of the famous Syracuse sympathising meeting (held there during the last spring).

Mr. Bontre, who is a material witness for the Memorialist, has received several written threats, besides many verbal messages, of certain death, should he ever venture upon the American shores, and it is generally considered here that it would be extremely unsafe for either Mr. Bontre, Mr. O'Reilly, or any other person to appear there as a witness in the matter referred to in the memorial.

Mr. O'Reilly is extremely anxious to relieve his bail from any responsibility, but feels that it would be doing injustice to his numerous family to hazard his life, by attending according to the terms of his bond; and he feels confident that his Excellency will do all in his power to relieve him from the unpleasant situation in which he is placed. He intended to have waited personally upon his Excellency, to represent the matter, but, having the command of a company of militia at this place, it would be inconvenient for him to leave.

I have, &c.
(Signed) B. DOUGALL.

The Hon. John Macaulay,
&c. &c. &c.

To his Excellency Sir George Arthur, K.C.H., Lieutenant-Governor of the Province of Upper Canada, Major-General commanding Her Majesty's forces therein, &c. &c. &c.

The Memorial of Peter O'Reilly, Esquire, one of Her Majesty's Justices of the Peace in and for the Midland District.

Humbly sheweth,

That your Memorialist had occasion to proceed from Montreal to New York in the month of October last; that in returning from New York to Upper Canada your Memorialist was arrested at the town of Syracuse, in the state of New York, whilst in a canal-boat, and about to proceed to Oswego from the said town of Syracuse, upon a warrant issued by one of the Justices of the Peace in and for the county of Onondaga by a peace officer of the said county:—that your Memorialist, upon being so arrested, inquired of the officer who arrested him the cause of the arrest, but was denied any information respecting such cause:—that your Memorialist was immediately taken before the Justice of the Peace, who granted the warrant for his arrest, and he was there informed that the warrant had been issued at the instance of one Samuel D. Day, whom the said Justice of the Peace sent for, and who soon after attended:—that

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 Sir George Arthur
 to Lord Glenelg.
 18th February, 1839.
 Enclosure in No. 5.

your Memorialist requested of the said Justice to be informed of the charge against him, and was refused any information until the arrival of the said Samuel D. Day, when your Memorialist was informed both by the said Justice and the said Day that he, your Memorialist, had been arrested (without any information upon oath) upon a charge of a trespass committed at the town of Belleville in this province; and that your Memorialist would be obliged to remain in the custody of the said peace officer, for the space of twelve hours, for the purpose of allowing the said Day time to procure witnesses to substantiate the said charge.

That in the course of about four hours after, and before the twelve hours above-mentioned had expired, your Memorialist was arrested the second time, by the Sheriff of the said county of Onondaga upon a writ of *capias* in the court of Common Pleas of the said county, at the suit of the said Samuel D. Day, in a plea of trespass: that upon the last-mentioned arrest your Memorialist informed the Sheriff aforesaid, that he was already in custody upon a charge preferred by the said Day, and upon application to the said justice of the peace, your Memorialist was informed by him, that he had nothing more to do with your Memorialist; that the said Sheriff then required bail of your Memorialist in the sum of one thousand dollars; that your Memorialist being among strangers where he had never been before, was obliged to make inquiries for some person to whom he might be known for the purpose of procuring bail: that he accidentally found a labouring mechanic in the street, to whom your Memorialist had been personally known in this province, and who kindly procured several persons who offered to become bail for your Memorialist: that before any bail could be given, a great excitement prevailed in the said town of Syracuse, and your Memorialist was pointed out to the mob in the streets as a magistrate, and one of the tyrants of Upper Canada; and in consequence of the excitement and the threats held out against any person who should become bail for your Memorialist, the persons who had promised to become bail, declined doing so, stating, at the same time that they could not consider themselves safe in case they should so far befriended your Memorialist: that your Memorialist being an Irishman by birth, appealed to his countrymen who were there at the time, and fortunately for your Memorialist did not appeal in vain, although it was with the greatest difficulty and entreaty, from the causes before mentioned, that any man of property sufficient could be procured by your Memorialist to hazard the censure and odium (for it was so represented there) of bailing an Upper Canadian Magistrate.

That your Memorialist, during the time he was so under-arrest, applied to some of the attorneys of the said town for counsel without success, until by chance, one who had casually seen your Memorialist in Kingston offered his services as counsel for your Memorialist, and who, with two other persons, at his instance, consented to bail your Memorialist, and accordingly executed with him the bail-bond, a copy of which is hereto annexed; on the twentieth day of October last, late in the evening of the day on which your Memorialist was arrested by the said Sheriff.

That your Memorialist was charged verbally by the said Samuel D. Day with taking the furniture of the said Day in this province as a magistrate; that the said charge is wholly unfounded, as will appear by the affidavit of Captain J. Bontre (hereto also annexed), in whose house the said Day resided at the time he left Upper Canada.

That the said Captain Bontre is a material witness for your Memorialist in the said matter: but that your Memorialist has been informed and advised repeatedly, that it would be unsafe for either the said Captain Bontre or your Memorialist to appear at the said town of Syracuse upon the trial of the said cause, which will take place on the fourth Monday in February next.

That your Memorialist is extremely desirous to attend with witnesses at the said trial, lest his bail should suffer from his default.

Your Memorialist therefore humbly prays that your Excellency will be pleased to grant your Memorialist and his witnesses a safe conduct to the town of Syracuse aforesaid, and to see that no injustice or violence shall be done to your Memorialist and his witnesses as British subjects; and should your Excellency not have it in your power to secure to your Memorialist and his witnesses the protection above prayed for, that your Excellency will be graciously pleased to indemnify your Memorialist from any damage he may sustain (through his bail aforesaid) in not attending the said trial; upon the ground of the utter insecurity of British subjects of this province in their intercourse with the United States of America.

Belleville, 23rd January, 1839.

(Signed) PETER O'REILLY.

(Copy.)

Midland District to wit:—Jacob Bontre, of the town of Belleville, in the Midland District, gentleman, maketh oath and saith, that in the month of December, in the year of our Lord one thousand eight hundred and thirty seven, Samuel D. Day, the person mentioned in the annexed petition, was a resident in Belleville or its vicinity, and rented from this deponent a large house in the town of Belleville aforesaid as an inn; that he kept the said inn about three months, when the disturbances broke out in this province; that the said Samuel D. Day is an American by birth, and favoured the disaffected in this part of the province at the time aforesaid; that this deponent, about the twenty-sixth day of February last, heard that the said Samuel D. Day was about to abscond with the furniture in the said house occupied by him, the said Day; that this deponent, upon being so informed, immediately called upon several of his neighbours, and among the rest Peter

O'Reilly, Esq., the Memorialist in the annexed memorial, named and requested them to accompany him to the inn of the said Day, for the purpose of expostulating with him against the course he was about to pursue; that the said Peter O'Reilly, with George N. Ridley, Esq., Billa Flint, Esq., and one or two others went accordingly with this deponent to the said inn, and one of the said persons, and only one, the said G. N. Ridley, Esq., did say to the said Day, that he would be acting very wrong to leave the house and dispose of the furniture; that after a little further conversation, all the said persons who accompanied this deponent as aforesaid left the house in a peaceable manner, and without in any manner molesting the said Samuel D. Day or his property; and that in the arrangement this deponent afterwards made with the said Day, the said Peter O'Reilly did not in any manner interfere; that this deponent has since understood that the said Peter O'Reilly was, in October last, arrested by the said Day, at the town of Syracuse, for a trespass alleged by him to have been committed at the time above described; that he, this deponent, would be a material witness for the said Peter O'Reilly, upon the trial of the said matter of trespass, should the same take place; but that from very frequent information from the opposite frontier of the United States, he, this deponent, considers it would be extremely unsafe for him to venture to go over there for the purpose of being a witness, or for any other purpose; and this deponent further saith that he verily believes that the said Day has no cause of action against the said Peter O'Reilly.

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(Signed) JACOB BONTER.

Sworn before me, at Belleville, in the Midland District, the 23rd day of February, 1839.

(Signed) B. DOUGALL,
 Act. Com. &c.

We the undersigned magistrates of the county of Hastings, hereby certify that we are aware of the circumstances stated in the within affidavit; that we attended at the time mentioned therein, merely for the purpose of advising Mr. Day, the person mentioned therein, to settle amicably and justly with Mr. Bonter, the deponent, and to assure Mr. Day that he need apprehend no violence towards himself so long as he conducted himself properly; that no injustice was done to the said Day, and that we verily believe that the said Day has no cause of complaint against the said Peter O'Reilly, Esq.

Dated at Belleville, the 23rd day of January, 1839.

(Signed) G. V. RIDLEY, J.P.
 BILLA, FLINT, JUN., J.P.

We the undersigned magistrates of the county of Hastings, in the Midland District, do hereby certify that we believe that the facts stated in the memorial hereto annexed, and in the within affidavit, are true, and that we have every reason to believe Samuel D. Day, within mentioned, has no just cause of complaint against Peter O'Reilly, Esq., the memorialist in the annexed memorial named.

(Signed) T. PARKER, J.P.
 A. MARSHALL, J.P.
 HENRY BALDWIN, J.P.
 F. M'ANNANY, J.P.
 BENJAMIN KETCHESON, J.P.
 D. M'KENZIE, J.P.
 JOHN ANDERSON, J.P.

Dated at Belleville, the 23rd January, 1839.

Know all Men, by these Presents, that we, Peter O'Reilly, Patrick Sheridan, Josspli Leslie, and Darius A. Orcutt, are held and firmly bound to Elihu L. Phillipps, Sheriff of the county of Onondago, in the sum of 1000 dollars, to be paid to the said Elihu L. Phillipps, or his certain attorney, executors, administrators, or assigns, to the which payment well and truly to be made and done, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly, by these presents, sealed with our seals, and dated the 20th day of October, 1838.

Whereas Samuel D. Day hath sued out of the Court of Common Pleas of the county of Onondago, a certain writ of *capias ad respondendum* against the above-named Peter O'Reilly, defendant in a plea of trespass, returnable on the fourth Monday of November, A.D. 1838, before the Judges of the said Court of Common Pleas, by virtue of which said writ, the above-bounden Peter O'Reilly hath been arrested by the above-named Sheriff. Now, therefore, the condition of this obligation is such that, if the above-bounden defendant shall appear in the action commenced by the said writ, by putting in special bail within twenty days after the said return day, specified in the said writ, and by perfecting such bail, if required according to the rules and practice of the said Court; then this obligation to be void, otherwise to remain in full force and virtue.

(Signed) PETER O'REILLY, L.S.
 P. SHERIDAN, L.S.
 JOS. LESLIE, L.S.
 D. A. ORCUTT, L.S.

Sealed in the presence of
 (Signed) H. SHELDON.

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Sir George Arthur
to Lord Glenelg.
18th February, 1839.

Enclosure in No. 5.

No. 18.

To his Excellency Sir GEORGE ARTHUR, Lieutenant-Governor of the Province of Upper Canada, and Major-General commanding Her Majesty's Forces therein, &c. &c. &c.

THE Memorial of *John Duggan*, of the town of Hamilton, in the Gore District, Gentleman,

Humbly Showeth,

That your Memorialist, on his return from Buffalo, in the United States, to Hamilton, on the 28th of December last, was detained in Lewiston for two days, in consequence of the great quantities of ice in the river, which prevented him crossing. That on the day following (Sunday), while out walking, your Memorialist was dodged and followed by a person unknown to him, for some distance to the hotel, who seemed very desirous of quarrel, telling your Memorialist that he knew him well—that his name was Duggan—that he had dragged many innocent persons to gaol in Canada, and was always very officious during the rebellion; said your Memorialist would suffer for it yet; and said, while he was safe in Canada he should have remained there; said your Memorialist should be served like (Usher). Your Memorialist avoided, and left him; communicated the circumstance to his brother, Mr. George Duggan, and some other friends, who, from this and many other circumstances, (which it is scarce necessary to trouble your Excellency with,) were of opinion that violence was intended, and that every precaution should be taken; it being still impracticable to cross the river, he avoided observation as much as possible, and your Memorialist's brother remained up all night on the watch. Monday, the 23rd, immediately after breakfast, your Memorialist was arrested, and taken in custody of a person calling himself the Deputy Sheriff of the county, at the suit, as was alleged, of one George Robinson, on the charge of taking his property to the value of 200 dollars (said to be a horse). Your Memorialist fortunately obtained bail. A gentleman, who was a stranger to him, but being satisfied of his innocence, and of the intended villany of the prosecution, became bail, under the penalty of 400 dollars, for the appearance of your Memorialist at Albany. Mr. George Duggan endeavoured to cross the river, but there seemed a conspiracy to detain him also; he was told he could not be taken then; he offered three guineas (the price being fifteen-pence), which was refused, on pretext that it was not his turn. Many of the self-styled patriots were lurking about the place, whose appearance at once indicated the daring ruffian and the desperate criminal; added to which, there was a studied ferocity of appearance. Your Memorialist should inform your Excellency that he was prominently and actively engaged, previous to, during, and for some time after the attack on the rebels at Montgomery's, and had assisted in capturing very many of them; that he, as an officer of the Volunteer Cavalry, commanded by his brother, Mr. George Duggan, had charge of a detachment, and was, at the most notorious nests of treason, acting against the traitors at Lloyd Town, Hope, New Market, Pickering, and several other places; in consequence of which he became known to most of the rebels. Your Memorialist most respectfully begs leave to state, he has no doubt it was for the active and faithful discharge of his duty that he became the marked object on which those heartless traitors desired to exercise their vengeance. He submits, the arrest was made with the hope, by the unprincipled prosecutors, that your Memorialist would be unable to procure bail, and, whilst on his way to the gaol at Albany, at a convenient place he would be rescued from the not unwilling officer by those wretches, and be mobbed, or otherwise brutally treated; or perhaps, as was threatened, share the fate of the gallant but unfortunate Usher. This was also the opinion of your Memorialist's friends at the time, who advised him, in case he could not get bail, to go at once to gaol—the best way to escape the mob. Your Memorialist has employed two solicitors at Lewiston, and has left no steps untaken in order fully to defend the action.

Your Memorialist, conscious of the careful solicitude of the Government, relies with implicit confidence on its magnanimous protection, well assured that it has ever regarded with a watchful and jealous eye the liberties of its every subject, and has always been forward to protect them from wanton aggression.

Your Memorialist humbly and earnestly beseeches your Excellency to make a strict and full investigation into this outrage, and hopes that your Excellency may not allow an individual subject to be oppressed and persecuted by any power, foreign or domestic, on any pretext, especially when it was brought upon that subject solely because he was forward in defence of his country and faithful to his sovereign; and prays that he may be sheltered and protected as every subject expects who has done his duty. And your Memorialist, as in duty bound, will ever pray, &c.

(Signed) JOHN DUGGAN.

Hamilton, 27th January, 1839.

No. 6.

No. 6.
Sir George Arthur
to Lord Glenelg.
19th February, 1839.

(No. 33.)

EXTRACT of a DESPATCH from Lieutenant-Governor Sir GEORGE ARTHUR,
K.C.H., to Lord GLENELG.

Toronto, Upper Canada, 19th Feb. 1839.

* * * * *

In a letter which I have received from Sir John Colborne, dated 12th instant, his Excellency expresses his concurrence in my view as to the disposal of the prisoners in the following words: "I should not hesitate to send back to the President, the minors to whom you advert in your letter. The Act of Clemency would be highly appreciated in the States generally."

Thus fortified, I really do feel it to be my duty to persevere in *the whole* course I had planned,—to punish with severity the worst offenders, and to show mercy so far as it can with prudence and justice be extended.

The measures of my government, as regards the late occurrences, have, I know, been well received by citizens the most influential in the state of New York. During the progress of events, they have concurred in very strong expressions condemnatory of the atrocious conduct of the brigands, and in considering the leaders as justly liable to the infliction of the severest penalties of the law.

The proclamations and other public papers of this government that have been promulgated in the States, have likewise been well received by the class of persons I refer to; and the expression of such feeling will be found in the accompanying extract of a letter from a wealthy and influential citizen of the state of New York, addressed to Mr. Adam Ferguson, who is, I believe, well-known to your Lordship.

It is to meet the expectations of this class of persons in the States, who, I fear, are greatly in the minority, that I am now desirous at once to give effect to an act of extraordinary clemency, and which will enable them more openly to exert themselves in the cause of peace, if they be sincerely disposed to profit by the opportunity.

I have enlarged upon these points, in order that your Lordship may entirely understand upon what principle I proceed in bringing (as I propose to do tomorrow) this important subject again before the Executive Council;—if the Council consider it most expedient, I shall not hesitate to refer again to Mr. Fox, though I think the benefit of the measure depends upon the promptitude of action in it.

In the recent instances where capital punishment has been inflicted on the brigands, sufficient evidence will have been furnished to the great mass of the American people, that we are not withheld by fear of their revenge from administering our laws; and, this established, it is but reasonable to hope that, at least, the reflecting portion of them would ascribe to the true motive the acts of clemency which is contemplated by this Government.

They must surely feel the force of this conviction, even should the proposed appeal to the better feelings of their nature, fail to produce, to the full extent, the effect so earnestly to be desired.

The information which I continue to receive of the present state of feeling in the United States, in respect to Canada, is of a conflicting character; and where so much is veiled in mystery, it is, of course, difficult to arrive at correct conclusions.

While, on the one hand, Mr. Fox, on whose opinion I set the highest value, informs me that, as far as he can judge, there is now less reason to apprehend a repetition of acts of violence against Canada, than at any former period since the alarm began; on the other, I learn from various sources, more or less authentic, that measures of aggression are far from being abandoned, and have been alone delayed from the difficulties the "patriots" encounter in working out their plans. This much appears certain; that many of the leading rebels from this side have held a long consultation with Papineau, the result of which has been the departure of the latter for France; and of the former for Rochester, on the American frontier where many of them are now assembled.

Far from being suppressed, the "Hunters Lodges" are extending; and if the American Government cannot soon put them down, they are likely to prove very influential in all future elections, and may thereby force their government into hostility with us.

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 to Lord Glenelg.
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Under these circumstances, I concur with Mr. Fox, that it is far more to our own state of armed preparation, than to any better feeling on the part of the frontier American citizens, that this country owes its present tranquillity; and I am no less convinced, that at this time, any considerable relaxation in our measures of defence, would prove the signal for a fresh crusade against us.

That the punishment inflicted on the pirates has stricken with terror those of their guilty associates who were preparing to follow up their invasions, there can I think, be but little doubt; but I fear that a revengeful feeling has also been engendered, which will long rankle in their bosoms, and keep us in a state of harassing excitement for some time to come. Your Lordship knows the American character well; the national vanity is unbounded; and the people having now been foiled in a supposed lucrative, and certainly most popular enterprise, we cannot be surprised if their disappointed pride and cupidity be succeeded by bad feeling.

What, under such circumstances, may be the real views and intentions of the American Government, it is, in truth, most difficult to divine. In the opinions which I have expressed to your Lordship on this subject, in my former despatches, there must appear discrepancies: occasionally, it has seemed to me that such extreme proceedings could never have progressed to such a head without the tacit concurrence of the authorities of the highest grade; while, at other times, on the contrary, the conduct of the regular military officers of the Republic has encouraged me to confide in the sincere determination of the Government to maintain, as far as they can, the peaceful relations of the two countries.

Probably, the most correct inference to be drawn is, that the American Government will resist the torrent, so long as they are able, with the view to avert the consequences of a national war; and will afterwards adapt themselves to circumstances, should their efforts to maintain their national obligations endanger seriously their own political influence. This affords another ground for making the President a free gift of the younger prisoners.

One extraordinary feature characterizing the present state of feeling as compared with former times, is the eagerness of the frontier population of the States to contribute, by money and other means of assistance, to the success of the invaders of our territory; whereas, during the last national war, it is notorious, that the militia of the States could be brought with difficulty to act against her Majesty's subjects, with whom they had been on terms of friendly intercourse.

[Copy.]

[Enclosure in No. 6.]

ADAM FERGUSSON, Esq., to the Hon. JOHN MACAULAY.

Enclosure in No. 6.

DEAR SIR,

Woodhill, Nelson, P. O., February 18th, 1839.

PERHAPS the enclosed portion of a letter may be gratifying to his Excellency, as exhibiting the view taken of his administration by the respectable class of citizens in the States. My correspondent, Mr. Duncan, is a Scotch gentleman, long naturalized in New York State. He is a man of excellent sense and liberal education, and possessed of much wealth and influence.

I may add that he is a most particular friend of Mr. Greig, with whom Sir George Arthur is well acquainted.

I remain, &c.

(Signed)

ADAM FERGUSSON.

The Hon. John Macaulay,
 &c. &c. &c.

Extract from a Letter addressed to ADAM FERGUSSON, Esq., by MR. DUNCAN.

Alton, N. Y., January 3rd, 1839.

I HAVE delayed writing in answer to your last favour, simply because I was uncertain what was going to be the result of recent matters. I think now that we may consider the matter as ended, and that the good people on this side have at last come to their senses. There may still be a few who would gladly cause more troubles; but the public opinion, as expressed through the press, and at recent public meetings in Jefferson county, at Oswego, and at other places, will hereafter prevent much being done, in connexion with the vigilance of the authorities, civil and military, on both frontiers, and must serve to reassure your Government

and people that this country is sincere in its desire to avoid all causes of disagreement between the countries. It has been a most disgraceful business, and its consequences, to many, have been sad indeed; and I only regret that they cannot be visited on the heads of the prime movers and instigators, as they have been, we all here admit, *most justly*, on many who were more the *strings pulled* than the *string pullers*. Sir George Arthur has, through the whole affair, conducted himself most admirably, carefully avoiding compromising the dignity and character of his Government, and at the same time avoiding an unnecessary rupture with this country. Few men could have gone through, with so much credit to himself and his country, the delicate, and often irksome, situations he must have been placed in.

We are all here alive on the subject of immense defalcations by some public functionaries.

No. 6.
Sir George Arthur
to Lord Glenelg.
19th February, 1839.

Enclosure in No. 6.

(No. 42.)

No. 7.

COPY of a DESPATCH from Lieutenant Governor Sir GEORGE ARTHUR,
K.C.H., to Lord GLENELG.

MY LORD,

Upper Canada, Toronto, 27th February, 1839.

I HAVE the honour to transmit to your Lordship a copy of the speech with which the legislature was this day opened.

Your Lordship will perceive that I have much exceeded the bounds ordinarily observed on such occasions; but, after much consideration in the Executive Council, it was the unanimous opinion that a detailed narrative of past events, and of the present state of the country, ought to be formally laid before the legislature.

It is just one of those cases which admit of two opinions. Her Majesty's Government will, I trust, approve of the one which I have adopted.

I have reflected much upon the subject, and incline to believe that the statements given in the speech may have a beneficial effect in the States, though I doubt much whether anything will now change the desire which is so strongly entertained amongst considerable bodies of people on the frontier to keep alive the "Patriot" cause, and "Hunters' Lodges."

I have, &c.

The Right Hon. Lord Glenelg,
&c. &c. &c.

(Signed) GEO. ARTHUR.

No. 7.
Sir George Arthur
to Lord Glenelg.
27th February, 1839.

Enclosure in No. 7.

SIR GEO. ARTHUR'S Speech to the Legislature of Upper Canada.

Toronto, Wednesday, 27th February, 1839.

Honourable Gentlemen of the Legislative Council, and Gentlemen of the House of Assembly,

The internal tranquillity of the province, and the present security of its frontier, enable me, after a recess of unusual length, to meet you in Provincial Parliament. The postponement of the present session has been induced by the pressing and paramount duties in which many of you have been engaged, connected with the public defence and the administration of justice. But we have now an opportunity to turn our attention to devising measures for the peace, welfare, and good government of the colony, free from the paralyzing suspicion of internal treachery, or the exasperating influence of foreign aggressions; and upon this happy result of the zeal, constancy, and bravery of the loyal Upper Canadian people, under the most trying circumstances, I offer you my hearty congratulations.

The situation of the province is so novel and peculiar, that I feel called upon to exceed the ordinary limits of a speech at the opening of Parliament, in order to review the recent occurrences, and to trace effects to their causes, as a guide to present and future legislation.

England, at peace with all the world, and relying implicitly, not only on the loyalty of her North American subjects, but on the faith of treaties, and the existence of most friendly relations with the United States, had gradually withdrawn most of her troops from this continent.

Encouraged by this absence of military power, the discontented in Lower Canada, after a long and vexatious parliamentary opposition, and an obstinate rejection of every conciliatory effort on the part of the Government, at last broke out into open rebellion; and incited by their example, the disaffected in this province, confidently relying on assistance from the neighbouring frontier, and secure, in the event of failure, of finding an asylum there, made a sudden attempt to overthrow this Government, and to sever the Canadas from the parent state.

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 Enclosure in No. 7.

The hopes of the disaffected in both provinces, however, met with signal disappointment; and in Upper Canada particularly, the militia were found, not only equal to the immediate suppression of insurrection, but a portion of its force, from the eastern district, was enabled to march into Lower Canada, to assist in overawing the disposition to revolt which still existed there.

Such would have been the end of rebellion in Upper Canada, had not the disaffection, which grew originally out of the hope of foreign interference, continued to receive life and support from the same source. The repose gained was of short continuance, for no sooner had some of the leading traitors escaped across the boundary, than they associated themselves with a number of the border population, robbed the public arsenals there, and made several audacious, but signally unsuccessful attempts, to invade and make a lodgment on British territory.

The authorities of the United States, having had ample time to suppress these outrages, our militia were gradually withdrawn from the frontier, and were in the course of being disbanded, when it was discovered that a body of foreigners and traitors had secretly introduced themselves into the province, from the states of New York and Michigan. Some of their emissaries were despatched into the London District, while others hoped successfully to raise the standard of rebellion in the Niagara District; but the attempt was suppressed in the bud; the militia of the surrounding country at once rushed to arms, and captured such of the banditti as did not succeed in making good their flight to the American shore.

The wanton and violent destruction of a British steam-boat within American waters, by a gang of ruffians from the main land of the United States, previously showed that the feeling of hostility had not abated on the frontier; and circumstances attended that outrage which indicated that it proceeded from an organized body of enemies. This suspicion was immediately afterwards strengthened by information, taken upon oath, detailing the secret signs, organization, and intentions of the society of Patriot Hunters; and the confessions and declarations of the captive foreigners and traitors, who were taken in the Niagara District, corroborated this intelligence.

But, notwithstanding the reasons I had for placing confidence in this information, the secrecy observed by the conspirators, the extreme wickedness and rashness of the proposed measure, the silence of the frontier press, before so clamorous, and the quiet of the frontier towns, at one time so agitated, were well calculated to cause the numbers and resources of the conspirators to be underrated; and to induce a belief that the presumptuous project of invading Canada would not be attempted.

After a short while, however, further proof was given that a conspiracy was actually organized, and that the combination extended along the whole line of the frontier, from east to west. I thought, however, that the accounts brought to me must be exaggerated, and that the parties named as being accomplices could never have so far compromised their characters as to have countenanced such a scheme; and, though silently proceeding to make some essential preparations for defence, I still did not entirely rely upon the statements which were at that time made to the Government.

But as the information I continued to receive became more minute, and proceeded from various quarters, I could no longer doubt that the confederacy comprised a body of many thousand persons, whose numbers and resources were daily increasing; and what constituted the most revolting and alarming feature of this odious transaction was, the positive declaration that many persons of wealth, and not a few public functionaries in the frontier cities and towns, had intimately connected themselves with this criminal alliance.

As the crisis drew nearer, strangers, without ostensible business, and under various pretences, were discovered to be scattered through the province. It was ascertained that constant intercourse was kept up between the lodges of conspirators in the United States and their adherents in Canada. The hopes of the disaffected appeared suddenly to revive. The intelligence from various quarters conveyed to this Government became more definite, showing the immediate intention of the enemy to be the destruction of the British steam-boats, and the seizing, by surprise and simultaneously, several posts within the Canadian boundaries, where the disloyal might rally around the invaders assembled in arms, and procure reinforcements and supplies from the United States, without the risk of any collision with the American authorities. An insurrection in the Lower Province was to be the signal for hostilities all along the line.

Under these circumstances I took decisive measures to give immediate confidence to the country, and to ensure the security of the province; and in now meeting you, although I deeply deplore that Her Majesty's faithful subjects have been exposed to the greatest privations and hardships, and to the severest domestic injuries, I nevertheless enjoy the satisfaction of believing that, owing to our state of preparation at every point, the loss of valuable lives has been limited, the moral character of the people of Upper Canada strikingly exhibited, and a spirit roused throughout the province that will long survive passing events, and greatly tend to the future strength, security, and tranquillity of the country.

After all the preparations that were so many months in progress, and after the expenditure of such large sums of money, voluntarily contributed, as are generally given reluctantly even for national objects, the conspirators and revolutionists were so entirely overawed as to have limited their operations to one attack upon our frontier, near Prescott, and to another in the vicinity of Sandwich. Not a subject of Her Majesty joined them after their landing; in both attempts they were signally defeated; and the result was the destruction or capture of nearly the whole of the banditti.

In alluding to these events, it is impossible for me to praise too highly the gallantry of the militia, the fidelity and prompt services of the Indian warriors, and the patriotism of a vast majority of the inhabitants of this province, who have conspicuously vied with each other in the manifestation of a devoted attachment to our most gracious Sovereign, of an enthusiastic affection for their country, and of deep regard for their revered constitution.

Our great security against dangers resulting from a combination between the disaffected in the province, and their confederates among the population of the contiguous country, consists in our happy union with the British empire. The main foundation of the hopes of discontented persons in this province, and of their foreign supporters, has been a mischievous notion industriously propagated, that England would desert her transatlantic possessions in their hour of difficulty and danger; that whenever the machinations of internal traitors, or threats of external hostility, might render the protection of these colonies burthensome, the assistance of the mother country would be withdrawn, and their loyal inhabitants left alone to support a most unequal conflict. This false and pernicious opinion has given encouragement to treason—influenced the conduct of the wavering—excited the apprehensions of the timid—and when put to a severe test, the constancy of the loyal and resolute. It has turned the tide of immigration from our shores—transferred the overflowings of British capital into other channels—impaired public credit—depreciated the value of every description of property—and, in a word, has been the prolific source of almost all our public calamities.

Recent events, however, have clearly demonstrated that the fidelity of the mass of the people of this province is not to be shaken by the severest trials. Experience has also proved that, under all circumstances, you may confidently rely on the fostering care of the British empire; and I have been directed by Her Majesty to convey to you the most positive assurances of her continued protection and support.

At the same time I do not wish to inspire you with a belief, which I am very far from entertaining, that the dangers with which we have been threatened are at an end: The hopes of our enemies have certainly been greatly humbled, and their schemes disconcerted, by the failure of their repeated attempts to seduce the Queen's subjects from their allegiance, and thus to overrun the country; but all the motives in which these attempts originated,—the love of plunder, an avidity to seize our fertile lands, and an impatient desire to extend republican institutions,—continue to operate with unabated force; while, unhappily, new and deeper passions have since been superadded. That men agitated with such feelings will remain quiet longer than they are constrained by fear, is not to be expected; and, whilst I most sincerely desire conciliation, and conjure you to promote it by every honourable means, I do not hesitate to assert, on the sure ground of experience, that upon our own ability to repel and punish hostile aggression, we must henceforth chiefly depend. Among the considerations arising from this impression, I deem it advisable to invite your early and most serious attention to such amendments in our Militia Laws as shall place this force upon the best possible footing—efficient, but not burdensome, either to the Government or to the people.

One of my principal and most arduous duties has been the disposal of the numerous criminals who have fallen into the hands of justice. With respect to such of the Queen's subjects as were concerned in the civil commotions during last winter, Her Majesty's Government have uniformly desired a merciful administration of the law. In the punishment of the invaders of the province, I have acted upon the same principle, and have anxiously endeavoured to confine capital punishment within the narrowest limits which a due regard to the public welfare and security would admit. But the reiteration of unprovoked injuries called for increased firmness in the administration of justice, and forced upon me the painful necessity of making some severe examples.

The case of Her Majesty's subjects who have suffered in their persons or property, claims your early attention. The wanton destruction of the steam-boat "Sir Robert Peel"—the pillage of the farms on Pointe-au-Pelé Island and the River St. Clair—the robberies at the Short Hills—the damage done at Prescott and Sandwich, with the burning of the "Thames" steamer, form together an aggregate of extensive loss, most serious to the sufferers, and have occasioned earnest application for relief.

It gives me the greatest pleasure to inform you that Her Majesty has been most graciously pleased to extend to the wounded officers, non-commissioned officers, and men, of the Provincial Militia, in arms since the insurrection last winter, the same liberal provision as is granted to Her Majesty's regular land and naval forces; and to make a similar beneficent provision for the widows of those officers in the provincial corps who may have fallen in action.

The strongly-excited feelings to which the long-agitated question of the Clergy Reserves, has given rise in the province, have sensibly impaired that social harmony which may be classed among the first of national blessings, and have augmented the hopes of the enemies of the country, in proportion as they have created divisions among its defenders. It is painful to reflect, that a provision, piously and munificently set apart for the maintenance of religious worship, should have become the cause of discord among professors of the same faith, and servants of the same Divine Master; and I feel that, on every account, the settlement of this vitally important question ought not to be longer delayed: I therefore earnestly exhort you to consider how this desirable object may be attained—and I confidently hope, that if the claims of contending parties be advanced, as I trust they will, in a spirit of moderation and Christian charity, the adjustment of them by you will not prove insuperably difficult. But should all your efforts for the purpose unhappily fail, it will then only remain for you to re-invest these Reserves in the hands of the Crown, and to refer the appropriation of them to the Imperial Parliament, as a tribunal free from those local influences and excitements which may operate too powerfully here. My ardent desire is, that keeping in view, as closely as you can, the true

No. 7.

Sir George Arthur
to Lord Glenelg

27th February, 1839.

Enclosure in No. 7.

No. 7.
 Sir George Arthur
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spirit of the object for which these lands were originally set apart, this embarrassing question may be settled on equitable principles, in a manner satisfactory to the community at large, and conducive to the diffusion of religion and true piety throughout the province.

Second only in importance to the subject of the Clergy Reserves, is that of General Education. A system of sound and religious instruction for the rising generation, ought to be established under every Government, and is most particularly requisite in a young country in the situation of this province. I therefore strongly recommend to you a careful revision of the enactments relating to the Common Schools; and the early adoption of some plan calculated to secure the assistance of properly qualified teachers.

Gentlemen of the House of Assembly:

I am commanded by Her Majesty's Government, again to bring under your consideration the surrender, to your disposal, of the Casual and Territorial Revenues of the Crown; and I shall take an early opportunity to submit to you the conditions annexed to this offer, in the confident expectation, that the liberal intentions of Her Most Gracious Majesty will be duly appreciated by you, and that a satisfactory arrangement of this important subject will speedily be accomplished.

With much regret I inform you, that, in addition to the large sums disbursed by Her Majesty's Government, in the protection and defence of this colony, the late events have also burdened the provincial revenue with a very considerable extraordinary expenditure, not contemplated or provided for by the Legislature.

The capture, detention, trial and punishment, of state criminals, have been a principal source of this extraordinary outlay; and you will find, from the accounts which will be presented to you, that the sum you appropriated in the last Session to these purposes, has been greatly exceeded.

The expense of transporting convicts to Quebec and England, on the way to their ultimate destination, forms also a heavy item in the charge attending the administration of justice; and I fear it must be further swelled to a large extent, in consequence of there being a number of convicts, under sentence of death; to whom the only relaxation of capital punishment, compatible with the safety of the province, seems to be transportation to a penal colony.

I have likewise been obliged to expend considerable sums in procuring accurate information of the designs of the conspirators in the adjacent States, as well as of their confederates within the province; and in supporting a frequent and rapid communication with Her Majesty's Government at home, and Her Minister at Washington.

In the confidence of your sanction being most readily given to these necessary disbursements, I have assumed the responsibility of advancing, from the crown revenue, the amount of the most pressing demands under these heads of service; and a statement of those advances, together with the public accounts and estimates, shall immediately be laid before you.

I have applied myself most sedulously to the examination and settlement of the numerous and pressing claims arising out of the late disturbances. Such of them as I was authorised to satisfy from the military chest, have been discharged, or are in course of settlement, through Her Majesty's Commissariat; but their remain others, grounded on equitable considerations, the payment of which must necessarily depend upon your justice and liberality: and I shall accordingly direct a particular account of them to be laid before you.

The representations of the great inconvenience attending the negotiation in this market of the public debentures payable in London, were so strong, that I was induced to discontinue the practice entirely, until you should have an opportunity of taking the subject under your deliberation.

Their negotiation in England has been latterly impeded by the blow which recent disturbances had inflicted on the public credit of the province, and was afterwards rendered impracticable by the circumstance, that the terms upon which the sale of those debentures was authorised by Parliament, were less favourable to the purchaser than could be obtained by an investment of his capital in other securities.

You will be gratified to learn, that notwithstanding the interruption to which the trade of the country has been exposed, there has been no falling off of the commercial revenue collected in the Lower Province; that a portion of the money placed in the hands of Messrs. Thomas Wilson and Company, of London, has been paid, and that there is reason to believe that the remainder will shortly be received.

You will receive reports upon the state of the public works in progress; and I shall be most happy to co-operate with you in any wise and practicable measures for their completion.

The large sums heretofore granted for the improvement of the roads, do not appear to have produced results commensurate with the expenditure; and it is accordingly worthy of your serious consideration, whether some more efficient system may not be contrived for the management and direction of this branch of the public service. I need hardly add, that the formation of good roads is an object of primary importance in every country, and most indispensably necessary in an agricultural one.

Her Majesty's Government look forward with much anxiety to the resumption of cash payments by the chartered banks. I am induced to hope that no difficulty will present itself to the early accomplishment of this essential object.

Honourable Gentlemen and Gentlemen:

THE several addresses to Her Majesty from the two Houses of Parliament, during the last session, having been laid at the foot of the Throne by Her Majesty's Principal Secretary of State for the Colonies; were very graciously received; and I shall, without loss of time, transmit to you the answers which have respectively been returned to them.

I have, to a limited extent, exercised the power vested in me by the suspension of the *Habeas Corpus* Act. In doing so, I have proceeded with the greatest caution, and with a sincere desire, that no restraint might be imposed on personal liberty, which the public safety did not imperatively demand.

The progress which this beautiful country seems destined to make in population and wealth, has been materially obstructed by the difficulties and dangers with which it has, for some time past, been surrounded.

By the goodness of an over-ruling Providence, those dangers, have, however, in a great degree been averted; and I humbly hope that the same Almighty arm, which has hitherto protected us, will soon place Upper Canada in such a state of tranquillity and security, as will permit the full development of her vast natural resources.

To accelerate the arrival of that period, and in cordial conjunction with you to promote, by wise and salutary legislation, the prosperity and happiness of this interesting colony, will be the object of my earnest desire, and unceasing exertions.

No. 7.
Sir George Arthur
to Lord Glenelg.
27th February, 1839.
Enclosure in No. 7.

(No. 47.)

No. 8.

COPY of a DESPATCH from Lieut.-Governor Sir GEORGE ARTHUR, K.C.H.,
to Lord GLENELG.

MY LORD,

Upper Canada, Toronto, 2nd March, 1839.

In my Despatch to your Lordship, No. 32, of the 15th ultimo, reporting the case of an individual named Howland Hastings, who had been illegally prosecuted in one of the courts of this province, for an assault committed by him upon a British subject, in the city of Detroit; I expressed my hope that the full explanations relative to the proceeding, which I had afforded to the American authorities, would prove satisfactory to them.

By the accompanying copy of a letter which has been addressed to me by Governor Mason, in reply to my late communication to him, your Lordship will perceive that I have not been disappointed in this expectation; and it is gratifying to me to find, that an affair, in which the court of Quarter Sessions were so clearly in the wrong, has thus terminated.

I have, &c.

(Signed)

GEO. ARTHUR

The Right Hon. Lord Glenelg,
&c. &c. &c.

No. 8.
Sir George Arthur
to Lord Glenelg.
2nd March, 1839.

(Copy)

Enclosure in No. 8.

SIR,

Executive Department, Detroit, 20th February, 1839.

I HAVE the honour to acknowledge your letter of the 14th instant, and express my gratification at the decision given in the case of Howland Hastings.

Permit me to say how fully I appreciate the sentiments of your communications, and to assure your Excellency, that I feel they are duly appreciated by the government and authorities of the United States.

I have, &c.

His Excellency Sir George Arthur, Lieut.-Governor, (Signed) S. T. MASON.
&c. &c. &c.

Enclosure in No. 8.

(No. 49.)

No. 9.

EXTRACT of a DESPATCH from Lieutenant-Governor Sir GEORGE ARTHUR,
K.C.H., to Lord GLENELG.

Upper Canada, Toronto, 5th March, 1839.

REFERRING to my despatches to your Lordship of the 5th and 19th ult., Nos. 12 and 33, I have the honour to enclose herewith a copy of a Minute of the Executive Council, respecting certain prisoners engaged in the disturbances last year, who have been confined under commuted sentences in the provincial penitentiary.

I thought the time had arrived when mercy might be extended; and it has given me much pleasure to find that the Council, under all considerations, could recommend the prisoners whose names are inserted in the accompanying minute.

I have acted on the recommendation of the Council in the present cases; and hope that I shall be able gradually to diminish the number of prisoners, without occasioning any excitement among the loyal portion of the community.

No. 9.
Sir George Arthur
to Lord Glenelg.
5th March, 1839.

No. 9.
Sir George Arthur
to Lord Glenelg.
5th March, 1839.

(Copy Extract.)

Enclosure in No. 9.

Enclosure in No. 9.

Executive Council Chamber, at Toronto, Thursday, 23th February, 1839. Present.—The Honourable Robert Baldwin Sullivan, Presiding Councillor; the Honourable William Allen, the Honourable Richard Alexander Tucker.
To His Excellency Sir GEORGE ARTHUR, K.C.H., Lieutenant-Governor of the Province of Upper Canada, Major-General Commanding Her Majesty's Forces therein; &c. &c. &c.
May it please your Excellency,

THE Executive Council, according to your Excellency's command, have considered your Excellency's minuta respecting certain state prisoners, confined in the Penitentiary under commuted sentences.

The following convicts are now undergoing imprisonment, for their share in the original insurrection in December, 1837. Since their sentence the Government has mercifully considered the cases of some prisoners, sentenced to a greater degree of punishment,—and further offences have offered many more guilty persons, as objects for penalty.

The Council are therefore respectfully of opinion, that the time is come, when the cases now before them may receive lenient consideration, and the pardon of the undernamed prisoners, is respectfully recommended upon the usual security for keeping the peace, and being of good behaviour for three years, namely:—

- | | |
|---------------------|------------------------|
| 1. Colin Scott. | 6. George Barclay. |
| 2. John Rummerfelt. | 7. Luther Elton. |
| 3. Francis Robbins. | 8. Edward Carman. |
| 4. George Lamb. | 9. George Buck. |
| 5. John Robinson. | 10. Murdock McPhadden. |

The prisoners George Buck and Murdock McPhadden, found guilty of being concerned in the Short Hills incursion, the Council are of opinion, may now be released. The age of the prisoners is stated at 18 years, and George Buck was recommended to mercy. The principal ground for the discharge of these prisoners is, that numbers of much more guilty persons have since been taken, and remain to be disposed of, and some of maturer years and judgment have been pardoned.

The Council beg to remark, that Erastus Warner, and John W. Brown were ordered to the Penitentiary, the former for fourteen, and the latter for three years; but their names do not appear in the warden's return. Warner, a short time since, was reported as being at Fort Henry, but the Council are unable to say for what reason, John W. Brown, according to the principles now laid down, may, in the opinion of the Council, be pardoned.

Erastus Warner, having been proved to have been actually concerned in the robbery at Overholt's, ought, in the respectful opinion of the Council, to be transmitted to the Penitentiary, to undergo the punishment awarded.

All which is respectfully submitted.

I have, &c.

(Signed)

R. B. SULLIVAN, P. C.

(Signed)

G. A.

Care should be taken for the immediate removal of Warner to the Penitentiary.

(Signed)

G. A.

No. 10.

(No. 53.) COPY of a DESPATCH from Lieutenant Governor Sir GEORGE ARTHUR, K.C.H., to Lord GLENELG.

MY LORD,

Toronto, 8th March 1839.

I HAVE the honour to transmit to your Lordship copies of the addresses which have been presented to me by the two branches of the Provincial Legislature, in reply to my speech on the occasion of opening the present session; and they are accompanied by copies of the answers which I have made to them respectively.

I have, &c.,

The Right Hon. Lord Glenelg,
&c. &c. &c.

(Signed)

GEO. ARTHUR.

Enclosure 1 in No. 10.

ADDRESS from the LEGISLATIVE COUNCIL to Sir G. ARTHUR, 5th March 1839.

To His Excellency Sir GEORGE ARTHUR, Knight Commander of the Royal Hanoverian Guelphic Order, Lieutenant-Governor of the Province of Upper Canada, and Major-General commanding Her Majesty's Forces therein, &c. &c. &c.

May it please your Excellency,

WE, Her Majesty's most dutiful and loyal subjects, the Legislative Council of Upper Canada, in Provincial Parliament assembled, embrace this first opportunity to congratulate

Encl. 1 in No. 10.

your Excellency upon your arrival in the colony, intrusted by our most gracious Sovereign with the administration of the government.

We return our most respectful thanks for your Excellency's speech from the throne at the opening of the present session; and we are pleased to learn that the internal tranquillity of the province and the present security of its frontier have enabled your Excellency, after a recess of unusual length, to meet the Provincial Parliament.

We are sensible that the postponement of the present session has been induced by the pressing and paramount duties in which many of the members of the Legislature have been engaged, connected with the public defence and the administration of justice. And we rejoice that we have now an opportunity to turn our attention to devising measures for the peace, welfare, and good government of the colony, free from the paralyzing suspicion of internal treachery or the exasperating influence of foreign aggressions. And we receive, with feelings of inexpressible satisfaction, your Excellency's hearty congratulations upon this happy result of the zeal, constancy, and bravery of the loyal Upper Canadian people under the most trying circumstances.

We have heard with deep and attentive interest the important and minute description which your Excellency has been pleased to communicate, of the origin and progress of the disaffection in both provinces, and of the unexampled interference and aggressions on the part of the people of the neighbouring states; and we cannot but ascribe our safety from the machinations of our enemies to the decisive measures of your Excellency, which gave immediate confidence to the country, and insured the security of the province.

We deplore, with your Excellency, that Her Majesty's faithful subjects have been exposed to the greatest privations and hardships, and to the severest domestic injuries. We nevertheless enjoy satisfaction in believing that, owing to our state of preparation at every point, the loss of valuable lives has been limited, the moral character of the people of Upper Canada strikingly exhibited, and a spirit roused throughout the province that will long survive passing events, and greatly tend to the future strength, security, and peace of the country.

We concur with your Excellency that it is impossible to praise too highly the gallantry of the militia, the fidelity and prompt services of the Indian warriors, and the patriotism of a vast majority of the inhabitants of this province, who have, as heretofore, conspicuously vied with each other in the manifestation of devoted attachment to our most gracious Sovereign and to the constitution of our beloved country.

We think, with your Excellency, that there is too much reason to fear that the dangers with which we have been threatened are not at an end; for, although the hopes of our enemies have been greatly humbled and their schemes disconcerted by the failure of their repeated attempts to seduce the Queen's subjects from their allegiance, and thus to overrun the country; yet, as the object of plunder and a ceaseless desire to extend republican institutions continue to operate with unabated force, we can have no assurance that men actuated by such feelings will remain quiet longer than they are constrained by fear.

We agree with your Excellency that our great security against these dangers is to be found in the intimate connexion of this province with the British empire; and we cannot too strongly condemn the false and pernicious doctrine, industriously propagated, that England would abandon her transatlantic colonies in their hour of difficulty and danger.

We are confident that the many public evils which have arisen from mistrust in the permanency of British institutions in these colonies will find a speedy remedy in the promptitude with which military aid has been afforded by Her Majesty's Government when danger to the province was made known, and in the unshaken fidelity of the great mass of the Upper Canadian people; and we feel truly grateful for the additional prospect of future security and prosperity which arises from the gracious assurances of our beloved Sovereign, conveyed through your Excellency, of Her Majesty's continued protection and support to Her Majesty's Upper Canadian people.

We concur most fully with your Excellency in seeing the necessity of having the means always at hand to repel and punish hostile aggression, and for the purpose of enabling the loyal people of the province to be at all times ready to aid in the public defence. We shall cheerfully concur in any measures for the improvement of the law relating to the militia, which will tend to place that force upon the best possible footing, so as to render it constantly and promptly efficient, but not burdensome either to the Government or the people.

We strongly participate in the feelings with which your Excellency has discharged the arduous duty which devolved upon you, in the disposal of the numerous criminals who have fallen into the hands of justice; and we are perfectly satisfied that the law has been administered under the direction of Her Majesty's Government, and of your Excellency, with an anxious regard for the public safety, and the legitimate ends of punishment, and, at the same time, with distinguished mercy, forbearance, and humanity.

We deeply lament the damages suffered by Her Majesty's subjects through the violence and rapacity of the lawless population of a neighbouring country. We regret that these together form an aggregate of extensive loss most serious to the sufferers, and occasion many urgent claims for redress; and we shall, without loss of time, give the subject our deliberate attention, with a view of obtaining for the sufferers early compensation, and in the hope that the wrongs done to Her Majesty's subjects in this province will speedily claim the just and humane consideration of Her Majesty's Government.

It gives us great pleasure to learn from your Excellency that Her Majesty has been most graciously pleased to extend to the wounded officers, non-commissioned officers, and men of the provincial Militia, in arms since the insurrection last winter, the same liberal provision as is granted to Her Majesty's regular land and naval forces; and to make a similar beneficent

No. 10.

Sir George Arthur
to Lord Glenelg
8th March, 1839.

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 to Lord Glenelg.
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provision for the widows of those officers in the provincial corps who may have fallen in action.

We see, with your Excellency, that the strongly excited feelings to which the long-agitated question of the Clergy Reserves has given rise in the province, have sensibly impaired that social harmony which may be classed among the first of national blessings, and have augmented the hopes of the enemies of the country in proportion as they have created divisions among its defenders: and we feel that, on every account, the settlement of this vitally important question ought not to be longer delayed; we will, therefore, consider how this desirable object may be obtained with a due regard to the interests of the community at large.

While we freely express our entire concurrence in the reasons which your Excellency has shown for desiring an early settlement of this important question, we cannot but rejoice that the hopes of our enemies have proved fallacious, and that the loyal people of Upper Canada, in the time of actual danger, laid aside all internal differences on this and other subjects, and united together to repel a foreign enemy, whose interference in our domestic difficulties could neither be desired or tolerated.

With your Excellency, we deem the subject of general education one of vital importance to the best interests of society, and believe that a system of sound and religious instruction for the rising generation ought to be established under every government, and is most particularly requisite in a young country in the condition of this province.

We will thankfully receive from your Excellency the answers which Her Majesty has been graciously pleased to return to the several addresses which passed the two Houses of Parliament during the last session.

We doubt not but that your Excellency has exercised the power vested in you, by the suspension of the Habeas Corpus Act, with the greatest caution, with a sincere desire that no restraint might be imposed on personal liberty, beyond what was imperatively demanded for the public safety.

Your Excellency justly observes that the progress which this beautiful country seems destined to make in population and wealth has been materially obstructed by the difficulties and dangers with which it has for some time past been surrounded.

By the goodness of an overruling Providence, those dangers have, however, in a great degree, been averted; and we humbly hope, with your Excellency, that the same Almighty arm which has hitherto protected us will soon place Upper Canada in such a state of tranquillity and security as will permit the full development of her vast natural resources.

To accelerate the arrival of that period, your Excellency may at all times rely on the support of the Legislative Council, in promoting, by wise and salutary legislation, the prosperity and happiness of this interesting colony.

(Signed)

J. JONES, Speaker.

Legislative Council-Chamber, 5th day of March, 1839.

REPLY.

Honourable Gentlemen,

It is very gratifying to me to receive this Address, evincing, as it does, the same spirit of loyalty and attachment to your country by which you have ever been actuated.

I am sensible of your kind expressions of confidence in the measures which I have adopted for the protection of the province, and shall fully rely on your cordial assistance at the present arduous period, in my endeavours to revive the prosperity of the colony, and maintain the integrity of the empire.

Enclosure 2 in No. 10.

ADDRESS from the COMMONS HOUSE of ASSEMBLY to Sir G. ARTHUR.

To his Excellency Sir GEORGE ARTHUR, Knight Commander of the Royal Hanoverian Guelphic Order, Lieutenant-Governor of the Province of Upper Canada, and Major-General commanding Her Majesty's Forces therein, &c. &c. &c.

Encl. 2 in No. 10. May it please your Excellency,

WE, her Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled, humbly thank your Excellency for your gracious speech from the throne at the opening of the present Session, and we avail ourselves of the opportunity afforded, to congratulate your Excellency on your assumption of the government of this province at so important a period in its history.

We are satisfied that the postponement of the present Session to a time later than usual, has been induced by an earnest desire on the part of your Excellency to consult public convenience; and that the internal tranquillity of the province, and the present security of its frontier, afford a favourable opportunity for calling the attention of the Legislature to devising measures for the peace, welfare, and good government of the colony—a duty which we will most cheerfully enter upon, with an earnest desire that our labours may meet with the approbation of our most gracious Sovereign and of the people of Upper Canada, to whose zeal, constancy, and bravery, under the most trying circumstances, your Excellency has borne such gratifying testimony.

We view with peculiar satisfaction the earnest desire evinced by your Excellency under the present novel and peculiar situation of the province, to place before the Legislature an

authentic review of recent occurrences, and to trace effects to their causes, as a guide to present and future legislation; and that we cannot but express the deepest gratitude to Divine Providence that your Excellency was enabled to acquire such timely information of the proceedings of the conspiracy which was organized and extended along the whole line of the American frontier, from east to west, as induced your Excellency to take those decisive measures which gave immediate confidence to the country, and ensured the security of the province, and for which your Excellency is entitled to the gratitude and thanks of the people.

Although we deeply deplore that her Majesty's faithful subjects have been exposed to the greatest privations and hardships, and to the severest domestic injuries, in defending their constitution and laws, we nevertheless have the satisfaction of believing that, owing to our state of preparation at every point, the loss of valuable lives has been limited—the high moral character of the people of Upper Canada thoroughly exhibited—and a spirit roused throughout the province that will survive passing events, and greatly tend to the future strength, security, and tranquillity of the country.

We feel highly gratified that, when the conspirators and revolutionists did make an attack upon our frontier near Prescott, and another in the vicinity of Sandwich, not a subject of her Majesty joined them after their landing, and that in both attempts they were signally defeated, and nearly the whole of the banditti captured.

We agree with your Excellency that, in alluding to these events, it is impossible to praise too highly the gallantry of the militia, the fidelity and prompt services of the Indian warriors, and the patriotism of a vast majority of the inhabitants of this province, who have conspicuously vied with each other in the manifestation of a devoted attachment to our most gracious Sovereign, and of an enthusiastic affection and deep regard for our venerated constitution.

We feel that our best security against the designs of the lawless population of the neighbouring republic, aided by the few disaffected persons in this province, consists in being at all times prepared to repel attacks from any quarter, added to that protection from the mother country which we conceive we are as much entitled to as the inhabitants of any county in England.

We concur in opinion that the main foundation for the hopes of the disaffected persons in this province, and of their foreign supporters, has been a mischievous notion, industriously propagated, that England would desert her Transatlantic possessions in the hour of difficulty and danger; that whenever the machinations of internal traitors, or threats of external hostility, might render the protection of these colonies burthensome, the assistance of the mother country would be withdrawn, and their loyal inhabitants be left alone to support a most unequal conflict. We believe that this false and pernicious opinion has given encouragement to treason—influenced the conduct of the wavering—excited the apprehensions of the timid—and even put to a severe test the constancy of the loyal and resolute;—that it has assisted in checking the tide of immigration to our shores—diverting the surplus of British capital into other channels—impairing public credit—depreciating the value of every description of property—and has been the prolific source of many public calamities.

Past events have uniformly and clearly demonstrated that the fidelity of the mass of the people of this province is not to be shaken by the severest trials, and it affords us great satisfaction, and inspires us with additional confidence, to be informed that your Excellency has been commanded by our most gracious Sovereign to convey to us the most positive assurances of her continued protection and support.

We cannot withhold the expression of our apprehensions that the dangers which have assailed us are not at an end; for all the motives in which the attempts of our enemies originated—the love of plunder, an avidity to seize our fertile lands, and an impatient desire to extend republican institutions—continue to operate with unabated force; and though we sincerely desire conciliation, and will endeavour to promote it by every honourable means, still we feel convinced that upon our own ability, sustained by the British government, to repel and punish hostile aggressions, we must hereafter chiefly depend.

In order to place the inhabitants of this province in the most advantageous position for opposing their unprincipled enemies, we will turn our early and serious attention to the making such amendments in our militia law as shall place this force on the best possible footing—efficient, but not burthensome either to the government or to the people.

We feel assured that the duties which have devolved upon your Excellency in disposing of the numerous criminals who have fallen into the hands of justice, have been arduous and difficult; and we are well convinced that in the discharge of those painful duties your Excellency has been guided by a sincere desire to extend mercy to the utmost limits compatible with justice to the deeply injured people of this province.

We will devote our early attention to the situation of her Majesty's subjects who have suffered in their persons and property by the reiterated attacks of our enemies.

We receive with heartfelt pleasure and grateful acknowledgment the information that Her Majesty has been most graciously pleased to extend to the wounded officers, non-commissioned officers, and men, of the provincial militia, in arms since the insurrection last winter, the same liberal provision as is granted to Her Majesty's regular land and naval forces; and that it is Her Majesty's most gracious intention to make a similar beneficent provision for the widows of those officers in the provincial corps who may have fallen in action.

The important and long-agitated question of the Clergy Reserves shall receive our immediate and attentive consideration, with the view to ascertain how a settlement of it, so particularly desirable, can be attained.

We cordially agree with your Excellency in thinking that a system of sound and religious

No. 10.
Sir George Arthur
to Lord Glenelg.
8th March, 1839.
Encl. 2 in No. 10.

No. 10.
Sir George Arthur
to Lord Glenelg,
8th March, 1839.
Encl. 2 in No. 10.

instructions for the rising generation ought to be established under every Government, and is most particularly requisite in a young country in the situation of this Province, and that we will give it our best consideration.

Our careful consideration shall be directed to the subject of the surrender by Her Majesty to our disposal of the casual and territorial revenues of the Crown, in order that a satisfactory arrangement of this important subject may be speedily accomplished.

The amount of extraordinary outlay advanced by your Excellency from the crown revenue, and not contemplated or provided for by the Legislature, to defray the expenses attending the capture, detention, trial, and punishment of state criminals, and other pressing demands, as well as the public accounts, shall engage our strict attention as soon as they shall be laid before us.

While we regret to find that the negotiation of our public debentures in England has latterly been impeded, we trust that measures will be adopted, during the present session, which will remove all difficulty in obtaining for these securities the confidence that was formerly extended to them.

We are gratified to learn that, notwithstanding the interruption to which the trade of this country has been exposed, there has been no falling off in the revenues collected in Lower Canada, and that a portion of the public money placed in the hands of Thomas Wilson and Co., of London, has been paid; and further, that there is reason to believe that the remainder will shortly be received.

As soon as the reports of the state of the public works are laid before this House we shall consider it among our most important duties to turn our attention to their advancement, and to endeavour to devise measures to secure a due application of public money voted for the roads, the formation of which, on a good and permanent system, we agree with your Excellency, is most essential to the prosperity of the Province.

The anxiety with which Her Majesty's Government looks forward to the resumption of cash payments by the chartered banks of the province is fully participated in by us, and we shall rejoice to find that the interest of the province, and the safety of public credit, will permit the early accomplishment of this essential object.

We shall receive with respectful attention the answers which Her Majesty has been pleased to make to the several addresses of the two Houses of the Provincial Parliament during the last Session, and we are gratified to be informed by your Excellency that these addresses have been graciously received.

We have no doubt that, in exercising the power vested in your Excellency by the suspension of the Habeas Corpus Act to a limited extent, your Excellency has been influenced by a sincere desire that no restraint might be imposed on the liberty of the subject, which the public safety did not imperatively demand.

We unite with your Excellency in acknowledging that the goodness of an overruling Providence has, in an eminent degree, averted the dangers by which the progress of this beautiful country, in population and wealth, has been obstructed; and we humbly hope that the same Almighty arm, which has hitherto protected us, will soon place Upper Canada in such a state of tranquillity and security as will permit the full development of her vast natural resources; and we are fully persuaded that your Excellency's cordial exertions will be employed, in conjunction with the other branches of the Legislature, to promote, by wise and salutary measures, the prosperity and happiness of this interesting colony.

REPLY.

Gentlemen of the House of Assembly.

I THANK you for your congratulations on my assuming the Administration of the Government of this Province, and for the confidence you express in the motives by which my conduct has been directed in the discharge of the very arduous duties that have devolved on me.

At such a trying and eventful period as the present, nothing can tend more to the strength and efficiency of the Executive Government than the cordial support of the Representatives of the People.

In offering you, therefore, my best acknowledgments for this address, I can, with the greatest sincerity, assure you, that it will be the object of my earnest desire to promote and strictly to maintain that good understanding and harmonious intercourse with you which I feel to be intimately connected with the best interests of the country.

No. 11.

(No. 62.)

COPY of a DESPATCH from Lieut.-Governor Sir GEORGE ARTHUR, K.C.H.,
to Lord GLENELG.

No. 11.
Sir George Arthur
to Lord Glenelg,
14th March, 1839.

MY LORD,

Upper Canada, Toronto, 14th March, 1839.

I HAVE the honour to transmit to your Lordship the accompanying copy of a Despatch, which I addressed to the Governor-General on the 14th ultimo, in reply to a communication from his Excellency relative to the seven prisoners named in the margin, who were captured near Amherstburg, on board the schooner "Anne," in an attempt to invade this province in January, 1838, been and had sent to Quebec, for safe keeping in the citadel.

- No. 1.
1. Chauncey Parker.
2. B. F. Pew.
3. N. Smith.
4. H. S. Hull.
5. Squire Thayer.
6. T. Culver.
7. A. Partridge.

By that Despatch your Lordship will perceive that I have authorised the discharge of these prisoners from custody; and the same document will, I trust, explain satisfactorily to your Lordship the reasons why I have induced me to do so.

No. 11.
George Arthur
of Lord Glenelg.
14th March, 1839.

I have further the honour to transmit a copy of a Despatch which I have just received from the Governor-General, in reply; and beg to inform your Lordship that I shall proceed, at the earliest opportunity, to act upon his Excellency's suggestions, as to the manner of effecting the liberation of the seven individuals, in question.

No. 2
2d March, 1839.

The Right Hon. Lord Glenelg, (Signed) GEO. ARTHUR.
&c. &c. &c.

Copy.] Enclosure 1 in No. 11.

SIR G. ARTHUR to SIR JOHN COLBORNE.

Government House, 14th February, 1839.

SIR, I HAVE the honour to acknowledge the receipt of your Excellency's despatch, dated 26th ultimo, with a memorial from seven persons named in the margin, now confined in the citadel of Quebec, who were captured near Amherstburgh, in the schooner "Anne," while in the act of invading this province in the month of January, 1838; and having fully considered in Council the case of these prisoners in all its bearings, and more particularly with reference to the differences of opinion between Her Majesty's law officers in England and the judges and law officers of this province, respecting the character of the offence for which these prisoners should be put on trial, I have determined that it is, under all the circumstances, expedient that they should be set at liberty. The principal offenders, with whom these prisoners were associated in their criminal attempt to disturb the peace of this province, have escaped, and they have themselves suffered a long confinement: I therefore do not doubt that your Excellency will concur in my opinion that they should be discharged.

- Encl. 1 in No. 11.
1. Chauncy Parker.
2. Ben. F. Pew.
3. Nathaniel Smith.
4. Henry S. Hull.
5. Squire Thayer.
6. Theron Culver.
7. A. Partridge.

The law officers to whom I have referred the case suggest, that at the time of the prisoners being set at liberty they should be required to enter into their own recognizances that they will forthwith, or within a reasonable period, remove themselves from Her Majesty's possessions in America.

In attaching this condition to their discharge, it is to be considered of no other value than in so far as it clearly explains to the parties that they may again be committed to prison, should they violate their engagement, and at any future time be found at large in any of the provinces.

As these recognizances may be entered into before any magistrate, I trust your Excellency will have the goodness to give the necessary directions for their being taken by some competent person at Quebec, prior to the discharge of the parties.

(Signed) I have, &c. GEO. ARTHUR.

His Excellency Sir John Colborne,
&c. &c. &c.

Copy.] Enclosure 2 in No. 11.

SIR JOHN COLBORNE to SIR GEORGE ARTHUR.

SIR, Government House, Montreal, 2nd March, 1839.

HAVING referred your Excellency's letter of the 14th ultimo, relating to the disposal of the seven Upper Canada prisoners who were captured near Amherstburgh, now in confinement in the citadel of Quebec, to the Attorney-general of this province, I have the honour to transmit to you a copy of that officer's opinion, and to acquaint you that I shall be prepared to direct the prisoners in question to be forwarded immediately in the opening of the navigation to Cornwall, or such other place in Upper Canada as your Excellency may desire, with the view of their being put under the necessary recognizance in that province.

Encl. 2 in No. 11.
2nd March, 1839.

(Signed) I have, &c. J. COLBORNE.

His Excellency Major-Gen. Sir George Arthur, K.C.H.,
&c. &c. &c.

Copy.] Montreal, 1st March, 1839.

IN obedience to the commands of his Excellency the Governor-General, I have considered the despatch of his Excellency Sir George Arthur, Lieutenant-Governor of the province of Upper Canada, addressed to his Excellency the Governor-General, dated the 14th February last, with regard to seven persons confined in the citadel of Quebec, who were captured near Amherstburgh, requesting that those persons may be set at liberty on entering into their own recognizances that they will forthwith, or within a reasonable period, remove themselves from Her Majesty's possessions in America.

No. 11.

Sir George Arthur
to Lord Glenelg.
14th March, 1839.
Encl. 2 in No. 11.

I have the honour of reporting that I see no legal objection to the liberations of these persons, on their being so bound in recognizances, taken before a justice of the peace at Quebec. But for the obstacles that exist to the conveyance of prisoners to so great a distance at this season of the year, I would be led rather to recommend the prisoners being conducted to the nearest place in Upper Canada, to be put under such recognizances by competent authority there.

I have, &c.
(Signed)

C. R. OGDEN,
Attorney-General.

Major Goldie, Secretary,
&c. &c. &c.

(No. 68.)

No. 12.

EXTRACT of a DESPATCH from Lieutenant-Governor Sir GEORGE ARTHUR, K.C.H. to Lord GLENELG.

Upper Canada, Toronto, 30th March, 1839.

No. 12.

Sir George Arthur
to Lord Glenelg.
30th March, 1839.

It gives me pleasure to report to your Lordship that, within this province, all continues tranquil.

The loyal portion of the community feel much confidence; the disaffected are, at least, quiet; and all seem to await with anxiety the issue of war or peace.

On the American frontier there seems to be a general expectation and desire for war.

Colonel Airey writes from Amherstburg, that various preparations are in progress on the American side, and that another "patriot" descent is confidently expected. General Scott has written to General Brady, who commands at Detroit, to warn him that "patriot" disturbances upon a *large scale* must be expected.

The Senate of Michigan have applied to the President for permission to embody 5,000 of the militia of that State.

An entertainment upon an extensive scale has just been given in the State of Michigan to Bradley, Brophy, and Dodge: nothing can more strongly show the hostile feelings of the American people towards Canada.

Statements from various parts of the frontier all concur in representing that the "Hunters' Lodges" are still extending; that the expectation of war is generally entertained; and there is certainly a growing hostility amongst all classes, but these may subside.

(No. 74.)

No. 13.

EXTRACT of a DESPATCH from Lieutenant-Governor Sir GEORGE ARTHUR, K.C.H. to Lord GLENELG.

Upper Canada, Toronto, 2nd April, 1839.

No. 13.

Sir George Arthur
to Lord Glenelg.
2d April, 1839.

I HAVE had the honour to receive with your Lordship's despatch of the 25th of January last, a copy of a despatch which your Lordship had addressed to Sir John Colborne, informing him that measures would be adopted for removing any prisoners under sentence of transportation for offences connected with the late insurrectionary movements as early as possible after the opening of the navigation, direct from Canada to the penal colonies; and desiring therefore that he would retain such persons in the country; until the further instructions of Her Majesty's Government should be transmitted for his guidance.

In acknowledging this communication, I beg to express the very great satisfaction which I have experienced, on finding that Her Majesty's Government had resolved to avoid in future the inconvenience of sending, via England, to their destination, prisoners sentenced in this country to transportation for political offences.

Respecting that part of the despatch having reference to the probable number of individuals in this class of convicts that may require to be removed, I have the honour to report that, as regards Upper Canada, it will depend on the contingent circumstances which I am about to bring under your Lordship's notice; though I have no reason to suppose that it will amount, in any case, to less than eighty-two persons.

In my despatch No. 12, of the 5th of February, I stated the reasons which,

in anticipation of the spirit of your Lordship's instructions, as conveyed in the enclosure to your despatch of the 31st of December last, had induced the Executive Council to recommend the early liberation of several of the convicted brigands; and that, fully concurring in the opinion expressed by the council, I had resolved to act in accordance with it, provided that the Governor-general should not consider the measure as tending to exercise a baneful influence on the affairs of the Lower Province.

No. 13.
Sir George Arthur
to Lord Glenelg.
2nd April, 1839.

It is under such circumstances, therefore, that the release of twenty-seven brigands whom the courts-martial had recommended for a mitigation of capital punishment, and whom the council had accordingly selected as the first objects of pardon, has actually taken place. Copies of letters to Colonel Dundas, commandant at Kingston, and to the Sheriff of the London District, authorizing the discharge of these individuals from custody, are herewith transmitted.

No. 1.
No. 2.

Influenced by similar considerations, I have since caused a letter to be addressed by the Provincial Secretary to the Secretary of State for the State of New York, informing him of the earnest desire of this Government to extend a free pardon to the further number of fifty-two of the delinquents in our custody, on the ground of their being young and inexperienced men, provided that the state of feeling on the frontier shall appear to render the adoption of such a measure consistent with our security. Of this letter, I have the honour, likewise, to transmit a copy, and from the tone of the answer I may receive to it I shall be better able than at present to form a correct judgment as to the course which it may be desirable to pursue.

No. 3.
28th March, 1839.

The whole number of convicted brigands undisposed of, being 134, if the 52 in question be discharged, there will still remain 82 for transportation, and requiring to be detained in this country until your Lordship's instructions respecting the mode of their conveyance to their destination, shall be received.

I have the honour to transmit a Copy of a Minute of the Executive Council, relative to these individuals, and containing a list of their names.

No. 4.
16th March, 1839.

I have already informed your Lordship in my Despatches before quoted, Nos. 12, and 33, that I consider the time had arrived when, without offending the feelings of the loyal portion of the community, and without the risk of our motives being so misinterpreted, as to be referred by our opponents to any principle of fear, we might grant to the American citizens, the substantial boon that has now been proffered.

Though still entertaining this opinion, and still impressed with the conviction that no reasonable means to produce conciliation should be left unattempted, I feel that I should be deceiving both your Lordship and myself, were I to profess other than a belief that very little permanent benefit can result from any endeavours we may make to change the feeling of a considerable body of the American citizens towards us. On a class of them, as stated in my despatch of No. 33, the measure of our present mercy, which will meet their expectation, cannot fail to produce its influence; but beyond such class, there is but little good material to work upon; and I much fear that the real cause of the long course of aggression to which this country has been subjected, at the hands of the lawless borderers, is too deeply seated to be removed by any acts of liberality or generosity on the part of this Government.

In proof of the unabated spirit of aggression and animosity which exists on the part of a large portion of the border population, I need, my Lord, only advert to the circumstances mentioned in my despatch No. 68, of the 30th ultimo, of an expensive entertainment having been lately given at Monroe in the State of Michigan, to Theller, Dodge, Brophy, and others of their stamp, whereat many citizens of influence and note attended, and sentiments of the most hostile character towards the country were unreservedly expressed.

The information received from Colonel Airey (34th regiment), and imparted to your Lordship in the same despatch, that fresh preparations are again in progress for further attacks on this province, is evidence of the continued determination to harass and keep alive bad feeling. In conjunction with these facts, may be mentioned the report that the citizens of the state of Michigan have applied to the President for leave to raise a force of 5000 militia, under an affected apprehension of attack from what they term our large amount of force collected on the western frontier. An extract of a letter from Lieutenant-Colonel Airey is enclosed; wherein he represents the existing state of feeling at Detroit.

Vide Desp. No. 68.

No. 5.

No. 13.
Sir George Arthur
to Lord Glenelg.
2nd April, 1839.

The border population clearly look to war, arising from the unsettled question of the north-eastern boundary, for affording them an opportunity of rushing openly, in mass, into the Canadas; nor do they conceal the hope which is prevalent among them, that points at issue between the two countries, *may not* be settled amicably.

But the strong expression in Parliament, on the part both of Her Majesty's Ministers, and also of the Duke of Wellington and Sir Robert Peel, of their sentiments on the subject of Canadian affairs, and of the necessity of defending these provinces with the whole force and energy of the empire, can hardly fail to produce a very beneficial effect on the feelings of the inhabitants of the Canadas; and may reasonably be expected to go far in repressing those sanguine expectations of wresting these important possessions from the British Crown, which have for some time been confidently indulged by a large party in America. This may still tend materially to avert war.

As regards the internal condition of this province, I beg to report that all is at present quiet.

Recapitulating the remarks expressed in this and recent despatches, on the state of affairs both within and without the province, I would wish to convey to your Lordship my deliberate opinion that the situation of the country now is, and for some time to come is likely to be, such as to demand unremitting vigilance here, and the firmest tone in the Imperial Parliament.

At the same time, I do incline to hope that the American citizens, perceiving, as they must, that the Canadas are not to be had on the easy terms which they anticipated; will gradually soften down and become more tractable; and, although it may surpass calculation to foresee the final working of the "Hunters Lodges," I can scarcely believe, notwithstanding the excitement which is still kept alive in the states of Michigan and Ohio, that the members of the associations, unless they are secretly supported by their Government, will venture further inroads into Canada, having before their eyes the striking and awful examples that have been made of those who preceded them.

(Copy.)

Enclosure 1 in No. 13.

Letter to Colonel H. DUNDAS.

SIR,

Government House, 26th March, 1839.

Encl. 1 in No. 3

AN authority will be forwarded by this post to the Sheriff of the Midland District for the discharge of twenty-two of the convict brigands, now in confinement at Fort Henry, two of whom were sentenced by the militia general court-martial to the Penitentiary, whilst the remaining twenty having been sentenced capitally, have been recommended by the Court for a mitigation of the penalty of death; and I am directed by the Lieutenant-Governor to request that previously to their liberation you will take an opportunity of endeavouring to impress them, by a forcible address, with a proper sense of the peculiar atrocity of their offence; of the extraordinary lenity shown to them by this Government, and of the deep obligation which such merciful treatment imposes on them to cherish feelings of lasting gratitude towards us, and to make whatever atonement they can for the serious and unprovoked injuries they have inflicted on this province.

It may also be pointed out to them that the fate of their fellow-prisoners must, in some measure, depend on their conduct, since an abuse by them of the clemency of this Government could not fail to operate prejudicially to the brigands they leave behind, and on whose cases no ultimate decision has yet been formed.

To his Excellency, however, it does not appear necessary to enter more largely into the subject of this letter, as he is convinced you will entirely comprehend his intentions in relation to the convicts who are now to be pardoned; and he has, therefore, only to request that you will improve to the utmost the occasion, which thus presents itself of rousing in them any good feelings of which their nature may possibly be susceptible, and of lessening through them that spirit of violent hostility towards us which still exists among a great proportion of the population of the opposite frontier.

The chances that such consequences will result from this act of mercy are certainly too faint to be much regarded, but the Lieutenant-Governor deems it the part of prudence and sound policy not to neglect any chance, however small, or remote, of securing those advantages.

Under a total ignorance of the present state of the river, in regard to ice, the Lieutenant-Governor cannot give any specific directions as to the mode of liberating the prisoners; and he accordingly leaves it entirely to your discretion to convey them to Cape Vincent or any other neighbouring town, in the way you may think proper, and to deliver them over to the marshal or any public functionary of the place to which they may be transferred.

Col. The Hon. H. Dundas,
Commanding 83rd Regiment, Kingston.

I have, &c.
(Signed) JOHN MACAULAY.

(Copy.)

Enclosure 2 in No. 13.

LETTER to the SHERIFF of the LONDON DISTRICT.

SIR, Government House, Toronto, 27th March, 1839.

No. 13.
Sir George Arthur
to Lord Glenelg
2nd April, 1839.

Encl. 2 in No. 13.

By the Lieutenant-Governor's direction, I herewith transmit you a list of the names of eighteen of the convict brigands now in confinement in the gaol of London, whom it is His Excellency's wish that you should remove with all possible despatch to Toronto.

The commanding officer of Her Majesty's troops in London will be instructed to provide an escort for the prisoners, and his Excellency trusts that by their departure the great inconvenience arising from the crowded state of the gaol will be entirely remedied.

I also enclose you a list of five of the brigands who were recommended by the General Court-Martial for minor punishment; and to whom His Excellency has been induced to extend Her Majesty's free pardon. You will, therefore, immediately apprise them of the merciful intentions of the government towards them, and endeavour to impress their minds with a just sense of the very great clemency they have experienced from this government; after which you will remove them to Hamilton, in order that they may be sent from thence to the other side of the water, and liberated.

The fourteen prisoners who will then remain in your charge at London consist of young men, to whom it is also proposed to grant a free pardon at no very distant period, if the state of feeling on the opposite frontier shall render such a proceeding compatible with the security of this province; and you are authorized to inform them that they will hereafter be permitted to return to their families and friends, if no further aggressions shall be committed against us by their countrymen.

I have, &c.

(Signed)

JOHN MACAULAY.

Mr. Sheriff Hamilton, London.

Samuel Snow.
Elizier Stevens.
John C. Williams.
John B. Tyrill.
John S. Guttridge.
James M. Aitchison.
John Sprague.
Robert Marsh.
Riley M. Stewart.
Henry V. Baraam.
Alvin B. Sweet.
James P. Williams.
William Nottage.
John H. Simmons.
Elijah C. Woodman.
Chancey Seldon.
James De Witt Ferro.
Michael Morin.
David M'Dougall.
George Putnam.
William Bartlett.
Sidney Barber.
Harrison P. Goodrich.

(Copy.)

Enclosure 3 in No. 13.

MR. TUCKER to the SECRETARY OF STATE for the State of NEW YORK.

SIR, Government House, Toronto, 28th March, 1839.

Encl 3 in No. 13.

In a former communication to your predecessor I had the satisfaction of assuring him that whilst the Lieutenant-Governor of this province was most strongly impressed with a sense of the sacred obligation imposed on him of endeavouring to protect the deeply-injured inhabitants of Upper Canada from a repetition of those lawless and cruel attacks to which they have so repeatedly been exposed, by the infliction of capital punishment on the principal authors of the injuries they have suffered, his Excellency Sir George Arthur was equally anxious to confine such punishment within the narrowest limits consistent with the discharge of this necessary, though painful, duty; and to discover some reasons which might justify him, both to his own conscience and to the public, in extending pardon to the least criminal among a body of men who had all incurred the guilt of engaging in an enterprise repugnant to every rule of morality, and forbidden alike by the general principles of the law of nations and the municipal institutions of their own country.

Still animated by these sentiments, and sincerely desirous of testifying to the people of the United States of America, that no provocations, however great—no injuries, however severe, can induce, on the part of this Government the smallest departure from its long-established practice of tempering justice with mercy, the Lieutenant-Governor has very lately directed the release of twenty-seven of the convicted brigands; two of whom were sentenced by the Court-Martial to confinement for a long term of years in the Penitentiary at Kingston; and the remaining twenty-five having been sentenced to capital punishment, were yet recommended by the Court for a mitigation of the penalty of death.

There is another and numerous class of the prisoners concerned in the late invasions of Upper Canada, to whom the Lieutenant-Governor is also disposed to grant a free pardon, on the ground that, being young men, they were less capable of estimating the criminality of the proceeding in which they rashly embarked, and more liable to be misled by the false representations of wicked and designing persons; and I am instructed to add, for the formation of Governor Seward, that it is the particular desire of the Lieutenant-Governor that the state of feeling on the frontier, and the consequent prospect of tranquillity, may be such as to render the early restoration of those individuals to their families compatible with the welfare and security of this province.

An intimation of the contemplated liberation of those brigands has already been made to Her Majesty's Minister at Washington; but as the greatest number of them belong to the state of New York, and as the whole of them will probably, in the first instance, return thither, the Lieutenant-Governor has thought it desirable that his Excellency Governor Seward should also be apprised of his intentions respecting them.

I have, &c.

(Signed)

R. A. TUCKER.

The Secretary of State for
the State of New York, Albany.

No. 13.
Sir George Arthur
to Lord Glenelg.
2nd April, 1839.

(Copy.)

Enclosure 4 in No. 13.

REPORT of the EXECUTIVE COUNCIL, dated 16th March, 1839, as to the disposal of 82 State Prisoners convicted before the Courts-martial at Fort Henry and London.

Executive Council Chamber, Toronto,
Saturday, 16th March, 1839.

Present.—The Honourable Robert Baldwin Sullivan, Presiding Councillor; the Honourable William Allan; the Honourable Richard A. Tucker.

To His Excellency Sir George Arthur, K.C.H., Lieutenant-Governor of the Province of Upper Canada, and Major-General commanding Her Majesty's Forces therein, &c. &c.

May it please your Excellency,—

THE Executive Council have taken into consideration the despatch of Her Majesty's Secretary of State for the Colonies, dated 31st December, 1838, and 25th January, 1839.

The Council have also considered the cases of the prisoners convicted by the courts-martial, held at Fort Henry and London, remaining for disposal after the recommendations for pardon already offered.

The Council cannot find any distinction in the cases of the convicts which admits of a different measure of punishment to the individuals comprising the whole number, and they see no other means effectual in securing the punishment of the prisoners, and offering a deterrent example, but transportation to one of Her Majesty's penal colonies.

The Council, therefore, respectfully advise, that the convicts named in the annexed list, 82 in number, have the sentences of death, pronounced upon them respectively, commuted into transportation for life to Her Majesty's penal colony of Van Diemen's land.

All which is respectfully submitted.

(Signed) G. A.

(Signed) R. B. SULLIVAN, P.C.

Names of the 82 Prisoners referred to in the foregoing Report.

- | | |
|------------------------|-----------------------------|
| 1. Aaron Dresser, jun. | 42. John G. Swanberg. |
| 2. William Gates. | 43. Nathan Whiting. |
| 3. George T. Brown. | 44. Stephen S. Wright. |
| 4. Hiram Loop. | 45. Beemis Woodbury. |
| 5. Elon Fellowes. | 46. Asa Priest. |
| 6. Orlan Blodgit. | 47. John Bradley. |
| 7. Reilly Whitney. | 48. Patrick White. |
| 8. John Thomas. | 49. David Defield. |
| 9. Asa H. Richardson. | 50. John Morrisette. |
| 10. Edward A. Wilson. | 51. Joseph Leforte. |
| 11. Laurence Reilly. | 52. Calvin Mathers. |
| 12. Robert G. Collins. | 53. John Gillman. |
| 13. Thomas Stockton. | 54. Foster Martin. |
| 14. David Howth. | 55. Daniel Liscum. |
| 15. Michael Fraer. | 56. Ira Polly. |
| 16. Emanuel Garrison. | 57. Oliver Lawson. |
| 17. Leonard Delino. | 58. Andrew Moore. |
| 18. John Cronkhite. | 59. Lysander Curtis. |
| 19. James Pierce. | 60. Nelson J. Griggs. |
| 20. James Inglis. | 61. Garret Hicks. |
| 21. Hugh Calhoun. | 62. William Reynolds. |
| 22. Henry Shew. | 63. Jerry Griggs. |
| 23. Joseph Thompson. | 64. Moses A. Dutcher. |
| 24. Eli Clark. | 65. Samuel Snow. |
| 25. Jehiel H. Martin. | 66. Elizar Stevens. |
| 26. Luther Darby. | 67. John Chester Williams. |
| 27. Joseph Stewart. | 68. John Burwell Tyrell. |
| 28. Alson Owen. | 69. John Seymour Gutridge. |
| 29. Chauncey Bugbee. | 70. James Milnes Aitchison. |
| 30. Andrew Leeper. | 71. John Sprague. |
| 31. John Berry. | 72. Robert Marsh. |
| 32. Owen W. Smith. | 73. Riley Monson Stewart. |
| 33. Daniel D. Hustis. | 74. Henry Verrelon Barnam. |
| 34. Thomas Baker. | 75. Alvin Burrough Sweet. |
| 35. Solomon Reynolds. | 76. James Peter Williams. |
| 36. David Allen. | 77. William Nottage. |
| 37. Hiram Sharp. | 78. John Henry Simmons. |
| 38. Samuel Washburn. | 79. Elijah Croker Woodman. |
| 39. Gideon Goodrich. | 80. Chauncey Sheldon. |
| 40. John M. Jones. | 81. James De Wiit Ferro. |
| 41. Chauncey Mathers. | 82. Michael Morin. |

Enclosure 5 in No. 13.

EXTRACT from a Letter from Lieutenant-Colonel AIREY, 34th Regiment, dated Malden, 27th March, 1839.

There has been a great deal of excitement at Detroit, and, I may say, in Michigan generally, since the Boundary question has been before the public, and the feeling decidedly more and more warlike.

Since an amicable adjustment of the affair between New Brunswick and Maine has become probable, great dissatisfaction has been evinced. The Legislature of Michigan has had frequent secret sessions—the object of which has been to take measures for the defence of their frontier, and to make a representation to the President, to induce Congress to authorize Michigan to call out 5000 militia, to be placed opposite the British posts, and to defend Detroit.

They say Detroit is very full of strangers.

I have no doubt whatever, from all I see and hear, that next winter (if not sooner) will bring with it a renewal of piratical incursions, on this frontier at least, under the head of patriotism. The contributions in order to keep up excitement are more general and more extensive in Ohio and Michigan than ever, and they avow that they intend to tire the British Government and loyal population out.

All that comes to my knowledge of any weight I will not fail to communicate.

I remain, &c.

(Signed) RICHARD AIREY.

No. 13.
Sir George Arthur
to Lord Glenelg.
2nd April, 1839.
Encl. 5 in No. 13.

(No. 80.)

No. 14.

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

Upper Canada, Toronto,
April 10, 1839.

MY LORD,

WITH reference to my despatch, No. 74, of the 2nd instant, I have now the honour to enclose your Lordship the copy of a Report from the Sheriff of the Midland district, detailing the circumstances attending the liberation of twenty-two of the brigands lately in confinement at Fort Henry.

These men were landed at Sackett's Harbour, and I think your Lordship will be gratified at the circumstances connected with their being delivered over to the American authorities.

The five other prisoners alluded to in that despatch have been sent from London to Hamilton for the purpose of being released.

I have, &c.

(Signed) GEO. ARTHUR.

The Most Noble the Marquis of Normanby,
&c. &c. &c.

No. 14.
Sir George Arthur
to the Marquis of
Normanby.
10th April, 1839:
6th April, 1839.

Enclosure in No. 14.

Sir, Kingston, April 6, 1839.

I BEG leave to acquaint you, for the information of his Excellency the Lieutenant-Governor, that in pursuance of instructions conveyed to me in your letter of the 26th ultimo, and in compliance with directions from Colonel the Honourable H. Dundas, 83rd Regiment, Commandant of Kingston, I have this day discharged from my custody the American prisoners named in the margin, to whom a free pardon has been granted by his Excellency the Lieutenant-Governor. They were embarked on board of a steam-boat under an escort of fifty men of the militia, and I proceeded in charge of them to Sackett's Harbour.

- Enclosure in No. 14.
Names of American Prisoners
Price Seuter
Lawton S. Peck
Hiram Kenney
Sebastian Meyer
John A. Brewster
Justis Merriam
François Gagnon
Peter Meyer
Jeremiah Winegar
David Gould
John Thompson
Andrew Richardson
Philip Conrod
Joseph Wagner
Henry Jautzen
Charles Höres
John O'Kinski
Ernest Breuts
Charles Allen
Joseph Dodge

Before landing the prisoners I waited on the military and civil authorities, by whom I was received with great civility. I expressed to them the Lieutenant-Governor's anxious hope that the great lenity which had been shown to these prisoners would be duly appreciated by all classes of the American people, and have the effect of allaying that feeling of animosity against the people of Canada, which, unfortunately, had so generally prevailed along the frontier. I stated that on the conduct of the persons about to be released, and that of the American people generally, would in a great degree depend the fate of the greater part of the prisoners who still remained in confinement.

The magistrates assured me that no efforts should be wanting on their part to bring about a better state of feeling on the part of the people, and that they all felt deeply grateful for the mercy shown to the prisoners. I walked for a distance of nearly a mile in the midst of the crowd, which had collected on the approach of the steamer, and did not meet with the slightest incivility from any person.

I enclose herewith the receipt of the deputy sheriff for the prisoners.

After the prisoners had been landed, they separated themselves from the crowd, and drew up along the beach: looking towards the vessel they all bowed low, then took off their caps, and gave us three cheers.

I firmly believe that the mercy extended to them will have a most beneficial effect on the public mind throughout the United States.

I have, &c.

ALLAN M'DONNELL,
Sheriff, Midland District.

The Honourable J. Macaulay, Civil Secretary,
&c. &c. &c.

No. 15.
Sir George Arthur
to the Marquis of
Normanby.
17th. April, 1839.

(No. 90.)

No. 15.

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

Upper Canada, Toronto,
April 17, 1839.

MY LORD,

WITH reference to my despatch, No. 80, of the 10th of April, covering a report from Sheriff Macdonell, of the Midland District, detailing the circumstances attending the release of twenty-two brigands, who were lately conducted by him to Sackett's Harbour, and given up to the civil authorities there, I have now very great satisfaction in transmitting your Lordship a number of the "Sackett's Harbour Journal," containing an editorial article on the conduct of this Government, in extending mercy to those individuals, accompanied by a letter of acknowledgment on the same subject from the magistrates to Mr. Macdonell, and a well-written address from the liberated prisoners, expressive of their deep sense of gratitude for the treatment they have experienced; and exhorting their countrymen in language both forcible and affecting, to abstain from all further acts of aggression against this province.

Without being disposed to attach any undue importance to what may be nothing more than a mere ebullition of feeling, under the influence of a temporary and short-lived sentiment of gratitude, produced by an unlooked-for act of clemency, I cannot but indulge the hope, that some good consequences may result from the liberation of those brigands; and it certainly adds materially to the chance of such a result, that the newspaper now forwarded to your Lordship has hitherto displayed a very unfriendly disposition towards us, and is published in a town where a spirit of very bitter hostility against British institutions has for a long period prevailed.

I have &c.,
(Signed) GEO. ARTHUR.

The Marquis of Normanby,
&c. &c. &c.

(Copy.)

Enclosure in No. 15.

(Extract from the Sackett's Harbour Journal.)

CANADIAN CLEMENCY.

Twenty-two Prisoners pardoned, and sent home.

Encl in No. 15.

On Monday last our village was the scene of pleasurable and grateful excitement, occasioned by the unexpected arrival of Colonel A. McDonnell, sheriff of Midland District, U. C., on board the British steamer Commodore Barrie, from Kingston, with twenty-two of the Prescott prisoners, pardoned by his Excellency the Lieutenant-Governor. Colonel McDonnell sent for the magistrates of our village, and stated to them that he had been requested by his Excellency the Lieutenant-Governor to inform them what he had done for these prisoners, and that he earnestly hoped it would have a happy effect in allaying the excitement, which had led to so much trouble and distress to both Governments; and if it should have that tendency, the remaining prisoners, in due time, would receive the benefit of it.

To whom the undersigned magistrates delivered the following note:—

"Sir.—The undersigned feel it a duty and pleasure for themselves, and in behalf of their fellow-citizens, to tender to you, and through you to his Excellency the Lieutenant-Governor and people of Upper Canada, our unfeigned gratitude for the kind and noble exercise of the pardoning prerogative vested in his Excellency, and extended to these our deluded fellow-citizens; and we do assure you that the exercise of this clemency on the part of your government cheers the hearts of us all—a glad smile is lit upon every countenance among us; and we beg you will be pleased to communicate to his Excellency the Lieutenant-Governor, and the people of your province, that the message you have so kindly delivered to us shall be communicated to our fellow-citizens and the public."

With sentiments of profound respect, we have the honour to be, &c.

(Signed)

ZENO ALLEN,

EDMUND M. LUFF.

The pardoned prisoners, before separating for their respective homes, desirous to make some public acknowledgment of their gratitude, all signed the following article, which they unanimously requested might be published. The act of gratuitously bringing the pardoned prisoners to our shores was magnanimous on the part of the Canadian authorities, and will tend more than anything that has transpired, to restore that state of friendly feeling and national intercourse and good-will between the people on both sides of the line, which so happily existed previous to the late border troubles.

"We, the undersigned, having this day been released from imprisonment in Fort Henry, Upper Canada; and, by the kindness of the authorities in that province, conveyed in the steamer Commodore Barrie to Sackett's Harbour, feel bound publicly to acknowledge our debt of

gratitude to Sir George Arthur, by whose clemency we have been once more restored to our country and homes.

"Towards us, as well as towards all the other prisoners, the sheriff, his deputy, and all the other officers at Kingston, have extended the utmost kindness and humanity, consistent with their duty to their own Government.

"If any of our countrymen are still so reckless, or so deceived, as to meditate further invasion or hostility against Canada, we admonish them, by all considerations of duty to themselves, their country, and their God, and by their regard for the welfare of those who are still in prison, to dismiss all such wicked feelings and intentions from their minds.

"PRICE SEUTER, Perry, Tennessee Co., N. Y.

"CHARLES ALLEN, Oswego.

"HIRAM HALE, Lesargeville, Jeff. Co.

"JOHN THOMPSON, Morristown, St. Law. Co.

"HENRY JOHNSTON, New York City.

"LAWTON S. PECK, Brownville, Jeff. Co.

"AND. RICHARDSON, Rossie, St. Law. Co.

"DAVID GOULD, Alexandria, Jeff. Co.

"CORNELIUS GOODRICH, Salina, Mondaya Co.

"JOSEPH WAGNER, ditto.

"SEBASTIAN MEYER, Rochester.

"PETER MEYER, Syracuse.

"PHILIP CONRAD, Saling.

"CHARLES HORIZ, Lyne, Jeff. Co.

"FRANCIS GANYO, Lower Canada.

"JUSTICE MERRIAM, Brownville Jeff. Co.

"JOSEPH DODGE, Salina.

"JOHN O'KOINSKIE, Poland.

"ERNEST BARAUCK, ditto.

"JEREMIAH WINEGAR, Brownville, Jeff. Co.

"HIRAM KINNEY, Palermo, Oswego Co.

"JOHN A. BREWSTER, Henderson, Jeff. Co.

"Sackett's Harbour, April 8, 1839."

(No. 92.)

No. 16.

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

Government House, Toronto, 20th April, 1839.

MY LORD,

In acknowledging the receipt of your Lordship's despatch, No. 14, of the 21st ult., which reached me at late hour last evening, I hasten to assure your Lordship that the approbation you have been pleased to express of the general course of conduct pursued by me, in the treatment of the brigands concerned in the recent invasions of this province, has been highly gratifying.

With reference, however, to your Lordship's suggestion that, "in the event of fresh aggressions rendering it unfortunately necessary to resort to the use of capital punishments, it may be desirable that they should follow the commission of the crime as speedily as may be consistent with the calm and complete investigation of the cases of the several criminals, and then terminate," I would beg leave respectfully to observe, that whilst I most entirely acquiesce in the soundness of the principle upon which this suggestion, regarded as a general proposition, rests, I do entertain doubts of its applicability to that very *peculiar* state of things, which has for some time past existed here.

Under ordinary circumstances the sympathies of mankind are strongly excited in behalf of the individuals who pay with their lives the penalty of their crimes: and every delay in the execution of the sentence, by increasing those compassionate sentiments towards them, has an evident tendency to destroy that effect,—an abhorrence of crime, connected with a doubt of its consequences, which capital punishment is principally intended to produce. In other words, sympathy for the sufferers is, in common cases, the sentiment which most powerfully counteracts the design of punishment; and which, therefore, ought most carefully to be guarded against.

But under the excitement arising from the repeated atrocious attacks upon Upper Canada, the minds of its inhabitants were so far removed from any sentiments of compassion towards the lawless banditti, that the great difficulty—and greater it certainly was than at such a distance your Lordship can well imagine—on the part of the Government was to satisfy the public demand for

No. 16.
Sir George Arthur
to the Marquis of
Normanby.
17th April, 1839.

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No. 16.
 Sir George Arthur
 to the Marquis of
 Normanby.
 20th April, 1839.

the infliction of capital punishment without going considerably beyond the limits of justice and humanity: To weaken, as much as possible, the force of resentment; and, through the influence of time, to soften the hearts of the people, appeared to me, therefore, to be the objects to which my measures should chiefly be directed; and I can conscientiously declare my belief, that the delay which took place in the execution of the brigands mitigated considerably the general thirst for vengeance, and this enabled me to pursue a course of extreme lenity, in comparison with that which was at first required by the people, with the entire concurrence and approbation of those very individuals who a short time before would have violently exclaimed against it.

Nor is it only in reference to the executions that I consider the delay in deciding on the fate of the prisoners to have been attended with the most salutary and beneficial consequences; for, I am fully persuaded, that whilst that delay has reconciled the inhabitants of Upper Canada to the pardoning the younger and less guilty portion of the prisoners, it has greatly added to the effect which has been produced on the American citizens generally, as well as on the prisoners themselves, by the *mercy* which has been extended to them. Had they been restored to their country immediately, ~~their~~ restoration would perhaps have been ascribed to timidity on our part; and to whatever motive it may have been attributed, it would not, in the then inflamed state of their passions, have given birth to the slightest feeling of gratitude: but by inspiring them with terror, through the execution of several of their companions, and keeping them in the greatest uncertainty as to their own fate, their spirits have been materially subdued, and they and their friends brought to feel, and to appreciate, the value of the favour which has now been conferred upon them.

In confirmation of this opinion, I may appeal to the reports I have already transmitted to your Lordship, of the conduct of those brigands who were lately released at Sacket's Harbour; and to the manner in which that act of clemency has been recognized, both by the civil authorities of that town and by the Secretary of State for the state of New York, whose letter on that subject I have also had the honour of forwarding to your Lordship. In fact, my Lord, the occasion of the late executions was totally different from any of those offences which ordinarily give rise to capital punishments,—the state of public feeling equally dissimilar—and the sympathy which is always to be apprehended in the one instance, was, I conceive, to be promoted as much as possible in the other.

Having thus laid my views on this interesting question plainly before your Lordship, it only remains for me to add that I shall be most ready to act upon your Lordship's suggestion, in the event of the future invasion of this country, if your Lordship shall continue to deem celerity of punishment, in such a case, desirable.

I have, indeed, said more upon this subject than I should otherwise have done, in consequence of a very painful insinuation upon my measures, which is contained in the Earl of Durham's Report, under the marginal note "irritation excited," and upon which no remark has been made by Her Majesty's government, in transmitting the report to me, or in laying it before parliament. I must still encroach upon your Lordship's time to add that, although I am well aware—in your Lordship's forcible language—of the indelible disgrace which would attach to the British name, and, I may well add, to my own most particularly, if any uncalled-for severity were exercised, I am yet fortified in the conviction that the right course has been taken from the following considerations:—

The provincial legislature have expressed their unanimous approbation in very gratifying terms;

Her Majesty's minister at Washington has done the same.

A large class of the more respectable citizens of America, I have reason to know, entirely concur in the line of conduct that has been pursued by this government; and the whole body of brigands have not only been compelled to respect, but to dread it.

I have, &c.

(Signed)

GEO. ARTHUR.

The Most Noble the Marquis of Normanby,

&c.

&c.

&c.

(No. 94.)

No. 17.

COPY of DISPATCH from Lieutenant-Governor SIR GEORGE ARTHUR K.C.H., to the Marquis of NORMANBY.

No. 17.
Sir George Arthur
to the Marquis of
Normanby.
24th April, 1839.

Government House, Toronto, 24th April, 1839.

MY LORD,

I REGRET to report that the American steam-boat "United States," of painful notoriety, while proceeding up the St. Lawrence, from Ogdensburg, on the evening of the 14th instant, was fired at with musketry, by some imprudent persons who were congregated on the wharf at Prescott, though, fortunately, the vessel, being beyond the range of shot, the consequences which might have otherwise ensued, were averted.

By the earliest opportunity I shall do myself the honour to transmit to your Lordship copies of all papers relating to this matter; but I am obliged to forward my report on at once, in order to secure the conveyance which has offered for its transmission, via Rochester.

Enclosed is a Militia general order, issued on the occasion of what has taken place.

No. 1.
20th April, 1839.

I should state that, information having reached me on the 13th instant, of a design being entertained by certain residents at Brockville, to fire and to destroy the first American steam-boat which should arrive there, in retaliation for the destruction of the "Sir Robert Peel," I caused a letter to be addressed to Colonels Marshall and Young, the respective commandants at Brockville and Prescott, apprising them of the scheme in project, and desiring, in consequence, that they would take the most prompt and effective measures to prevent its execution.

No. 2.
13th April, 1839.

While these communications were passing, the imprudent act referred to had been committed; and, on the following morning, it was reported to me by Colonel Young, who had caused an immediate inquiry into the circumstances to be set on foot.

As the result of this investigation, Colonel Young transmitted in the course of the same day a copy of the proceedings of a special session held on the occasion; from which it appeared, that no clue whatever had been found to the offending parties; and it would seem from Colonel Young's statement, that there exists but little chance of this discovery; owing to the abhorrence which prevails among the local community, at the manner in which the vessel in question was employed in the events of November last.

Colonel Young took the precaution of communicating at once with the authorities at Ogdensburg; affording them such explanations as were in his power, and which, he doubted not, would prove satisfactory to them.

I have reported the particulars to Her Majesty's minister at Washington, in anticipation of the inquiries which will of course be made of His Excellency on the subject, by the American government.

This outrage is exceedingly vexatious to me; being calculated to keep alive a spirit of hostility, and to thwart my policy with regard to the prisoners to whom I have been granting pardons; but it is impossible to expect otherwise than that, despite of every precaution, such occurrences will take place before good feeling be permanently restored.

The American government ought certainly to have interfered and to have prevented this obnoxious steamer from so soon again appearing in that particular part of the St. Lawrence, and the obligation imposed on them to do so will be more fully explained to your Lordship by the accompanying copy of a letter which has been addressed to me by Captain Sandom.

No. 3.
20th April, 1839.

I have, &c.

(Signed) GEO. ARTHUR.

The Marquis of Normanby,
&c. &c. &c.

(Copy.)

Enclosure 1 in No. 17.

MILITARY GENERAL ORDER.

Adjutant-General's Office, Toronto, 20th April, 1839.

His Excellency, the Lieutenant-Governor and Major-General commanding, has received with great concern a report stating that, on the evening of Friday, the 14th instant, as the

Encl. 1 in No. 17.

No. 17.
Sir George Arthur
to the Marquis of
Normanby.
24th April, 1839.
Encl. 1 in No. 17.

"United States" was leaving the port of Ogdensburg, and proceeding on her trip up the river St. Lawrence; she was fired at by some persons collected in a large crowd at Prescott. Fortunately, that vessel was at too great a distance to receive any injury from the shot, which fell short of her, into the water; yet the act itself proves the mischievous intention of the assembled crowd. Sir George Arthur regrets exceedingly to learn that some of the shots were fired by two or three militia men, who have hitherto escaped detection.

His Excellency has had the most gratifying duty of expressing, on all occasions, his strong approbation of the forbearance and good conduct of the militia. He still anxiously desires to retain the high opinion he has formed of their character as a military body; and if individuals, by such an outrage as the Lieutenant-Governor is now obliged to notice, venture thus to cast a slur upon the reputation the militia of Upper Canada have gained for discipline and subordination, they may be assured, that every means will be adopted to discover the offenders and bring them to justice.

By command,
(Signed) RICHARD BULLOCK, A.G.M.

(Copy.)

Enclosure 2 in No. 17.

LETTER addressed to Colonels MARSHALL and YOUNG.

SIR,

Government House, Toronto, 13th April, 1839.

Encl. 2 in No. 17.

Information having reached the Lieutenant-Governor that certain persons residing at Brockville entertained the design of firing and destroying the first American steam-boat that shall touch at that port, in retaliation for the destruction of the "Sir Robert Peel," his Excellency directs me to put you on your guard against such a scheme, and to request that you will take the most prompt and effective measures for preventing the execution of a project which would be attended with the most perplexing embarrassments.

I am desired to call your most earnest attention to this matter, and to beg that you will confer with some of the principal inhabitants upon it.

I have, &c.,
(Signed) JOHN MACAULAY.

Colonel Young, Commandant, Prescott.

(Copy.)

Enclosure 3 in No. 17.

LETTER from Captain SANDOM, R.N. to SIR GEORGE ARTHUR.

SIR,

Dock Yard, Kingston, 20th April, 1839.

Encl. 3 in No. 17.

Finding, contrary to my expectations, that the "United States" merchant steam-vessel is again appearing on her accustomed route of last year, I deem it my duty to bring to your Excellency's notice certain facts relative to the movements of that vessel, and the part she bore in collecting the brigands who were landed near Prescott, in November last. On the 11th of November (two days previous to the landing of the rebels) I knew their movements, and despatched the "Cobourg" steam-vessel to Sackett's harbour, with a letter to Colonel Worth (the officer commanding that district, and with whom I was directed to co-operate for the preservation of tranquillity), begging him to unite with me for the apprehension of the turbulent who were assembled on board two schooners in a small bay which I pointed out: adverse winds prevented my reaching the rendezvous. I gave the Colonel till some hours after the "United States" steam-vessel had called off Mollin's Bay, and taken with her the two schooners filled with the evil-disposed, who were the following day landed from them, and also from the "United States" near Prescott.

On communicating with Colonel Worth, on the morning of the 12th (finding the brigands had escaped us), he decided on proceeding down towards French Creek and Ogdensburg, while I went over to the British side with the steam-vessels then under my command, to ascertain further particulars. On learning, towards the evening, that a hostile landing had taken place, I immediately proceeded down towards Prescott, and when approaching Ogdensburg, after dark, met the steam-vessel "Telegraph" coming towards my ship. Colonel Worth then communicated the fact of the landing which had taken place, and informed me, by one of my officers, that the Marshal of the State, then on board and acting with him, had seized two schooners and the "United States" steam-vessel, for a breach of the laws in the outrage they had that day committed, and that they would be forfeited to the State, and never be allowed again to pursue their accustomed avocations. Upon this understanding and assurance, from an officer of Colonel Worth's reputation, I felt it my duty, subsequently, to allow these vessels to pass, which I should otherwise have seized and brought before a British tribunal for judgment on the piratical act they had been mainly instrumental in effecting. I now, therefore, beg to submit to your Excellency the propriety and justice of the American Government being called upon to redeem the pledge given to me by Colonel Worth, that the steam-vessel so seized by the Marshal of the State would be condemned for a breach of the laws of nations, and that she would never be permitted to resume her accustomed avocations.

I have, &c.,
(Signed) WILLIAM SANDOM.

His Excellency Major-Gen. Sir George Arthur, K.C.H.

&c.,

&c.,

&c.

(No. 99.)

No. 18.

COPY of a DESPATCH from Lieutenant Sir GEORGE ARTHUR, K.C.H., to the Marquis of NORMANBY.

MY LORD,

Upper Canada, Toronto, 7th May, 1839.

I do myself the honour to transmit to your Lordship the accompanying copy of a despatch addressed by me to Mr. Fox, relating the particulars of a recent outrage committed by some of our militia, on board the American schooner, "Stephen Gerrard," whilst that vessel was passing through the lock of the Welland Canal, at Port Colborne, on her way to Cleveland, in the state of Ohio.

After the vexatious occurrence respecting the American steam-boat "United States," which I reported to your Lordship in my despatch, No. 94, of the 24th ultimo, it is with increased regret that I bring before you this still more unjustifiable proceeding; nor can I too deeply lament the existence of the state of public feeling in which it has originated.

The promptness, however, with which reparation for the injury was made to the captain of the vessel, has perhaps given, upon the whole, rather a favourable turn to the affair than otherwise; and good, I hope, will result from the evil.

Conjointly with this matter, I beg to invite your Lordship's attention to the circumstances stated in the inclosure, with reference to an occurrence which took place at Rochester, a few days since, on board our own steam-boat "Traveller," and which are of a nature, as your Lordship will very readily perceive, wholly to preclude our vessels from proceeding to the American ports for some time to come, since their owners would fear their destruction.

I have, &c.

(Signed) GEO. ARTHUR.

The Marquis of Normanby,
&c. &c. &c.

Enclosure 1 in No. 18.

Government House, Toronto, 2nd May, 1839.

(Copy.)

SIR,

ANOTHER of those occurrences which the present state of public feeling has a strong tendency to originate, and which however slight may be their immediate cause, are always liable to be attended with the most serious consequences, lately took place at Port Colborne; and though I have good reason to believe that the prompt measures which were adopted to repair the wrong committed by us, have been completely successful, I am yet induced, under the influence of a desire to make your Excellency acquainted with every event that can in any way affect our relations with the Government of the United States of America, to trouble you with a short account of this unpleasant affair.

A schooner, the "Stephen Gerrard," belonging to Oswego, whilst passing through the lock of the Welland Canal at Port Colborne, on her way to Cleveland, on the evening of the 22nd ultimo, was boarded by some privates of our embodied militia, who grossly insulted the master, and compelled him to throw his flag; the halliards of which they had previously cut, on the shore. They also endeavoured to prevent the progress of the vessel through the lock, and in this attempt her jolly-boat was crushed and materially injured.

It should be mentioned, that the regiment to which the aggressors belonged, was on the point of being disbanded, and that the men having been drinking freely, many of them were in a state of intoxication.

On this outrage being reported to Lieutenant Colonel Baldwin, the commanding officer of the 6th Provisional Battalion of Militia, he immediately despatched a person in a canoe to restore the flag, and to offer a suitable apology for the improper conduct of the soldiers; who had been instantly placed in confinement with a view to their trial and punishment, but owing to the advanced state of the evening, the canoe was not able to reach the schooner, and returned without having accomplished the object for which it had been sent. A subscription was, however, directly entered upon by the officers of the corps, and the sum of 15*l.* contributed by them, which was sent on the following morning to the master of the schooner, with a letter, whereof I inclose a copy, expressive of their deep concern at the indignity to which he had been exposed, and entreating him to accept the 15*l.* to purchase a new flag for his vessel; the flag which had been taken from him was at the same time restored, and an assurance also given that adequate punishment would be inflicted on the offending parties.

The effect of this early tender of reparation seems to have perfectly satisfied the master of the vessel; who at first declined the pecuniary compensation altogether; but afterwards con-

No. 18.
Sir George Arthur
to the Marquis of
Normanby.
7th May, 1839.

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to the Marquis of
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7th May, 1839.

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29th April.

sented to take 5/ to repair the damage to his jolly-boat. There is, no longer, therefore, the least ground for apprehending any bad result from a transaction which might have called forth very angry feelings, and led to some violent retaliatory acts, had the vessel reached Cleveland before the *amende honorable* had been made. Viewing it in this light, and ignorant of the judicious steps that had been taken by Lieutenant Colonel Baldwin, to repair the wrong, I despatched an intelligent officer of the 43rd regiment to Cleveland, to make a correct representation of the facts of the case, and to invite the master of the schooner, under a pledge of protection and kind treatment, to come here for the purpose of instituting legal proceedings against the authors of the outrage.

This officer, returned last night, with a letter from the collector at Cleveland, and by the enclosed copy of it, your Excellency will perceive that our promptness in affording reparation has given great satisfaction.

In reviewing this transaction, your Excellency will, I am persuaded, be much pleased with the manner in which it has terminated; and you will perhaps deem the alacrity which has been manifested by a community still suffering severely from the repeated aggressions of numerous American banditti, to make compensation for a little wrong done to an American vessel, a circumstance of some importance, as affording a striking contrast to the supineness with which the American Government, as well as the American people, have witnessed the enormities of their border population, without employing any adequate means either to prevent or to redress them.

I must next beg leave to draw your Excellency's attention to the accompanying copy of the deposition of the master of our steam-boat "Traveller," detailing the particulars of a proceeding which lately took place at Rochester. The search that was instituted for two men who were alleged to be in confinement on board the "Traveller," was probably warranted by the laws of America, and consequently does not furnish a ground of complaint; but it does appear to me a matter of surprise that such a person as Mackenzie should have been permitted to bear a part in those proceedings, and that he should be allowed to continue his iniquitous efforts to foment measures of a nature to bring on hostilities between the two countries.

I have, &c.

(Signed)

GEO. ARTHUR.

To His Excellency H. S. Fox,
&c. &c. &c.

(Copy.)

Enclosure 2 in No. 18.

Colonel BALDWIN to the Master of the "Stephen Girard."

Encl. 2 in No. 18.

SIR,

Port Colborne, 23rd April, 1839.

I HAVE the honour to inform you that, having called a meeting of the officers of this battalion on the subject of the outrage offered to your vessel and flag last night at this port, it was unanimously resolved that a subscription should be raised from amongst themselves forthwith, to purchase a new colour for your schooner, which they request your acceptance of, and beg of you to receive the assurance of their deep and unfeigned regret at an occurrence so calculated to destroy confidence, and interrupt the return of better feelings on this frontier.

In conveying to you this expression of their sentiments and feelings, I beg to assure you that by no one is the late transaction more deeply deplored than by myself, and that I am extremely grieved that I was not apprized of it in time to offer you my apology before you quitted the shore.

On learning of it, although the weather was hazy, night setting in, and no boat at hand, I despatched a canoe with two men to return you the flag, and express my deep regret at the affair.

I immediately placed in confinement those charged with the offence, and have instituted an inquiry relative to it.

Trusting that you will receive this unanimous and immediate reprobation of this transaction from the officers of this battalion, together with the new colour, as an earnest desire on our part to repair the injury inflicted.

I have, &c.

(Signed)

C. J. BALDWIN,
Col. Com. 6th Pro. Batt.

To Captain Thyan, of the Stephen Girard.

(Copy.)

Enclosure 3 in No. 18.

Encl. 3 in No. 18.

DEAR SIR,

Government House, Toronto, 25th April, 1839.

By a letter from the Collector of the Customs at Port Colborne, a copy of which is enclosed for your information, it appears that on Monday last a most disgraceful outrage was committed by some drunken militiamen of the 6th regiment of incorporated militia on an American schooner on her way from Oswego to Cleveland.

It is unnecessary for me to say how much his Excellency regrets this occurrence, and how anxious he is to avert those consequences which it has a necessary tendency to produce.

Under the influence of this feeling he desires me to request that you will proceed immediately to Cleveland, and use your best exertions to allay the ferment to which this reprehensible proceeding will most probably give rise. For this purpose you are furnished with a letter to the Collector there; and his Excellency begs that you will urge every argument which may seem to you calculated to remove resentment of the past transaction, and to inspire confidence in the good treatment which American vessels will hereafter be sure of experiencing in our ports.

The experience his Excellency has already had of your prudence and intelligence supercedes the necessity for any specific instructions for your guidance; and I am accordingly directed to commit the management of this affair entirely to your discretion; merely suggesting that the points principally to be attended to are:—1st, To place this matter in its true light, by representing it faithfully in the manner in which it actually occurred; 2ndly, To convince the American authorities that this Government is anxious to punish the authors of this outrage; and 3rdly, To invite the master of the schooner to come to Toronto to give evidence against them.

Believe me, &c.

(Signed)

R. A. TUCKER.

Lieut. Jones, 43rd Regiment, Drummondville.

No. 18.
Sir George Arthur
to the Marquis of
Normanby.
7th May, 1839.
Encl. 3 in No. 18.

(Copy.)

Enclosure 4 in No. 18.

SIR,

Port Colborne, 24th April, 1839.

Encl. 4 in No. 18

I HAVE the honour to report to you that on the evening of the 22nd instant an American vessel, the "Stephen Girard," bound from Oswego to Cleveland, and having been duly examined at Port Dalhousie, and on arriving at this place, having shown her papers, and regularly cleared for Cleveland, while passing through the lock several soldiers of the 6th provisional battalion attempted to close the lower lock-gate upon her, by which her boat was materially injured or destroyed. A number of soldiers then went on board of the said vessel, and ordered the master to pull down his flag. On his refusing to do so they pulled it down themselves, and ordered him to throw it on shore, which was done.

I deeply regret to state that I have been informed that two officers of that corps were present and witnessed this disgraceful outrage upon an unoffending crew, and did not attempt to prevent it.

I had been on duty all that day, and had gone a short distance from the scene of the above-mentioned occurrence, leaving the deputy in charge. That officer reported to me that he saw the transaction, but dared not to interfere, as he was afraid of his life from the extreme violence of the aggressors.

I sincerely regret this occurrence, and am fearful it will have an injurious effect on the trade of the country. At the same time must observe, that I could neither foresee or prevent such an event, and that no blame can be attached to myself or the deputy collector, as the military took the power out of our hands. I would also state that the names of the persons who were witnesses of this outrage will be furnished if required.

I humbly beg leave to suggest that, to prevent a repetition of such disgraceful scenes, whether an order should not be issued forbidding all military officers or soldiers from going on board of any American vessel while laying in, or peaceably passing through, the Welland Canal.

I have also to observe that my office-hours were legally closed, it being six o'clock P.M. when this affair occurred.

You will have the goodness to lay this report before his Excellency.

I have, &c.

(Signed)

WALTER B. SHEEMAN, Collector.

The Hon. John Macaulay, &c. &c.

P.S.—I am since informed that the officers of the said battalion have made up the sum of fifteen pounds, and sent an officer to present it to the master of the American vessel as an atonement for the injury done him.

(Signed)

W. B. S.

(Copy.)

Enclosure 5 in No. 18.

Mr. TUCKER to the Collector at Cleveland.

SIR,

Government House, 25th April, 1839.

Encl. 5 in No. 18.

AN account has just reached the Lieutenant-Governor that a gross insult was offered by some militia-men on Monday last to the master of the American schooner "Stephen Girard," of Oswego, whilst that vessel was lying at Port Colborne on her way to Cleveland. No official report of this reprehensible proceeding has yet been received; but, by a letter from the collector at Port Colborne to a director of the Welland Canal, it would appear that some militia-men, in a state of intoxication, boarded the vessel, cut the pendant halliards, and by threatening language compelled the master to throw them on the shore. They also endeavoured to impede the progress of the "Stephen Girard" through the canal, and in this attempt her jolly-boat was materially injured.

No. 18.
Sir George Arthur
to the Marquis of
Normanby.
7th May, 1839.
Encl. 5 in No. 18.

His Excellency trusts that it can hardly be necessary for him to express the great concern he feels on this occasion; nor is it his wish to palliate an offence the commission of which has excited his highest displeasure.

He hopes, however, that you will do everything in your power to allay the angry feelings to which such an outrage is calculated to give rise; and, by the publication of a true statement of the facts of the case, to divest it of that false colouring with which it will probably at first be represented. It will likewise, perhaps, be regarded by you as a part of your duty to direct the attention of your countrymen to those lawless and cruel aggressions on this province, which have provoked an act of a retaliating character from a few drunken soldiers; and his Excellency doubts not but that every proper means will be employed by the public functionaries at Cleveland to compose and tranquillize the public mind. In the same spirit he authorizes me to assure you, that the perpetrators of this outrage shall be visited with the severest punishment our laws will permit; and that such effectual measures shall immediately be adopted to prevent its recurrence as will enable your vessels to pass through our canals without the slightest danger of interruption or annoyance of any kind. For your further satisfaction on this point, his Excellency has directed an intelligent officer to proceed instantly to Cleveland to afford every explanation that can reasonably be required on the subject of my present communication. I have only to add, that it is the particular desire of the Lieutenant-Governor that the master of the "Stephen Girard" should come here to substantiate the charges against the militiamen, who are now under confinement, and that he may rely on experiencing protection and kind treatment from us.

I have, &c.
(Signed) R. A. TUCKER, Provl. Sec.

Starkweather, Esq.
Collector of Customs, Cleveland.

(Copy.)

Enclosure 6 in No. 18.

SIR,

Custom-house, Cleveland, Ohio, April 29th, 1839.

Encl. 6 in No. 18.

I HAVE the honour to acknowledge the receipt of your letter of the 25th instant, by Lieutenant Jones, special messenger of Lieutenant-Governor Arthur, relating to the outrage lately committed by some Canadian militiamen on the master of the American schooner "Stephen Girard," while passing through the Welland Canal on her passage from Oswego to Cleveland. In relation to the same affair, letters had previously been received in this place, addressed to Captain Huguin, the master of that vessel, by J. Black, collector at Port Colborne, and by Lieutenant-Colonel Baldwin, commanding the battalion to whom those "militiamen" were attached, expressing the indignation of the officers of that battalion at the outrage referred to, and giving assurance that full indemnity would be rendered for the injuries sustained, that the offenders would be signally punished, and a repetition of any similar offence strictly guarded against.

These letters were published in our newspapers, together with a true account of the transaction, and had the effect immediately to tranquillize the public mind, and to allay fears as to any future disturbance of our commerce on the Welland Canal, which, I am happy to say, will not receive the slightest interruption growing out of that unfortunate affair.

The extreme displeasure manifested by the Lieutenant-Governor of your province, in relation to this matter, and his solicitude, and his extraordinary efforts to bring the offenders to speedy justice, afford the most gratifying evidence that, however great may have been the provocations which the recent lawless aggressions of some of our citizens have produced, the Canadian authorities are determined to suppress all attempts at retaliation, and to afford the most ample protection to the peaceable intercourse of our citizens with the people of your province.

Captain Huguin, in obedience to the wishes of his Excellency Governor Arthur, will proceed without delay to Toronto, to appear as a witness on the trial of the militiamen who committed the outrage referred to.

I have, &c.
(Signed) SAML. STARKWEATHER
Coll. of Customs.

R. A. Tucker, Esq.,
Provincial Secretary.

(Copy.)

Enclosure 7 in No. 18.

DEPOSITION of Captain SUTHERLAND.

Upper Canada, 27th April, 1839.

Encl. 7 in No. 18.

BE it remembered that on this 27th day of April, in the year of our Lord 1839, before His Excellency Sir George Arthur, Lieut.-Governor of the Province of Upper Canada, in the Executive Council of the said province, personally came and appeared, James Sutherland, mariner, master of the steam-boat Traveller, who, being duly sworn, deposed and saith as follows, that is to say:—

The steam-boat Traveller, commanded by me, and owned by the Hon. John Hamilton, has made two trips down the lake, in the course of which she called twice at the city of Rochester in the State of New York; the first time we arrived in Rochester, on Tuesday morning last, we were received in a friendly manner, and no insult or outrage was offered;

on the contrary, we were assured by the respectable merchants of the place that we should be protected and should be in no danger of insult or injury.

On the last occasion of putting in to Rochester, I arrived there about six o'clock in the morning of yesterday; I landed my passengers and reported the vessel to the collector, after which I removed the boat to another wharf and went to bed. About ten o'clock the clerk of the boat called me, who said that the collector was on board, who stated that it was reported to the authorities in town that I had two prisoners on board in chains; I told the clerk to allow the collector to search the boat, which he did, and went on shore. I then got up and came on deck; shortly after the steward came running to tell me that the sheriff, some constables, and William Lyon Mackenzie were coming; they came on board, and a person calling himself the deputy sheriff handed me the annexed paper, and asked if I had any prisoners on board? I said he was at liberty to examine the vessel; I turned and observed to Mackenzie that it was nice amusement for him to be annoying me in this manner. They examined the ladies' cabin, and were proceeding to the examination of the other parts of the boat, when I was told that a party of armed men were coming down. I remonstrated with the deputy sheriff, who observed that he was not armed. A number of armed men to the amount of thirty or thereabouts came down; they left their rifles on shore and came on board. Mackenzie, I was informed, had pistols. The deputy sheriff said that they merely intended to search the boat, and on my observing that I had the steam up and would move off, he recommended me strongly not to do so.

I asked what prisoners he expected we had on board, and he answered, unfortunate prisoners from the Windsor affair, supposed to be on their way to Van Diemen's Land; I asked Mackenzie whether he really thought we were so foolish as to bring our prisoners into the State of New York? and he answered that he did not think we were.

We had brought two deserters from Hamilton to Toronto that day, which circumstance may have suggested the proceeding; these were deserters.

I saw several armed men on the top of the high bank, and I was told there were a great many there armed with rifles and fowling-pieces.

I thought we were in much danger of the boat being destroyed on any popular expression of feeling; there was no force there to protect us, and I think the boat cannot go into Rochester again without great danger.

(Signed)

JAMES SUTHERLAND,
Commander S. B. Traveller.

Sworn before the Executive Council,

(Signed)

WILLIAM H. LEE, Acting C. E. C.

(Copy.)

SIR,

S. B. Traveller, Toronto, April 26th, 1839.

I HAVE to inform you that I arrived at Rochester yesterday morning between 5 and 6 o'clock, and being very unwell I went to bed; about ten o'clock Mr. Harrison informed me that the collector was on board, and who stated that information had been given to the authorities that there were two men confined in irons, and that he wished to search the vessel, to see if such was the case or not. I requested him to be particular, and examine every part, which he did; and he had only left the boat a few minutes before the deputy sheriff, and six or seven constables came on board, and William Lyon Mackenzie accompanied them; they handed me a writ to deliver up the men; I requested them to search the boat, and told Mackenzie that this annoyance came from him, which he denied. They made a very strict search, and whilst they were doing so a party of Mackenzie's men assembled, armed with daggers, pistols, and rifles, which latter were left on shore; I did not feel much alarmed; Mackenzie had two pair of pistols and I think a bowie knife about him. I said very little to him, but what I did say he did not seem to like. The collector and three gentlemen came and remained on board until I started; the deputy sheriff and constables were very civil, and they all went away apparently satisfied, although sadly disappointed.

As soon as Messrs. Avery and Hawks heard of it, they came down and expressed their sorrow at the annoyance I had received, and said it would act very much against M. Kenzie, and they were very glad to find that I had not (as I once thought of doing) started off. Rochester was in quite an agitated state, and if I had attempted to have started without being searched, it is more than probable I would not now be writing to you; and now Mr. Hamilton, from what I have seen and heard, and am also aware of the proffers of friendship and protection to the boat made to yourself I can plainly see it would have no effect; the mob can do just as they please; and it is my candid opinion that, if you continue to run the "Traveller" to an American port, you will lose her before long. I am perfectly satisfied that I cannot be mistaken in this opinion. It would, I think, be better to lay the boat up than run this risk; her services will very likely be wanted next winter by Government, and I do think that M. Kenzie is determined to have her out of the way before that time. I send the boy Dennis across with this to you, as I wish you to get it as soon as possible, and would like (if possible) to see you. I have a very sore throat and breast, and do not mean to go up with the boat to Hamilton; and if I do not feel better on Monday, will be obliged to remain on shore, which I do not wish at this time. Dennis can come by stage to Hamilton. Trusting this may find yourself and family well,

I remain, &c.

(Signed)

JAMES SUTHERLAND,
Com. S. B. Traveller.

No. 18.

Sir George Arthur
to the Marquis of
Normanby.

7th May, 1839.

Encl. 7 in No. 18

No. 18.
Sir George Arthur
to the Marquis of
Normanby.
7th May, 1839.
Encl. 7 in No. 18.

(Copy.)

The people of the State of New York to James Sutherland, of the boat "Traveller."

We command you that you have the bodies of John Doe and Richard Roe, two persons now on board the boat of which you are captain, or commandant, called the "Traveller," by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name the said John Doe and Richard Roe shall be called or charged before Ashley Sampson, Esquire, first judge of Monroe County, at his office in the city of Rochester, immediately on the receipt of this writ, to do and hear what shall then and there be considered concerning the said John Doe and Richard Roe, or either of them, and have you then there this writ.

Witness Samuel Nelson, Esquire, chief justice of the supreme court of the people of the State of New York, at the capitol in the city of Albany, the first Monday in January, 1839.

(Signed) PARK and HALLETT, clerks,
H. L. STRONG, attorney.

No. 19.

(No. 100.)

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

MY LORD,

Upper Canada, Toronto, 7th May, 1839.

In my Despatch, No. 74, of the 2nd ultimo, I transmitted to your Lordship a copy of a letter which I had caused to be addressed to the Secretary of State for the State of New York, informing him of the desire of this Government to extend a free pardon to the further number of fifty-two of the American delinquents in our custody, provided that circumstances would allow of their release; and, in my Despatch, No. 92, of the 20th ultimo, I transmitted a copy of the letter which had been received from that officer in reply, and the contents of which had determined me to carry the proposed measure into effect.

I have now the honour to report that the fifty-two prisoners in question have been liberated; and that, in addition, nine brigands, who were severely wounded at the affair at Prescott, and who were retained in the hospital at Kingston, have been permitted to return to the United States.

Enclosed is a copy of a second letter from the Provincial Secretary to the Secretary for the State of New York, communicating the particulars, and also of the reply of the latter officer thereto.

Judging by this reply Her Majesty's Government will no doubt entertain the reasonable expectation, that the measure taken will be productive of the best possible results, in bringing about a more cordial feeling towards the Canadian people on the part of the American citizens.

I have no doubt, indeed, that among the more respectable class of citizens it has already produced the best possible effect; but I wish it to be distinctly understood by Her Majesty's Government that I am by no means sanguine in my expectation of the exercise of such an influence as regards that class of lawless people who are still roving about the opposite frontier.

I have, &c.

(Signed) GEO. ARTHUR.

The Marquis of Normanby,
&c. &c. &c.

Enclosure 1 in No. 19.

(Copy.)

Mr. SPENCER to Mr. TUCKER.

Encl. 1 in No. 19.

SIR,

Government House, Toronto, 22nd April, 1839.

In further reference to the subject of my letter of the 28th ultimo, I have now the honour to inform you, that on the receipt of your answer to my communication in which you so forcibly express, on the part of Governor Seward, the high value which his Excellency attaches to the act of clemency intended to be exercised towards the younger portion of the banditti captured in the recent attempts to invade this province, whenever such a measure might seem compatible with the security and welfare of the inhabitants of Upper Canada, his Excellency Sir George Arthur instantly determined to carry that merciful measure into immediate operation, and to trust entirely to the tendency which such a proceeding naturally

has to awaken better feelings towards us than have for some time past been exhibited by a large part of your border population.

I am accordingly instructed to acquaint you, for the information of Governor Seward, that orders have already been issued to the Sheriffs of the Midland and London districts for the liberation of all the brigands whose names were transmitted to you by me on the 28th ultimo, with the exception of Jacob Paddock, whose conduct during the whole period of his confinement has been reported to be such as necessarily to exclude him from a participation in the indulgence which has been extended to all the other prisoners of his own age. In lieu of this profligate youth, whose case is reserved for future consideration, a free pardon has, however, been granted to Lawrence O'Reilly, on a strong recommendation in his favour from Sheriff M'Donell, and no reduction has consequently taken place in the number, although there has been a slight change in the individuals previously intended to be liberated.

I have also great satisfaction in apprizing you, that the nine brigands, whose names are inserted in the margin, who were severely wounded in the affair at Prescott, and retained in the hospital at Kingston until they were cured, have likewise been permitted to return to the State of New York.

I have, &c.
(Signed) R. A. TUCKER,
Provincial Secretary.

J. C. Spencer, Esq.,
Secretary of State for the State of New York.

No. 19.
Sir George Arthur
to the Marquis of
Normandy.
7th May, 1839.

Encl. 1 in No. 19.

Lorenzo K. Finney
Oliver Aubrey
Orson Rogers
Selah Evans
Hiram Colton
Giles Thomas
Philip Alger
Jacques Harod,
Frederick Male.

(Copy.)

Enclosure 2 in No. 19.

Mr. SPENCER to Mr. TUCKER.

State of New York, Secretary's Office,
Albany, 29th April, 1839.

SIR,

YOUR letter of the 22nd instant was received this day, and has been laid before Governor Seward. It gives me pleasure to communicate to you the great satisfaction he feels at the prompt and merciful interference of Sir George Arthur, in behalf of the unfortunate men mentioned in your letter, whom he has so generously restored to their families. That he should have pardoned nine others, in addition to those mentioned in your former communication, shows how much he is disposed to prefer mercy to rigour, whenever he can do so consistently with his duty.

It is impossible that these magnanimous acts of the Lieutenant-Governor of Upper Canada should fail to make a suitable impression, and to convince all how much better it is to cultivate those feelings of amity which should subsist between Christians and the descendants of Englishmen, and to maintain the reciprocal regard for each other's rights, enjoined by existing national obligations upon both countries, than to produce individual suffering, and hazard the common prosperity, by the violation of those obligations.

I have, &c.
(Signed) JOHN C. SPENCER,
Secretary of State.

Robert Tucker, Esq.,
Provincial Secretary, &c.

Encl. 2 in No. 19.

No. 20.

COPY of a DESPATCH from Lieutenant-Governor SIR GEORGE ARTHUR,
K.C.H., to the Marquis of NORMANBY.

(No. 101.)

My LORD, Upper Canada, Toronto, 8th May, 1839.

I REGRET to inform your Lordship that the Upper Canada Mail was robbed a few nights since, between Kingston and Gananoque, by a party of armed men, who are supposed to have crossed for the purpose from the United States, and who, at all events, appear to have since sought refuge there.

I have the honour to enclose herewith a copy of a letter to the provincial secretary, from Mr. W. H. Griffin, post-office surveyor for the eastern district, reporting the particulars of the occurrence, and showing that three notorious characters, named Kelly, Smith, and Farrar, who have been living for some time past on Grindstone Island, nearly opposite French Creek, and within the jurisdiction of the Republic, are strongly suspected to be the perpetrators of the outrage.

I have further the honour to enclose a copy of the provincial secretary's answer to this communication, and also of a letter addressed by him, in consequence, to the Secretary of State for the State of New York, representing

No. 20.
Sir George Arthur
to the Marquis of
Normandy.
5th May, 1839.

No. 1.
Toronto, 6th May,
1839.

No. 2.
6th May, 1839.
No. 3.
May 6th, 1839.

No. 20.
Sir George Arthur
to the Marquis of
Normanby.
8th May, 1839.

the circumstances of the case, and requesting the local executive to employ such means as are at its disposal, to discover the delinquents, and insure their brought to justice.

Mr. Griffin has proceeded to Albany, with a view to afford any further explanations that may be required, and to institute a personal investigation of the matter, conjointly with the authorities.

I have apprised Her Majesty's minister at Washington of these particulars, in case he should consider it advisable to communicate at once with the federal government upon the subject; and I do not doubt Mr. Fox's entire concurrence in the propriety of the preliminary step which I have taken in transmitting an account of the affair to Albany.

An occurrence of this nature is the more calculated to excite irritation in the public mind, from the number of individual interests that suffer by it. It is mortifying to me, that it has taken place at a moment when I am exposed to the attack of a party who are opposed to the course of lenity which has been lately shown to the brigands who have been liberated; though it in no way alters my opinion as to the propriety of that measure.

Judging by the tone of the recent letters from the Secretary of State for the State of New York, with respect to the released prisoners, (of which copies have been transmitted to your Lordship,) I indulge a hope that a sense of gratitude will combine with a sense of justice, to insure the cordial co-operation of the authorities on the present occasion; and it will be very satisfactory to me, to be allowed an opportunity of reporting to your Lordship that this reasonable anticipation has been fulfilled.

There is a ferocious border population who will leave no effort unattempted to bring on a national conflict; but, by firmness and vigilance, if the authorities in the States can be drawn to a cordial co-operation, this wicked design will be, I trust, defeated.

I have, &c.,

(Signed) GEO. ARTHUR.

The Marquis of Normanby,
&c. &c. &c.

(Copy.)

Enclosure 1 in No. 20.

Mr. GRIFFIN to Mr. TUCKER.

SIR,

Toronto City, 6th May, 1837.

I beg leave to report you, for the information of his Excellency the Lieutenant-Governor, the result of the inquiry instituted by me into the circumstances attending the robbery of the Upper Canada mail, between Kingston and Gananoque, on the night of the 25th ult.

On the night in question the courier was stopped, about half a mile below Grass Creek (fourteen miles below Kingston), by three men, who tied him to the waggon, took out the horse, and placing the mail bags on his back, carried them by a bye track from the main road nearly to the mouth of Grass Creek, from whence they turned the animal back. Having a rifle at his breast during the perpetration of the crime, the courier was so much alarmed by their menaces, that he is unable to describe the personal appearance of the men with much minuteness: one, he says, was tall and stout, with a swarthy Indian complexion; they told him to say that Bill Johnston had taken the mail. The courier in half an hour succeeded in disengaging himself from his bonds, and alarmed the farmers in the neighbourhood, and the horse-tracks were traced to the creek.

On Wednesday morning, the day preceding that of the robbery, a man living near the Grass Creek, named Denis Root, going down the bye track above alluded to, encountered, just where it crosses the creek, three men in the act of stepping out of a long red skiff; they were strangers to him; he had some conversation with them. One was a tall, stout, dark-complexioned man, and seemed the leader.* This man told Root that they were hunting musk-rats, which Root thought strange, as they were not equipped for rat hunting. He asked Root at what time the mail passed there, going up and down, professing an intention of going to Kingston by it. Root left them there. On the next morning, Thursday, passing in his waggon along the main road, he met one of the three men again, with a bottle in his hand; at the latter's request, Root directed them to a tavern. Root saw nothing more of them.

On Thursday evening, about six o'clock, these three men entered the house of a farmer named Rice, who lives near the mouth of Grass Creek, and asked for supper; this was furnished to them, and they remained until after dark. They told Rice they were rat hunting. About half-past eight, P.M., they left Rice's, and have not been seen by any one in that vicinity since. Between the hours of eleven and twelve that night the mail was robbed.

* He had a rifle in his hand, and a musket was lying in the skiff.

At about nine o'clock, P.M., some lads, going out fishing, saw drawn up at the mouth of Grass Creek, a strange skiff of the same dimensions with that seen by Root on the previous day. The lads had a better opportunity of examining it, and say, that it was painted in a peculiar manner, *red inside, and pale-red outside, with black streaks*, looking like the skiffs used by Bill Johnston's gang last summer.* The unusual appearance of the skiff attracted their notice; at half-past twelve they returned from fishing, and the skiff was gone. Some persons were out on the river fishing that night, some two or three miles below the mouth of Grass Creek, and saw, about twelve o'clock, a *long skiff* pass down the river with surprising swiftness.

From a comparison of the descriptions given, the three men conversed with by Root were unquestionably the same three who, about three hours before the robbery, left Rice's house, going towards the creek. Their names I am informed, are *Robert Kelly, Robert Smith, and John Farrar*; they have for some time past all lived on *Grindstone Island*, nearly opposite French Creek, and within the American waters; the two latter, I am informed, were concerned in the piracy on the "*Sir Robert Peel*;" Kelly is a man of more remarkable appearance than the other two, and answers the description given of the leader of the three fellows by Root and Rice.

A man belonging to French Creek, having a claim against Kelly, went over to Grindstone Island four or five days after the robbery, and obtained immediate payment of the debt in notes of the Commercial Bank of Upper Canada; in paying this money, Kelly took out of his pocket a large roll of bank notes, the man says, two or three inches thick: he thinks, from what he could see, that it was all "*Canada money*."

The evidence of guilt attaching to these three men is, I conceive, amply sufficient to warrant their apprehension, and a search of their haunts, with a view to the obtaining further and more direct evidence by the discovery of some portion of the contents of the mail bags, which would probably result from such a measure.

But as their lurking place is within the territory of the United States, it will of course be necessary that these measures should proceed from the authorities of the State of New York, and I beg respectfully to solicit his Excellency's advice and aid in making such application to obtain this co-operation as his Excellency may deem proper.

I beg permission to acquaint his Excellency that I have been materially assisted in my researches by some of the respectable inhabitants of French Creek, and would have proceeded to lay information before the local magistrates there, but that, in the present state of the frontier, it appeared doubtful whether they might be willing to encounter the arduous task of prosecuting inquiries regarding the dangerous characters lurking about the thousand islands upon their own responsibility.

I have, &c.

(Signed)

W. H. GRIFFIN,

Post Office Surveyor of Lower Canada and Eastern Division of Upper Canada.

P.S. I have offered a reward of 800 dollars for such information as may produce the apprehension and conviction of the robbers.

The Hon. R. A. Tucker,
Provincial Secretary, &c. &c. &c.

(Copy.)

Enclosure 2 in No. 20.

MR. TUCKER TO MR. H. GRIFFIN.

SIR,

Government House, 6th May, 1839.

IN reply to your communication of this date, respecting the robbery of the Upper Canada mail, between Kingston and Gananoque, on the night of the 25th ult., I am directed by the Lieut.-Governor to inform you, that on an attentive consideration of the several particulars detailed by you, it is his Excellency's opinion that it is desirable you should repair to Albany, and endeavour to obtain the co-operation and assistance of the Government of the State of New York in the further investigation of all the circumstances connected with a transaction which calls for the strictest examination.

For this purpose I am instructed to forward you the accompanying letter, to be presented by you to Mr. Spencer, the Secretary of State for the State of New York, who, there is every reason to believe, will be sincerely disposed to promote the object of your journey by every means which the constitution and laws of his country will permit him to employ.

I have, &c.

(Signed)

R. A. TUCKER, Provincial Secretary.

G. H. Griffin, Esq., Post-office Surveyor,
&c. &c. &c.

* Such a skiff has been seen at Grindstone, in the possession of the three men hereinafter named, since the robbery took place.

No. 20.
 Sir George Arthur
 to the Marquis of
 Normanby,
 8th May, 1839.

Encl. 3 in No. 20.

(Copy.)

Enclosure 3 in No. 20.

Mr. TUCKER to Mr. Secretary SPENCER.

Government House, Toronto, 6th May, 1839.

SIR,

By the direction of the Lieutenant-Governor of this province, I have the honour to enclose you the copy of a letter from Mr. Griffin, the Post-office surveyor of the eastern division of Upper Canada, detailing the particulars of a very daring robbery of one of our mails, between Kingston and Gannanoqui, on the night of the 25th ultimo; by three armed men, who, there is strong reason to believe, came from one of the islands of the St. Lawrence (Grindstone), belonging to the State of New York, and are now residing there, beyond the reach of our laws.

The importance which attaches to this transaction, both from the injurious consequences to which a repetition of such an outrage must expose us, and also from its tendency to inflame the minds of the inhabitants of Upper Canada with a feeling of resentment against the country which should afford shelter to the perpetrators of so atrocious an offence, must be sufficiently obvious, and I shall accordingly desist from dilating on that point; satisfied that it is the cordial desire and anxious wish of Governor Seward to remove every cause of animosity between the people of the two countries, whose mutual interest it is to maintain the closest relations of peace and harmony with each other.

Under this impression, the Lieutenant-Governor confidently trusts that every possible facility and assistance will be afforded to Mr. Griffin, who will be the bearer of this letter, to obtain such further information on the subject of this robbery as may furnish a sufficient ground for a formal application to your Government for the apprehension of the accused parties, and their surrender to us, in order to their trial before some of our tribunals of justice; and it is for the purpose of preventing a delay in a matter which requires immediate attention that his Excellency has been induced to make this application directly to you, instead of doing so through the channel of Her Majesty's Minister at Washington, to whom a representation will also be made as soon as possible.

In conclusion, I beg leave to recommend Mr. Griffin to your notice and good offices.

I have, &c.

(Signed)

R. A. TUCKER, Provincial Secretary.

John C. Spencer, Esq., Secretary of State,
 State of New York, Albany.

(No. 104.)

No. 21.

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

MY LORD,

Upper Canada, Toronto, 13th May, 1839.

I HAVE the honour to inform your Lordship that the Session of the Provincial Legislature was closed on Saturday, the 11th instant, and to transmit to you herewith a copy of the speech which I delivered on the occasion.

I am unable, by this opportunity, to report to your Lordship upon the legislative proceedings which have taken place since the transmission of my despatches of the 12th and 15th ultimo, Nos. 87 and 88; but I may briefly state, that, first in importance among the Bills which I have reserved for the signification of Her Majesty's pleasure, are Bills for placing the proceeds of the sales of the clergy reserves at the disposal of the Imperial Parliament, and for investing the casual and territorial revenue in the provincial legislature.

These Bills, with the others which have been reserved, I shall do myself the honour of transmitting to your Lordship to-morrow, in time, if possible, for the steam-boat, "Liverpool," but to make quite sure in that conveyance, I do not defer my present hasty communication.

I am, &c.

(Signed)

GEO. ARTHUR.

The Marquis of Normanby,
 &c. &c. &c.

Enclosure in No. 21.

Sir GEORGE ARTHUR's Speech to the Legislature of Upper Canada.

Toronto, Saturday, May 11, 1839.

Honourable Gentlemen of the Legislative Council, and Gentlemen of the House of Assembly:

In relieving you from your legislative duties, I desire to express my satisfaction at the zeal and patience you have displayed, in considering the important subjects which have engaged your attention.

It has not surprised me, that conscientious differences of opinion have so long led to much embarrassment in the disposal of the clergy reserves.

You were right, certainly, to leave no means unattempted, in order finally to settle this great

Encl. in No. 21.

question by the Provincial Legislature; but every expedient having failed, and all hope being excluded of unanimity here, I rejoice greatly that this Parliament has resolved, that the difficulties of this subject shall not longer be suffered to excite and encourage antagonist feelings in a community, whose common safety requires the greatest concord.

I shall feel it to be my duty, to the utmost of my knowledge and ability, to put Her Majesty's Government in possession of the desires and opinions of the people of Upper Canada, regarding the public aid to be afforded to the maintenance of the Christian religion in the colony: and will, without loss of time, transmit that Bill, together with your address thereon.

The Bill which you have passed, accepting the cession of the casual and territorial revenue, upon condition of a permanent supply for the support of the Government, in its ordinary and most necessary details, will, I hope, prove satisfactory to Her Majesty.

The omission, however, in the Bill, to provide for certain annuities, charged upon these revenues, renders it necessary for me to reserve the Bill for the signification of Her Majesty's pleasure thereon.

I have derived great satisfaction from the Bill which you have passed for the promotion of liberal education, and the extension of schools of a highly useful character, to every district in the province; and I most sincerely hope that another Session of the Legislature will not be allowed to pass over, without your making a similar wise and liberal provision for common schools.

Among the measures of the Session, I am happy to observe a Bill for the establishment of a lunatic asylum, which will have the humane effect of rescuing many unhappy beings from incurable wretchedness; and I have no doubt that the burden consequent on carrying this beneficent design into operation, will be cheerfully submitted to by the people of the country.

In sustaining the great interests of the country, no object of legislation requires more care and precaution than the due regulation of its system of banking; and nothing is more hazardous to those interests than a prolonged issue of inconvertible bank paper.

Impressed with this truth, I consider it would have been better to fix a much earlier day for the return to a sound system of banking, but have, nevertheless, determined not to withhold my concurrence to the Bill which both Houses of the Legislature have agreed in thinking necessary.

Gentlemen of the House of Assembly:

I thank you, in Her Majesty's name, for the supplies granted for the service of the present year.

In superintending the ordinary disbursements, I shall economically restrict them within the narrowest limits which are consistent with a due regard to the efficient administration of public affairs; and I trust there will be no recurrence of the distressing events which caused an expenditure last year unexampled at any former period.

The serious doubts expressed by Her Majesty's Government, as to passing any measures calculated to affect, and especially to derange, the monetary system of the province, render it my duty to reserve, till Her Majesty's pleasure be known, such of the Bills as you have passed, which appear to me to have that tendency.

I will lose no time in transmitting these Bills to Her Majesty's Secretary of State for the Colonies, that the decision upon them may be known upon them with the least possible delay.

In the mean time I trust that the sale of the stock in the bank of Upper Canada, and the other resources of the province, will enable me, during the interval, to carry on the public service without any material inconvenience.

Having felt it my duty to adopt this course in reference to these Bills, it has become necessary for me also to reserve, for the signification of Her Majesty's pleasure, the Bill for the relief of sufferers by the late insurrection, or by foreign aggression, or otherwise claims under that Act might be presented before there were any means provided for their liquidation.

It is my deliberate opinion that at this crisis you must seek for, and rely upon, the protection and advice of Her Majesty's Government in your money concerns.

Honourable Gentlemen, and Gentlemen:

In returning to your homes, and among those whom you represent, I wish earnestly to impress upon you that your exertions in maintaining the same constitutional spirit which has actuated you in your parliamentary labours will materially serve and promote the welfare of the country; and I firmly hope and believe that in any measures that Her Majesty's Government may recommend, and the Imperial Parliament may adopt, for the future regulation of these important colonies, you will find that your loyalty to your Sovereign, and your faithful attachment to the empire, will be pre-eminently regarded, and will ensure to you the maintenance and protection of those political institutions and constitutional principles which you so justly appreciate and revere.

(No. 105.)

No. 22.

COPY of a DESPATCH from Lieutenant-Governor SIR GEORGE ARTHUR, K.C.H., to the Marquis of NORMANBY.

MY LORD,

Upper Canada, Toronto, 13th May, 1839.

In my Despatch, No. 68, of the 30th March, I reported the state of the province to be tranquil within; that, on the American side, there seemed to

No. 21.
Sir George Arthur
to the Marquis of
Normanby.
8th May, 1839.
Enclosure in No. 21.

No. 22.
Sir George Arthur
to the Marquis of
Normanby.
13th May, 1839.

No. 22.
 Sir George Arthur
 to the Marquis of
 Normanby.
 13th May, 1839.

be an expectation and desire for war, and that from Colonel Airey I learned that another descent was meditated on the western frontier.

As I felt very anxious to discover the impression made upon the American people by the debates in the Imperial Parliament respecting Canada, I despatched an intelligent officer to ascertain the feeling along the frontier.

The speeches of Her Majesty's Ministers, and of the Duke of Wellington and Sir Robert Peel, have been much canvassed; and the openly expressed determination of all parties to defend these provinces has so completely convinced the border population that England is quite in earnest in the matter, that, if the body of that people were under any control, we might now look forward with some confidence to a period of quiet and repose. But many of the lowest of the border population consider that it is a noble cause "to free the people of Canada;" and their superiors in intelligence are influenced by the basest motives, in keeping alive a spirit of rancorous hostility towards us.

I desired Colonel Airey, who commands on the western frontier, to communicate from time to time, even upon subjects which did not appear very important; and a note from him to the Military Secretary, received this morning, with its enclosure from General Brady, of which copies are transmitted for your Lordship's perusal, plainly enough show how little dependence is to be placed on the continuance of the calm which prevails at present.

In this precarious and critical posture of affairs, I am naturally led to recur to the recommendation I have previously submitted to your Lordship's predecessor, that an adequate supply of military clothing and stores should be sent from England; and, in now pressing this advice upon your Lordship's attention, I would respectfully observe, that it is of the utmost consequence that we should not be compelled to seek relief from any wants of that description from the American merchants.

I have, &c.

(Signed)

GEO. ARTHUR.

The Marquis of Normanby,
 &c. &c. &c.

(Copy.)

Enclosure in No. 22.

Colonel AIREY to Captain HALKETT.

DEAR SIR,

Malden, U.C., 6th May, 1839.

Encl. in No. 22.

I BEG to send you a letter I received this morning from General Brady, dated the 4th, from Detroit. I have recently seen a good deal of General Brady, of Major Payne (his right-hand man), of the U.S. Artillery, of Major Webbe, the Ordnance storekeeper at Dearborn Arsenal, and a few other Americans, who, I really believe, are honest in their expressions of a wish to maintain peace and good feeling between the two countries, by restraining and defeating the projects of their unprincipled and detestable countrymen forming their frontier population. At the same time, they openly avow that they do not expect, in the total absence of not only civil power, but even of any wish on the part of the civil authorities, that these efforts will be entirely successful.

However wonderful it may appear, I have, within the last few days, received the most undoubted accounts, from good authority, that the "lodges" are again at work, and that a system of petty and simultaneous burnings, plunder, and mail-robbing is to be the plan of the summer campaign; this frontier (St. Clair), and the St. Lawrence above and below Prescott, the ground of their operations.

General Brady has been here three times lately: once on a ceremonious visit, immediately after Governor Mason had been here on the same errand; once to see a review at his own request; and once at a party with a great number of "citizens" in the "Illinois," who, as they sent beforehand to say, "were coming down to pay their respects, and take us a pleasure-ride on the lake."

On these occasions I have had a great deal of conversation with General Brady. He has all through said that the civil authorities do all but openly countenance these patriots, and that, in the event of recommencing, he must depend more upon my assistance, or of whoever the officer may be who commands here, than upon the state officers of Michigan.

All, however, was quiet, and no indication of further movements on the part of these people until the arrival of the Great Western, when suddenly excitement is again prevailing, as if they were determined to give the Canadas no rest.

Such being the case, I beg to recommend that a boat should be stationed here, in order at once to put a stop to the designs of these people; and I cannot conceive a boat better calculated for such service than the "Milwaukie," which I examined the other day when Captain Drew was here.

As a lake boat for the transport of troops she is almost useless. I assure you that if wood were on-board sufficient to come up the lake, or I believe even from Port Stanley to this place, she could not accommodate 70 men; yet for this and the Sarina frontier she would do ex-

tremely well, being very fast, and the run being short she would not require that immense load of wood, for which she is by no means calculated, and was never intended.

General Brady has two steamers at his command though not exclusively; he pays 100 dollars a-day when employed by him, and they are never to be both away at the same time, but if any occasion requires it, he intends taking the "Illinois" for himself; she is a very fine boat indeed, but still not quite adapted for a transport, or man-of-war—in fact no boat can be that is built for a passage-boat.

They now say that a British steamer is to be burnt somewhere on the 29th of May.

I have told you all I have heard in the way of "rumours," for which due allowance of course is to be made.

I beg to send you the Report of the Committee on Foreign Relations in the Senate of the United States, which perhaps you may not have seen, and I request you will be so good as to let me have it again.

Captain Halkett,
Assistant Military Secretary.

(Signed)

I am, &c.

RICHARD AIREY,
34th Regiment.

(Copy.)

COLONEL,

Head Quarters, 7th Mail Depart.,

Detroit, May 4th, 1839.

I START this morning for the west, which I much regret will prevent the pleasure of my seeing you until after my return. I have been very desirous of meeting you in Detroit, and of returning, in some measure, the civility which you have at all times extended towards myself and other members of our army who have visited your post, and I wished to have an understanding with you as to the best plan to defeat any further attempts on the part of the "Hunters" to disturb the quiet of this frontier, as I have been informed by one in whose confidence I have no doubt, that they intend to commence operations about the time the farmers commence planting corn, and that their plan is to send over small marauding parties to burn houses, and destroy other property, in hopes of producing retaliation, and thus keep up the excitement until both governments are induced to call the militia into service.

It is also said, that they intend to make their first attempt on the river St. Clair.

I have instructed the Quarter-Muster, (Colonel Whiting,) the moment that any indication of the kind is discovered, to employ a steam-boat, to be put at the disposal of Major Payne, and if you had a boat on the waters at the same time, I have no doubt but it could be so arranged as to completely defeat their wicked intentions.

I have, &c.

(Signed)

H. BRADY, Br-General U.S. Army.

Colonel Airey, Commanding Western Frontier.

(No. 112.)

No. 23.

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

MY LORD,

Government House, Toronto, 14th May, 1839.

DURING the last month I have been in correspondence with the Commander of the Forces respecting the decrease of the militia force, and have the honour to report to your Lordship that a great portion of the men have been allowed to return to their homes.

The disposition to annoy us has, I believe, but in a small degree abated; but the means of the "patriots" were not inexhaustible, and their abettors certainly begin to find it an unprofitable speculation.

For some time to come we must be much on our guard, but I shall be sadly disappointed if a better state of feeling be not now produced.

I have, &c.

The Marquis of Normanby,
&c. &c. &c.

(Signed)

GEO. ARTHUR.

(No. 113.)

No. 24.

COPY of a DSPATCH from Lieutenant-Governor Sir GEORGE ARTHUR, K.C.H., to the Marquis of NORMANBY.

MY LORD,

Upper Canada, Toronto, 18th May, 1839.

I HAVE been much gratified by the receipt of your Lordship's Despatch, No. 23, of the 8th ultimo, communicating, in reply to my Despatch, No. 33, of the 19th of February, that, after a full consideration of the arguments used by Mr. Fox and by myself, your Lordship approved of my determination to abide by my former decision to grant a free pardon to the younger and less guilty of the prisoners engaged in the late invasions of this province.

No. 22.
Sir George Arthur
to the Marquis of
Normanby.

13th May, 1839.

Encl. in No. 22.

No. 23.
Sir George Arthur
to the Marquis of
Normanby.
14th May, 1839.

No. 24.
Sir George Arthur
to the Marquis of
Normanby.
18th May, 1839.

No. 24.
 Sir George Arthur
 to the Marquis of
 Normanby.
 18th May, 1839.
 Kingston Chronicle,
 4th May, 1839.

In addition to the testimonials which have been already forwarded, I have the honour to transmit herewith a copy of a provincial paper, quoting from the "Watertown Jeffersonian," an article subscribed by three of the liberated prisoners, wherein they express their gratitude for the boon which has been granted them, and for the kind treatment they experienced during the period of their confinement at Fort Henry.

I think your Lordship will derive satisfaction from a perusal of this expression of the sentiments of these individuals; for, without attaching any undue weight to it, the late objects of our mercy would appear by such an evidence not to be so wholly destitute of feeling as many of the Canadians would insist upon it that they are.

8th May, 1839.

With reference to my Despatch, No. 99, of the 7th instant, reporting the particulars of an outrage committed by some of our militia on board the United States schooner "Stephen Girard," I avail myself of the present opportunity to inclose a copy of a letter addressed to Colonel Forster, Assistant Adjutant General, by the Master of the schooner, wherein he expresses his entire satisfaction with the reparation which has been made him for the damage he sustained, and with the prompt and early notice which has been taken of the matter by this Government with a view to the punishment of the offenders.

It is truly gratifying that so vexatious an affair has terminated thus favourably, when the most unpleasant consequences were to have been anticipated from it.

I have, &c.

The Marquis of Normanby,
 &c. &c. &c.

(Signed)

GEO. ARTHUR.

Enclosure 1 in No. 24.

THE LIBERATED PRISONERS.

(From the Watertown Jeffersonian.)

Encl. 1 in No. 24.

HAVING been recently liberated from Fort Henry, Kingston, by the clemency of Sir George Arthur, we embrace the present opportunity to express our gratitude to Governor Arthur for the free pardon which he has been graciously pleased to grant us. To the officers in whose charge we were, we cannot be too grateful for their kindness, humanity, and gentlemanly deportment towards us while in confinement. To Colonel Dundas and Sheriff McDonell our sincere and heartfelt thanks are particularly due;—the memory of these gentlemen will ever be cherished by us with feelings of the most sincere regard. During our confinement we have experienced nothing but kindness from those under whose charge we were; being well provided with provisions, necessaries, and comfortable quarters, added to humane and kind treatment. Our rations were ample, and our beds were superior to those of the regular soldiers, as we were frequently informed by them. We sincerely wish, as an act of justice to those who had us in charge, to disabuse the public mind on this side of the many stories of British inhumanity and cruelty which have gained credence in the minds of the credulous. We speak from experience, and have no motive to speak falsely on this subject. We have never heard our comrades in confinement complain of maltreatment from those who attended us; and those whose duty it was to keep us in custody. And in proof of this we would remark that, when the news of our free pardon was communicated to us, and when we were released, all seemed to rejoice at our good fortune and release from captivity. To Dr. Robison, who was surgeon to the hospital, and who attended one of the captives while suffering from a severe wound received at Prescott, our thanks are especially due, for his uniform kind, humane, and unremitting attention to the sick and wounded under his charge.

While we once more, under Providence, are permitted to breathe the pure air of freedom, we deeply regret the fate of those we have left behind; and to the people of this frontier we confidently recommend no further interference in behalf of what has been styled Canadian liberty. Pacific measures are now earnestly called for on this side, if we seek the liberation of our friends in Canada, and we humbly trust that no true patriot will hazard the liberty of those in confinement there, for the vain purpose of seeing a people who, we have every reason to believe, do not wish a change of government. If they do wish reform, let them show it by their acts. American citizens have no right to interfere, and we hope never will interfere, to produce a change of government where none is desired. Upon the citizens of this frontier depends the fate of our unhappy friends in Fort Henry. Will they not pursue the course best adapted to secure their release? We have the assurance of the officers at Kingston, that the release of the remainder of our comrades depends upon the conduct of the American citizens. If this be all, why not do all in our power to achieve this, the now only true and patriotic course?

LORENZO E. FINNEY,
 CHARLES F. CROSSMAN,
 SAMPSON A. WILEY.

Watertown, April 27, 1839.

(Copy.)

Enclosure No. 24.

LETTER from Captain HUGUNIN, of the "Stephen Girard," to the Assistant-Adjutant-

SIR,

Oswego, 8th May, 1839.

I HASTEN to acknowledge the receipt of yours of the 2nd instant, enclosing the organization of the court-martial detailed to investigate the conduct of the militia-men who assailed my vessel, the schooner "Stephen Girard," in the Welland Canal, and treated with indignity the flag of my country, as well as that of three officers who witnessed this outrage with apathy and indifference. These papers came into my hands as I was leaving the canal for this place.

Permit me to say that the prompt disavowal of this indignity by the commanding officer of the station, the remuneration of the slight damage to my vessel, which was pressed upon my acceptance, and, above all, the friendly solicitude manifested by his Excellency the Lieutenant-Governor in this matter, afford all the satisfaction which could be expected by the owners and officers of the "Girard," or the American public.

Under these circumstances it affords me much gratification to know that these officers and men have escaped any other punishment than the censure of his Excellency the Lieutenant-Governor, and the frowns of their fellow-countrymen, and that this lenity is ascribed by the Governor to my forbearing to appear as a witness against them. While these men have probably acted under the delusion that an indignity offered to the flag of a neighbour nation was an act of loyalty to their own, many citizens of our respective borders have been guilty of much more flagrant and criminal acts, under similar delusion, without the poor apology of inebriety which these men can urge in palliation of their offence.

I have, &c.

(Signed) JOHN C. HUGUNIN,
Master of the schooner "Stephen Girard."Colonel Foster,
Assistant-Adjutant-General, Toronto.No. 24.
Sir George Arthur
to the Marquis of
Normanby.
18th May, 1839.
Encl. 2 to No. 24.

(No. 115.)

No. 25.

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

MY LORD,

Upper Canada, Toronto, 18th May, 1839.

I HAVE the honour to inform your Lordship, in reply to your despatch, No. 19, of the 30th of March last, that Howland Hastings, the individual therein referred to, was discharged from custody, on bail, himself in 100/, and two recognizances in 50/ each, on the 20th of February last.

Colonel Prince made a serious complaint of the manner in which this man had been discharged, but no consequences grew out of it, nor do I apprehend that any will arise; though, should the case prove otherwise, I shall, of course, make your Lordship acquainted with the particulars at the earliest opportunity.

I have, &c.

(Signed) GEO. ARTHUR.
The Marquis of Normanby,
&c. &c. &c.No. 25.
Sir George Arthur
to the Marquis of
Normanby.
18th May, 1839.

(No. 117.)

No. 26.

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

MY LORD,

Toronto, Upper Canada, 18th May, 1839.

AT the close of the recent session, the House of Assembly passed a resolution, which, in compliance with their address, I have communicated to Sir Francis Head, expressive of their gratitude for the testimony which Sir Francis has ever borne to the loyalty of the militia, and inhabitants generally, of this province.

Of this resolution I take the earliest opportunity of enclosing your Lordship a copy.

I have, &c.

(Signed) GEO. ARTHUR.
The Marquis of Normanby,
&c. &c. &c.No. 26.
Sir George Arthur
to the Marquis of
Normanby.
18th May, 1839.

(Copy.)

Enclosure in No. 26.

RESOLUTION of the HOUSE of ASSEMBLY as to Sir FRANCIS HEAD.

RESOLVED that this House acknowledge, with unfeigned satisfaction, the communication of Sir Francis Head, Bart, late Lieutenant-Governor of this province, addressed to the Honourable Sir Allan Napier M'Nab, Speaker, transmitting a copy of his "Narrative."

Encl. in No. 26.

No. 26.
Sir George Arthur
to the Marquis of
Normanby.
18th May, 1839.
Encl. in No. 26.

That this House, in common with every loyal subject of Her Majesty in this appendage of Her crown, entertains a deep and just regard for the exalted opinions invariably expressed by Sir Francis Head in his addresses to the Legislature, in his answers to addresses, in his public despatches, and in his private communications, of the devoted loyalty of the militia, and of the inhabitants of Upper Canada generally.

(No. 126.)

No. 27.

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

No. 27.
Sir George Arthur
to the Marquis of
Normanby.
6th June, 1839.

MY LORD,

Government House, Toronto, 6th June, 1839.

I HAD the honour to report to your Lordship in my Despatch No. 101, of the 8th of May last, the circumstances attending the robbery of the Upper Canada Mail, a few nights previous, on the road between Kingston and Gananoque, by some individuals who had since sought refuge in the United States; and I further informed your Lordship, that Mr. Griffin, Post-office surveyor, had proceeded to Albany at my suggestion, to represent the matter to the State Government, with a view to the detection and apprehension of the perpetrators of the robbery.

No. 1.
14th May, 1839.

Mr. Griffin returned to Canada on the 14th ultimo, and by the accompanying copy of a letter which he addressed to the Provincial Secretary your Lordship will perceive that the result of his mission has not been so favourable as could have been wished.

I have further the honour to enclose a copy of a letter addressed to the Provincial Secretary, by the Secretary for the State of New York, in reply to the communication from the former officer of which Mr. Griffin was the bearer.

It appears that the State Authorities, however they may possess the will, do not possess the power of interfering in cases of this nature, without the express authority of the general Executive; for, although there exists a law of the State of New York, authorising the Governor to arrest and deliver over persons who had committed such crimes in a foreign country as would have rendered them amenable to the laws of the State, had they been committed within its jurisdiction, such law was nevertheless held to be inoperative, as transcending the Legislative power of the State; inasmuch as the right of dealing with subjects wherein a foreign nation was a party was considered to be exclusively vested in the General Government.

Mr. Spencer proffered to Mr. Griffin every assistance in his power, regretting that his means of being useful were so limited; and gave him letters to certain functionaries on the frontier, soliciting their co-operation with Mr. Griffin, in gaining information of the robbers, but, under the circumstances stated, Mr. Griffin thought it useless to prosecute his inquiries any further on the American side.

No. 2.
13th May, 1839.

Your Lordship will perceive, by Mr. Spencer's letter, that Governor Seward, who, at the time of Mr. Griffin's arrival, was absent from Albany, had fully concurred, on his return, in the propriety of the steps which had been taken, and expressed his willingness to afford any further aid, if duly authorised to do so.

I have communicated all these particulars to Her Majesty's Minister at Washington, who is, of course, far better able to judge than I am whether anything further can be done in this matter with the United States Government.

I have informed him that it is of the greatest importance that the delinquents should, if possible, be brought to justice; as I am given to understand, by parties on whose authority reliance may be placed, that the robbery thus committed is to prove the first of a succession of similar outrages, which are to be carried on, on the St. Lawrence, during the Summer.

I have, &c.
(Signed)

GEO. ARTHUR.

The Marquis of Normanby,
&c. &c. &c.

(Copy.)

Enclosure 1 in No. 27.

Mr. GRIFFIN to Mr. TUCKER.

SIR, Gananoque, U. C., 14th May, 1839.

I BEG to apprise you, for the information of His Excellency the Lieutenant-Governor, that I reached Albany, and delivered your letter to the Secretary of State of New York, on the 11th instant. The subject of my mission was attentively considered and fully discussed by Mr. Spencer, in the absence of Governor Seward.

Mr. Spencer at once informed me, that the State would not interfere by arresting or delivering over individuals accused of the commission of crime in Canada, for that this power was deemed solely to appertain to the general government; to my question whether the general government concurred in this view and would exercise the power? Mr. Spencer replied that the general government considered that the right of dealing with subjects, in which a foreign nation was a party, was strictly vested in it (the general government), but that, in the absence of an Act of Congress, bearing on the point, the President did not deem himself to be empowered to act. Mr. Spencer expressed a strong desire to aid in the prosecution of the perpetrators of the mail robbery, and regretted that he possessed such slender means of evincing his sincerity, "under the peculiar constitution of the United States." At my request, he gave me letters in the Governor's name to the United States district-attorney and sheriff for the county of Jefferson, and to Colonel North, praying them to aid in endeavouring to discover the culprits.

Mr. Spencer further said, that there existed a law of the State of New York, authorizing the Governor to arrest and deliver over persons guilty of such crimes on foreign soil as would render them answerable to the laws of the State, had they been committed within its jurisdiction; but added, that this law was held to be inoperative, as transcending the legislative power of the State, but he suggested that His Excellency the Lieutenant-Governor should make application to the President, and obtain his approbation and authority for the action of the state authorities, in fact, induce him to assume the responsibility, upon which authority, he said that the State would not hesitate to act.

I could not but gather that the principal obstacle to the hearty co-operation of the American authorities is the probable unpopularity of the measure, and its consequent effect on the ballot-box. I left Albany on the 12th, and reached Kingston this morning by way of Watertown and Sackett's Harbour. I purposed seeing the district-attorney and Colonel North on my way, but both those gentlemen were from home. Under Mr. Spencer's decision, that culprits cannot be arrested or given up, I have thought it futile to attempt any investigation, on the American side, and shall content myself with forwarding the secretary's letters to the district-attorney and Colonel North, requesting them to avail themselves of any opportunity of gaining information respecting the suspected individuals, in the hope that His Excellency Sir George Arthur may prevail on the President to interpose his authority for their arrest.

Mr. Spencer did not scruple to say that, if a party from this side went and arrested them, the State authorities would not be disposed to consider it a breach of amity; but I have doubted the expediency of setting on foot any scheme of this nature—it would certainly provoke retaliation and much excitement.

I find that an attempt was made some time since to arrest the suspected individuals, who were on Grenadier Island purchasing cattle; the attempt failed, however, and the villains got off, leaving behind them 500*l.* in Upper Canada money, which is lodged at Brockville.

I am now on my way down to Montreal. I have requested that a vigilant watch be kept up, along our shore, with a view to the arrest of the villains, should they show themselves on this side of the river.

I have heard to day of the further sum of 100*l.* having been in the lost mail, making 191*l.* in all.

I have, &c.

(Signed) W. H. GRIFFIN,
Post-Office Surveyor.

The Honourable R. A. TUCKER,
&c. &c. &c.
Toronto City.

(Copy)

Enclosure 2, in No. 27.

Mr. SPENCER to Mr. TUCKER.

SIR, State of New York Secretary's Office, Albany, May 13, 1839.

Your letter of the 6th instant by Mr. Griffin, the post-office surveyor for the eastern division of Upper Canada, was presented to me by that gentleman on the 11th instant; while

No. 27.
Sir George Arthur
to the Marquis of
Normanby.
6th June, 1839.
Encl. 1 in No. 29.

Encl. 2 in No. 27.

No. 27.
 Sir George Arthur
 to the Marquis of
 Normanby.
 6th June, 1839.
 Encl: 2 in No. 27.

Governor Seward was absent at the city of New York. Mr. Griffin was quite anxious not to lose any time by waiting for his return, and, knowing the views of Governor Seward on similar subjects, I at once undertook to act in his behalf. Letters were accordingly addressed to Colonel Worth, of the United States army, at Sackett's Harbour, to the sheriff of Jefferson county, and to the district attorney of that county, urging them, and particularly instructing the two last-named officers, to afford Mr. Griffin every aid in their power in ferreting out the mail robbers referred to in your letter. I have no doubt that every assistance they can render will be promptly and cheerfully afforded. Mr. Griffin returned the same day by the rail-road to Utica, and thence to Sackett's Harbour.

Since Governor Seward's return, I have laid before him copies of the letters addressed to the officers above named, and he entirely approves of the steps taken. He directs me to inform Sir George Arthur of his readiness to take any further measures for the detection and punishment of the robbers, which the constitution and laws of our country will warrant.

I have, &c.

(Signed) JOHN C. SPENCER, Secretary of State.

No. 28.

(No. 132.)

EXTRACT of a DESPATCH from Lieutenant-Governor Sir GEORGE ARTHUR, K.C.H., to the Marquis of Normanby.

Government-House, Toronto, 8th June, 1839.

No. 28.
 Sir George Arthur
 to the Marquis of
 Normanby.
 8th June, 1839.

HER Majesty's Government are aware that the prisoners who were taken in the "Anne," in the month of December, 1837, were sent to Quebec last year, where they remained until I lately communicated with Sir John Colborne respecting them; and, as it appeared that there were difficulties in the way of putting them upon their trial, it was thought most desirable to include them amongst the number of those prisoners to whom the mercy of the Government has been extended; and for that purpose they were returned to this province; and, after a suitable admonition, were taken from Cornwall, across the river to the United States, under the care of the sheriff.

Unfortunately, these people were delivered up to a magistrate who appears to be wholly void of good feeling; and your Lordship will perceive by his address, which is published in the accompanying newspaper, that he has laboured to produce excitement, both in the United States and on the Canadian frontier.

I have already taken occasion to explain to your Lordship that there are some excellent people in this province who disapprove of extending mercy to any of the prisoners; and I found that the people of Cornwall, especially, were highly indignant at the ungracious conduct manifested on the opposite shore, on the liberation of the prisoners to whom I have just referred; and I therefore determined to proceed from Brockville to Cornwall, in order to hold personal communication with the inhabitants, and I trust I was able to convince them that there was no occasion for excitement in this matter, as such occurrences must, in the nature of things, be expected.

A copy of the address which I received before I left Cornwall, in which the inhabitants most generously forbore from touching upon the particular point which had so greatly excited their indignation, is enclosed, together with my answer.

I found much excitement on every part of the St. Lawrence, in consequence of some projected movements of the brigands; and before I reached Kingston I received a communication from Captain Sandom, of the royal navy, a copy of which is herewith transmitted, communicating to me the necessity which he thought existed for taking decided measures to put an end to the schemes of Johnson and other pirates, who were meditating fresh aggressions; before they became more formidable, and requesting instructions as to the course which he was to pursue.

I had, in consequence, a long conference with Captain Sandom; and finally requested him to keep a good look-out; but not to take any measures in the

No. 2.
 No. 3.

No. 4.

American waters until I should hear from Mr. Fox; and I sincerely hope the American Government will show an earnestness in co-operating with us in putting an end to these lawless proceedings.

At Belleville, which your Lordship is aware is not far from Kingston, very serious excitement has been again exhibited, and I have this day received a very long address, signed by a great number of magistrates, soliciting protection, and denouncing the conciliatory course which has been pursued by this Government. They labour under some apprehension, I have every reason to think. Their statements, however, are very important; but copies cannot possibly be made, to be transmitted with this despatch.

Some very serious and atrocious outrages have lately been committed on the Niagara frontier, by some villains who have crossed the river from the States.

One highly respectable gentleman has been murdered by them; and the perpetrators of this crime having been discovered, I have taken the most prompt measures to induce the Government of the United States to deliver up the murderer. If Mr. Fox fails; upon the clear evidence which has been forwarded, to prevail upon the Government of the United States to afford assistance in the apprehension of this villain, it is a case so extreme, as, I presume, will determine Her Majesty's Government to interfere in a very peremptory manner.

Other gangs of these lawless characters have lately destroyed one of the finest buildings on the Niagara frontier, together with some barns and other valuable property. A deputation from the inhabitants presented to me an address upon the subject this morning.

Colonel Airey, from the western frontier, informs me that he learned from General Brady that the brigands are just as rife for mischief as ever, but he cannot discover that any considerable numbers are congregated at any given place.

The state of excitement that all this produces is exceedingly painful; and my greatest perplexity is to know the exact extent to which these statements ought to be relied upon; for the experience I have now gained convinces me, without making in any degree light of the sufferings of Her Majesty's subjects, along the whole line of the frontier, that impending mischief is purposely magnified by a wicked class of people on both sides of the boundary.

Small bands of these ruffians may, of course, continue to alarm and distress the community; but after the severe examples that have been made, I cannot bring myself to believe that the brigands will again cross, at least for some time, in any considerable force.

This hasty narrative will put your Lordship in possession of passing events, which is the object of my communication.

Enclosure I. in No. 28.

Extract from the Kingston Chronicle and Gazette, 18th May, 1839.

Liberation of seven of the prisoners taken at Amherstburgh on the 9th of January, 1838, and confined sixteen months in Canadian dungeons, without trial or examination of any kind.

Encl. I in No. 28.

The following persons were released from confinement in Québec, by order of Governor Arthur and escorted to Cornwall, Upper Canada, and were delivered over to the civil authorities of Cornwall, and by them to H. W. Tucker, Esquire, of Franklin county; when the following addresses were made:—

Boundary Line, at St. Regis, Saturday Evening, Twilight, May 4.

Having been brought to St. Regis by Mr. M. Martin, sheriff of the Eastern District, U. C., we were met by H. W. Tucker, Esquire, of Hogansburg, Franklin county, who had been invited by said sheriff to attend to witness our liberation, the sheriff addressed us in substance as follows:—

"I am instructed by his Excellency the Lieutenant-Governor of Upper Canada, to embrace this opportunity to make as deep an impression upon your minds as words can make of the kindness and leniency with which you have been treated since you have been prisoners, considering the shameful—the very shameful and wicked manner in which you came into our country. You came as outlaws, to plunder and to destroy, to the annoyance and molestation of the quiet, peaceable, and contented people of Canada; you have been imprisoned, but you

No. 28.
Sir George Arthur
to the Marquis of
Normanby.
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No. 28.
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 Encl. 1 in No. 28.

have been kindly treated, and now, instead of being hung as you deserve for your offence, the Government, in its great mercy, has ordered your liberation; and I am directed to convey you to the boundary-line, and deliver you up to the civil magistrates of your own country."

After the sheriff had ended, Captain Chelsey said he wished to make a few remarks in addition to what Mr. M. Martin had said. He proceeded in substance as follows:—"You are American citizens;—you had heard that the people of Canada were oppressed, and were ripe for a revolution. I too claim the honour of an American birth, but I have lived long in Canada, and profess to understand the nature of allegiance and the situation of the people; and there is no oppression of the Government, as you have heard. Neither are the people ripe for a revolution, as you have doubtless satisfied yourselves by this time. And now I wish you to avail yourselves of every opportunity to convince your countrymen that they are wrongly informed in regard to our situation. You may formerly have lived comparatively unnoticed, but the recent incidents of your lives will render you notorious; and you will have it in your power to do much good in this way."

Justice Tucker then rose and said,—"Mr. Sheriff, it may not be improper for me to make some remarks, on receiving these my liberated countrymen at your hands. You have detained them long in the prisons of the Canadas, for an alleged offence against your laws, but without a trial, or even an inquest, as I am informed; and now, at the expiration of sixteen months, you give them back to their country. In behalf of my country I thank you for them, and, fellow-citizens, most cordially do I welcome you back to your native land; I do so because the motives which led you into Canada were, in the estimation of a majority of your countrymen, as I believe, pure, honourable, and exalted, as ever glowed in the breast of a patriot, or nerved his arm in defence of civil and religious liberty. You heard the voice of complaint—you were told that again in North America British tyranny was laying its oppressive arm upon the people of Canada: and you essayed to assist them, but disaster attended you; and the people of Canada have not co-operated with you as you expected. This may be a lesson to you and to others, to wait till your own country call for your services, and while you regret the failure of your enterprise, you have the comfort of conscious rectitude of purpose, and of purity of motives which your country honours, and which every Anglo-Saxon throughout the world should honour."

Benjamin F. Pew,
 Abraham W. Partridge,
 Henry L. Hull,
 Theron R. Culver,
 Chauncey Parker,
 Nathan Smith,
 Squire Thayer,

Ithaca, N. Y.
 Augusta, Maine.
 Hudson, Ohio.
 Cayuga co. N. Y.
 Genesee co. N. Y.
 Redford, Michigan.
 Burlington, Vt.

Sutherland was sent from Quebec to Cornwall with the above prisoners, where it was discovered that his name was not on the papers, and he was detained. The order for their liberation at Quebec contained the name of Sutherland, but by some unaccountable means had escaped from the proceedings on their journey. The case of Sutherland seemed to be one of great hardship, as his trial was declared illegal, and his discharge ordered by the Home Government a year ago.—Ogdensburgh Times.

(Copy.)

Enclosure 2 in No. 28.

ADDRESS FROM THE INHABITANTS OF CORNWALL.

To his Excellency Sir GEORGE ARTHUR, K. C. H., Lieut. Governor of the Province of Upper Canada, and Major-General Commanding Her Majesty's Forces therein, &c. &c. &c.

May it please your Excellency,

WE, the inhabitants of Cornwall and neighbourhood, beg leave most cordially to welcome your Excellency on your arrival in the eastern district. We have every reason to believe that this visit of your Excellency has been prompted by a desire to promote the happiness and prosperity of our country, and to provide for the security and peace of Her Majesty's faithful subjects.

It is painful to recur to the events that have transpired since your Excellency last visited this district, and we would, were it possible, gladly avoid any allusion to them; but, while we are compelled to express our regret at the spirit of hostility evinced by the inhabitants of the United States, and our detestation of the acts of aggression perpetrated by a portion of its lawless population, it at least furnishes us with an opportunity of expressing our gratitude for the protection of a kind Providence, thankfulness for the prompt and efficient measures adopted for our defence by your Excellency; gratulation in the victories achieved by our gallant fellow-subjects, and pride in the superiority of our constitution to the boasted democratic institutions of the neighbouring States:

Encl. 2 in No. 28.

Assailed, as we have been, at all points, by an army of murderers and brigands, and compelled, as it were, to labour with our arms in our hands, your Excellency will do us the justice to say, that, uninfluenced by the examples of democratic licentiousness, untarnished with the spirit of revenge, the inhabitants of Upper Canada have punished the insults and repelled the attacks of their aggressors with a forbearance which alone can be produced by a willing submission to laws, founded in wisdom, and enacted with the assent of the people. Your Excellency has truly said that upon ourselves alone are we to depend for security; in vain may we expect exertion on the part of the authorities of the United States; and we beg to assure your Excellency that upon the inhabitants of the eastern district you may ever rely for efficient and active support; in such measures as your Excellency may adopt, to ensure safety from the attacks of hostility from without, or the machinations of treason from within.

(Signed) GEORGE ARCHBOLD, and others.

No. 28.
Sir George Arthur
to the Marquis of
Normanby.
8th June, 1839.
Encl 2 in No. 28.

Enclosure 3 in No. 28.

GENTLEMEN,

I THANK you most cordially for this loyal address.

I receive this manifestation of your support with a more lively thankfulness, because my government has recently been placed in the most trying circumstances. Encl. 3 in No. 28.

It has been my painful duty to cause the extreme sentence of the law to be carried into effect in the cases of many desperate offenders; whilst towards others I felt that a free and unconditional pardon might be extended.

I am quite aware that there are many excellent, loyal persons among you, who consider that this last course is impolitic, and that their families will be subjected by it to fresh aggressions.

Your kind disposition towards me personally is therefore the more gratifying, for it assures me you are convinced, if I have erred, that it has proceeded from an incorrect judgment, and by no means from indifference to, or unconcern for, your safety and protection.

I frankly avow to you, that it has been with me an object of great anxiety to call forth a generous feeling from those who have acted towards this country with cruel treachery and wanton violence. If the endeavour be successful, and I still shall leave no honourable effort unattempted to accomplish it, it will be to me a source of unbounded satisfaction; if it prove unsuccessful, I shall cast all further thoughts of diplomacy into the St. Lawrence, and trust to the hearts and hands of Her Majesty's loyal subjects to bring about conciliation by a different process; and, in that operation, there are no men, I am very confident, more entirely to be relied upon; than the inhabitants of the eastern district.

(Signed) GEORGE ARTHUR.

(Copy.)

Enclosure 4 in No. 28.

Captain SANDOM to Sir GEORGE ARTHUR.

Her Majesty's Ship, Niagara,
Kingston, 31st May, 1839.

SIR,

As I feel assured that the most prompt and decisive measures are absolutely essential to crush in the bud the movements of the turbulent people scattered on the borders of the St. Lawrence, and on some of the islands, with the avowed intentions of committing depredations on some part of the British dominions in Canada, or on the mercantile steam vessels, I most earnestly entreat your Excellency to give me instructions for my guidance, should the naval force under my command come in contact with them. Their tact and cunning will keep them within the American line of demarkation on the St. Lawrence, but chance may enable some of my officers to meet them off their guard on our side, in which case the result would be simple—they would be taken. Encl. 4 in No. 28.

Their present haunts are in the American islands bordering upon our lines, so near as to enable them to make incursions with facility and success.

It is in such cases that I feel most perplexed and at a loss how to act.

My understanding with General Macomb last year, was, that I should be at liberty to attack such people on any of the islands, but in the event of capturing the brigands, to hand them over to the American authorities (when taken on their territory) for trial.

Your Excellency is aware of the fact of officers, under my command, having surprised a party of these miscreants, on Grindstone Island, and of capturing two of them, who, together with a quantity of arms, were by me handed over to the American authorities, agreeable to stipulation in good faith. These men were released, and the same scenes are now acting on the same spot.

General Macomb informed me that he must withdraw the sanction he had given for my people to search the American islands.

No. 24.
Sir George Arthur
to the Marquis of
Normanby.
8th June, 1839.
Encl. 4 in No. 25.

I would now beg your Excellency's advice as to what measures it would be most proper to pursue when I have positive proof, and the means of capturing them on any of the islands within the American territory. I have, &c.

(Signed) WILLIAM SANDOM,

Captain R.N., Commanding Her Majesty's Naval Forces in Canada.

His Excellency Major General Sir George Arthur, K.C.H.

(No. 149.)

No. 29.

COPY of a DESPATCH from Lieutenant-Governor SIR GEORGE ARTHUR, K.C.H., to the Marquis of NORMANBY.

No. 29.
Sir George Arthur
to the Marquis of
Normanby.
1st July, 1839.

SIR,

Government-House, Toronto, 1st July, 1839.

WITH reference to my Despatch, No. 132, of the 8th June, I have now the honour to transmit a copy of the Address from the magistrates of the Midland and Newcastle Districts to which I therein alluded, together with the copy of a letter from Mr. Wilkins, a member of the Legislative Council, and one of the most wealthy inhabitants of the country, having large transactions in both provinces.

A considerable number of Americans have long been settled in these districts; and their influence has been materially augmented by a coalition with many British subjects, who have from time to time become converts to their political tenets.

When the outbreak took place in November last, in the Lower province, and when the descent was made upon Prescott, the disaffected people in the Midland and Newcastle Districts were all on the alert, and the clearest proof was afforded that they were in communication with the patriots, by whom an expedition was certainly destined for that quarter.

As it was a point of the utmost moment last winter to prevent any actual outbreak which might have afforded a pretext for the interference of the sympathising citizens of America, your Lordship is aware that all the energies of this province were suddenly roused, and the Government had great reason to be thankful for the activity and zeal of the magistrates and other loyal subjects in the Newcastle and Midland Districts.

Several known disaffected persons were apprehended upon secret information, under various charges of treasonable practices, and lodged in gaol; and under the circumstances represented, it was considered that the suspicions against the parties were sufficiently strong to justify their detention in custody, during a period of considerable peril and very general alarm.

Thus matters stood, until there was reason to hope that the immediate danger had passed away; but then, of course, it became my duty to turn the earliest attention of the Government to the cases of any persons who were in confinement, without having been fully committed in the regular course of law. Some instances of this kind were presented in the Midland and Newcastle Districts and after due inquiry had been instituted, such prisoners were discharged.

At that time the best possible feeling was manifested towards the Government, as your Lordship will perceive by the enclosed copy of an Address which was presented to me, numerously signed by the most respectable and influential persons in those districts.

In the course of the month of April, and during the early part of May, when the view taken of parties in this province in the Earl of Durham's Report was generally known, some excitement became manifest; the disaffected class in the Newcastle and Midland districts was amongst the foremost for renewed agitation, and the individuals who had been incarcerated during the winter proved the most active in promoting discord.

Such are the grounds on which the strong feelings expressed in the Address of the magistrates of the midland district have been called forth. I had hoped, indeed, that much of the bad feeling resulting from circumstances growing out of the insurrection of the winter of 1837-1838 would have died away; and I had no reason to expect this renewed excitement. A clear anticipation of it would not, however, have wrought any change in my measures; and, in submitting to your Lordship a copy of the Answer which

No. 4.

I directed to be made to the magistrates, I confidently believe Her Majesty's Government will consider that the propriety of the course pursued is fully sustained. I trust, also, that the magistrates themselves will be satisfied, upon the explanation given, that, whilst I felt bound to secure the Government from the imputation of an arbitrary proceeding, in continuing restraints upon personal liberty not absolutely necessary to the safety of the province, it never could have been my intention, in causing the prisoners to be discharged, to question the integrity of the motives, or to lessen the weight and influence, of the civil authorities.

At the same time that I have studiously endeavoured to remove from the minds of the magistrates, the impression that a tendency to convey a reflection on them attached to the discharge of those prisoners, I shall continue to claim a privilege of exercising the powers of the executive Government, unfettered by any set of men, however loyal or influential they may be.

When the insurrection broke out in December, 1837, a considerable number of persons in the Midland and Newcastle districts at once took up arms, and moved off in order to surprise Kingston, and get possession of Fort Henry; and at the recent muster of the militia at Percy and Murray on the 4th and 5th of June, much violence was again displayed.

I enclose a copy of the statement made by the magistrates, as well as of one from Colonel Campbell commanding the 5th Northumberland regiment of militia, by which your Lordship will see the exact nature of the affray which took place, originating in the display at the militia muster of an American flag, and of the "Earl of Durham's flag," which the republican party in the province have adopted, as affording them an opportunity of concealing their real designs, under the specious pretext of merely advocating that form of government which has been recommended by his Lordship.

I also enclose a letter from Mr. Manners, a respectable English gentleman who emigrated to this province a few years ago, enclosing a printed notice for calling a meeting to take into consideration the form of government recommended by the late High Commissioner.

I further enclose a copy of a letter from Mr. M'Mahon, sheriff of Prince Edward district, expressive of the apprehensions which he entertains in regard to the indications of further agitations in the Midland and Newcastle districts.

The exhibition of a particular flag in honour of a nobleman who has lately held the highest offices in these provinces, and the discussion of any form of government recommended by his Lordship, ought not in itself to be any cause for alarm on the part of the magistrates; but it is the class of persons engaged in displaying these badges which appears to have roused the feelings of the loyalists in the midland district.

The last reports from Captain the Baron de Rottenburg, who has the military charge of the Midland district, are herewith transmitted. This officer seems to regard present appearances rather seriously, and, by the answer I have caused to be addressed to him, your Lordship will perceive that I have instructed the Baron to be prepared for any emergency, and to act according to circumstances.

I have entered thus much into detail as to what is passing in the particular districts in question, because I consider them to be amongst the most disloyal in the province; and in the present state of things no person can venture to predict what may not happen in the brief interval of a day; it is, however, my opinion that much of this demonstration is intended to keep alive excitement and agitation most harassing to the loyal inhabitants of the country, as well as highly prejudicial to its best interests, rather than that any immediate revolt is meditated. The hitherto extravagant proceedings of the disaffected party warrant a belief that there is nothing, however desperate or wicked, they may not attempt; but, unless there should be another revolt in the lower province, or a serious invasion from the American side, I cannot conceive it possible that they will place their lives in such imminent danger as would result from open violence.

Captain Sandom reports that some of Johnstone's party have fired upon some of our sailors on the St. Lawrence, but of the importance of this occur-

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No. 5.
No. 6.
20th June, 1839.

No. 7.
20th June

No. 8.

No. 9.
21st June.
26th "
20th "
No. 10.

No. 11.
Captain Sandom.
25th June.
26th "
Col. Falkett.
29th June.

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rence I cannot at present judge. Some extraordinary mystery seems to attach to this man's proceedings; for there is such clear testimony against him as having been concerned in the affair of the "Sir Robert Peel," that it is surprising he is not apprehended and brought to trial. It is said, however, that some measures for that purpose are now in progress.

I have not yet received any official reply from Mr. Fox, respecting Colonel Worth's proceedings at Brockville, and I do not expect that the American Government will take serious notice of it; the stir I made, however, will, I hope, prevent any recurrence of a course of conduct so unjustifiable, and so dangerous to our tranquillity.

Neither have I received any official reply to my application to the American Government through Mr. Fox, for the arrest of Benjamin Lett, against whom an indictment was found by the grand jury for the murder of Mr. Usher on the Niagara frontier; but I know this appeal to be quite hopeless, as Mr. Spencer, the Secretary for the State of New York, informed the gentlemen who was the bearer of my communications respecting Lett, that unless Sir Allan McNab and Captain Drew were surrendered for the murder of American citizens at the affair of the "Caroline," any such demand on our part could never be complied with.

The matter will, of course, be brought under the notice of Her Majesty's Government by Her Majesty's Minister at Washington, and it is earnestly to be hoped that the discussion respecting the "Caroline" may be, in some way or other, definitively adjusted, or it will continue to be brought forward on all occasions, and regarded as a satisfactory reply to any applications we may make for the redress of the most lawless and atrocious proceedings against the people of this province.

Your Lordship will be glad to hear that the American authorities have at length brought M'Kenzie to trial for a breach of the neutrality laws, that a jury has been found to convict him, and that a sentence of eighteen months' imprisonment has been passed upon him.

This is the first indication we have had of the determination of the Americans to inflict punishment on those who have so long disturbed our peace.

Her Majesty's subjects on the Niagara frontier are restless and anxious on account of some dreaded internal commotion, and from the apprehension of small brigand parties crossing from the American side; but I trust this panic will shortly subside.

Although it drew forth some observations and reflections that were rather painful to me at the time, the free pardon which was extended to all the young prisoners, to the wounded, and to a few others, seems to have produced the effect I contemplated; and an intimation has just been made to me from the President of the United States, and from General Scott, who is now on the frontier, that this act of grace has worked most beneficially in allaying excitement: notwithstanding these assurances, however, as it has invariably been my object to avoid, by all possible circumspection, being either misled myself or misleading Her Majesty's Government, I deem it proper to add, that the patriot cause is, I believe, as dear to the American people as ever; although, having now tested the difficulties of the "speculation," I doubt their venturing upon another descent, unless encouraged by some strong prospect of success: and from such a prospect I confidently trust they will be completely excluded by an extensive colonization from Great Britain, and by the adoption of other judicious measures for the future tranquillity and security of the province.

I have, &c.

(Signed)

GEO. ARTHUR

The Marquis of Normanby;

&c. &c. &c.

Enclosure 1 in No. 29.

To his Excellency Sir GEORGE ARTHUR, K.C.H., Lieutenant-Governor of the Province of Upper Canada, and Major-General Commanding the Forces therein.

Encl. 1 in No. 29

May it please your Excellency,

We, the undersigned, having recently, with many of our neighbours, joined in a congratulatory address to your Excellency on the tranquillity enjoyed by this province, through

the judicious precautions taken by your Excellency during the past winter, regret extremely to be now obliged to approach your Excellency with language of complaint and remonstrance occasioned by an act of the Executive, which, with other causes, will, we are apprehensive, be productive of the same disastrous consequences that have been so destructive to the peace and prosperity of the province for the last eighteen months.

The circumstance to which we allude is the liberation, without trial, investigation, or even communication with the magistracy, of Franklin, Fisk, Loomis, and others, committed during the last winter to the gaol of this district on charges of treasonable and seditious practices. In the early part of last winter, the magistracy, in this part of the country, were extremely desirous of meeting your Excellency's views, as communicated in your proclamation, and actively endeavoured to obtain the best information as to the movements and intentions of those who, as events have proved, were justly suspected of holding an active and guilty correspondence with each other; and with designing and desperate characters in the neighbouring States, meditating a descent upon this and the Lower Province, in, as we wish it will ever prove, the vain hope of severing us from the allegiance of our young and gracious Sovereign, and of destroying every vestige of the British constitution and British power in North America.

In endeavouring to follow up your Excellency's views for the preservation of internal tranquillity, the magistracy of the country were surrounded by difficulties of no ordinary nature; ill supported by a very inefficient constabulary force not to be depended on for the execution of an ordinary warrant, with no funds at their command for any extraordinary occasion; those who were known to be loyal and well affected to the Government alarmed for their personal safety, by rumours, purposely propagated by the disaffected; the disaffected themselves increasing in numbers daily, through the activity of their agents and associates in the country, and securing an influence over the converts to their specious doctrines by the administration of unlawful oaths; a disinclination, even a personal dread, on the part of well-wishers to order and good government, to divulge the alarming intelligence that had been conveyed to them, and not to be induced, by any arguments, to declare the names of the authors of those rumours from an avowed apprehension of personal violence. It was therefore with considerable difficulty that sufficient information could be obtained to authorise the committal of the persons already alluded to, and this not until after the country had been restored to something like tranquillity and reassurance by the vigorous measures of your Excellency. Then, indeed, many individuals might have been implicated, on good and substantial testimony, of being concerned in traitorous and seditious practices. But great care has been taken not needlessly to harass those who were the mere instruments and deluded followers of wicked and designing leaders: in this light the persons above enumerated stood so implicated in seditious, if not treasonable, correspondence, that they could not be held innocent in the eyes of their fellow-subjects, unless pronounced so by a jury of their country.

We do not wish, in any manner, to interfere with the royal prerogative of mercy, after conviction; but, standing in the responsible situation we do, as conservators of the peace, we feel it to be an imperative act of duty, reluctantly, yet respectfully, to protest against the too liberal and undistinguishing extension of the supreme authority, by liberating persons, thus situated, from the operation of the laws they have violated, but which it is our duty and our pride to uphold.

We beg to state most respectfully to your Excellency, that in so doing an act of great censure is implied and conveyed toward the magistracy of the country, more severe than anything contained in the report of my Lord Durham, or in the disloyal press of this country. Such acts have a tendency to blight and destroy the loyalty to the Crown, and devotion to the institutions of his country, which has hitherto been the boast of every Briton—we regret to say such effects have already been produced.

Those who are disaffected have the audacity to suppose that their plans and intentions are secretly encouraged by the Executive of the country, and, libellous as this we know to be, we have not the means of refuting it, as to the acts of the Government we are continually referred for proof of their assertions.

We regret to assure your Excellency, that the clemency which you have been pleased to extend in the cases now under consideration has not been attended with those results every honest man would delight to behold. On the contrary, the parties liberated have used the most insulting language and threats to their neighbours. On one occasion, an officer on duty has been violently assaulted, and further threatened by one of the men so liberated.

We cannot conceal from ourselves, that the convulsion which has arisen in the province, has not arisen from a mere strife of parties for political ascendancy, but from a deadly antipathy to everything British. The clemency manifested by your Excellency to these guilty men, has been ascribed to fear on the part of the Government, and we have now every moral assurance that a recommencement of the same seditious acts against the Government, and annoying measures to the well-disposed inhabitants of the country, is already in progress. A feeling of insecurity, far worse than great and manifest danger, begins again, since the discharge of the militia force, to pervade the breasts of those who would live in peace, and be well-disposed towards the Government of the country.

It remains for us only to solicit, with the utmost humility and respect, that your Excellency would be pleased to give us some assurance that in future the acts of the magistracy, when not contrary to law, shall be sanctioned and upheld by the executive. If not, their office, hitherto not one of ease, will be such as no man of honour will consent to hold, and, moreover,

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such as no prudent man could well be required to hold, since, in addition to what has already been advanced, the individual magistrates, who have been engaged in making the late arrests and investigations, have been held up to the public as having acted from private and personal motives, and altogether contrary to the wishes of the executive of the country; and their acts, so far, have met from that executive with an ill-merited censure. For ourselves, we do not suppose that the executive intended to convey any such censure.

We have further to beg the indulgence of your Excellency, when we venture, from our knowledge of this portion of the country, to assure you, that in our opinion, founded on the present excited state of the public mind in these parts, and the late manifestations of public opinion on the American shores, just opposite to us, it would be hazarding too much, and jeopardising the safety of this part of the province, to leave the Presqui' Isle station without a strong detachment of militia or regulars, to be supported by another, either at the Trent or Belleville. The internal state of this portion of the country, we humbly submit, requires the presence of rather a strong force to discountenance the disloyal feeling which has been engendered by designing men, and which, we feel convinced, no act of royal clemency, however gracious it may be, will ever counteract.

We have the honour to subscribe ourselves, with the greatest respect, your Excellency's most obedient humble servants,

ROBERT C. WILKINS, J.P.
 WILLIAM ROBERTSON, J.P.
 SHELDON HAWLEY, J.P.
 CHARLES SHORT, J.P.
 JOHN N. MURPHY, J.P.
 J. BROOKS-CROWE, J.P.
 WILLIAM BROWNE, J.P.

B. McMAHON, J.P.
 JOHN STEELE, J.P.
 D. CAMPBELL.
 B. B. RANNEY, J.P.
 CHARLES BIGGAR, J.P.
 BENJAMIN WELLER, J.P.

Enclosure 2 in No. 29.

LETTER FROM MR. WILKINS TO THE HON. JOHN MACAULAY.

DEAR SIR,

Carrying-Place, 30th May, 1839.

Encl. 2 in No. 29.

In forwarding the enclosed address to the Lieutenant-Governor, I am particularly requested by my brother magistrates, to request you will convey to his Excellency an assurance, that although they have deemed it in this instance but an act of duty to themselves to remonstrate against any future acts of the Executive—similar to those which are the matter of complaint in their address—yet they still feel grateful to his Excellency for the general measures he has adopted for the safety and protection of the country, and are disposed to place the strongest reliance on his foresight, vigilance, and care in any future measures he may adopt for that purpose. They wish his Excellency to be assured, that it is the most remote from their desire to cause him any embarrassment in his administration of the government, by this their complaint and remonstrance; on the contrary, so long as his Excellency may deem their services of any value to the country, they are desirous of strengthening the hands of the Executive, by forwarding the views of his Excellency for the preservation of the peace, and maintaining the supremacy of the British Crown in this province. In these sentiments I most cordially concur, and I beg you will take a fit opportunity of conveying them to his Excellency, as the sentiments of myself and the gentlemen who have signed the enclosed address.

At the same time, and in illustration of the motives which have induced them to address his Excellency on the present occasion, I am desired to say, that should the Executive continue to discountenance the acts of the magistracy by indiscriminate acts of lenity towards the guilty and active authors of our late troubles, that their usefulness and respectability as magistrates will, henceforward, be small indeed; and their authority, now ill sustained by the people of the country, will be totally disregarded, if an opinion is to prevail that they have not the confidence and approbation of the person which has called that authority into existence. Every act of grace on the part of the Crown towards the infatuated men who have brought the country to the verge of open rebellion and collision with our unprincipled neighbours on the other side the line, has been wilfully misrepresented by these men as proceeding from fear; while the magistrates performing, as they humbly trust, but an act of duty to the country, and that in all cases most cautiously, are placed in no enviable position. Stigmatized on one hand by the disaffected, with having acted solely from revengeful and malicious motives, motives of which they feel confident his Excellency will acquit them; they, on the other hand, accused by the well-affected and the friends of good order, under the influence certainly of excitement and alarm, with a want of energy, and inattention to the security and peace of the country. The difficulties of their situation are still further greatly enhanced; for as all the acts of lenity have hitherto been ascribed to other than the true motives, they have yet had the effect of inducing the leaders of the contemplated revolt to act with more secrecy and

caution; and those who might under other circumstances, perchance, have given information of their proposed plans, will hereafter be doubly deterred from giving that information, under a well founded dread of being themselves marked out as objects of revenge and personal visitation at no very distant period, they are naturally afraid that the Government cannot, or will not, protect them.

It will be needless to say more; as far as the magistrates are concerned, assured as they are by wilful misrepresentations of their conduct and motives, and lively sensible to the injurious effects of many parts of the report of his Excellency the late Lord High Commissioner and Governor-General of these provinces. *Erroneous* as they conceive certain parts of that report to be, both on his Excellency's administration, and the loyalty of many of Her Majesty's subjects, with a tendency also to keep alive the agitation, and anti-constitutional views of those who have so long kept the province in a state of disquiet, they feel that their usefulness must be greatly curtailed, unless they have the good fortune to obtain the countenance and confidence of the Executive. Under present circumstances I can assure his Excellency they are not reposing on a bed of roses.

With respect to any other remarks or expressions used in the Address, not immediately in reference to themselves, it is the unanimous opinion of the gentlemen who signed it, they contain the sentiments of the people in this neighbourhood; and although they do their endeavours to prevent a public expression of their opinions, as fearing such an expression might have an evil tendency in the country, and probably very much embarrass the Government, yet they feel they would be wanting in their duty to his Excellency, did they not fearlessly, though respectfully, make him with their existence.

I regret to state that it is the opinion, without exception, of the gentlemen who now address his Excellency, that incipient manifestations of agitation and disaffection are again displaying themselves. Since the disbanding of the militia in this neighbourhood, an undefined sensation of approaching calamity pervades the breasts of many well informed and temperate persons in this portion of the country.

In conclusion, I am instructed to say that if his Excellency shall be pleased to entertain favourably the Address now transmitted to him by me, it will afford the magistrates the most unalloyed satisfaction to have his Excellency's approbation conveyed to them through you or any other channel his Excellency may think proper. And that without some mark of confidence in them, on the part of his Excellency, they feel it will be impossible for them in any future emergency to exercise the important trust reposed in them with credit or safety to themselves, or with benefit to the country and the Government.

I have, &c.

(Signed) ROBERT C. WILKINS.

The Hon. John Macaulay,
&c. &c. &c.

(Copy.)

Enclosure 3. in No. 29.

ADDRESS from the COUNTY OF HASTINGS.

To His Excellency Sir GEORGE ARTHUR, K. C. H., Lieutenant-Governor of the Province of Upper Canada, and Major-General Commanding Her Majesty's Forces therein, &c. &c. &c.

May it please your Excellency,

We, the undersigned inhabitants of the county of Hastings, took an early opportunity of conveying to your Excellency a declaration of our firm attachment to our mother-country, and of our confidence in your Excellency as a most suitable person to administer the affairs of our provincial government.

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At this time your Excellency had been but a few short weeks in this province, and we ventured to point out to your Excellency the fact that the machinery which had been put in operation during the past winter, for levelling our institutions, was yet complete, and was only kept back for a more convenient occasion.

That occasion has presented itself, and we now hasten to lay before your Excellency our expression of our grateful feelings for the precautionary measures you have adopted, and to declare that we are fully satisfied that your Excellency has been most justly excited to take the steps you have done from the most rational apprehensions. We cannot too sincerely thank your Excellency for defending the temple of our constitution, our homes from aggression, and, arrested by your foresight, the merciless and base invaders of our free soil from laying it prostrate in the dust. Were we not to do all in our power to aid your Excellency in maintaining the dignity of the empire, we should richly deserve to fall a prey to the crafty and designing of British dominion in America—justly should we be visited by the sway of a licentious mob—justly should we fall into a desolate state of anarchy and confusion, and deservedly and unpitied should we be despised by our brother Conservatives at home, if we

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failed to second the exertions of your Excellency to maintain civil and religious liberty throughout the province of Upper Canada. Therefore, much as we are encouraged by the frequent defeats of our foes, we are not ignorant of the fact that we must rely more on our own exertions, under the protection of Almighty God, for a total discomfiture of our foes, than upon the weakness and wickedness of their cause; for their obdurate hearts seem alike callous to the God-like powers of mercy, as to the sterner attributes of justice.

Fully as it has been established to the conviction of the thorough sceptic that a conspiracy has been deeply laid in a foreign land to overthrow our unparalleled constitution, so surely is it beyond all doubt that a co-operating treasonable association, of a most alarming character, has been organized in, and is extending its influence throughout the province, and which, but for the wise and precautionary steps taken by your Excellency, would have burst upon us at the time the barbarous pirate horde invaded this province at Prescott.

It is but too evident that, from the manner in which the marauders came prepared to complete their work of death, that higher and more experienced engineers than the misguided, ignorant, and rapacious of the people; are steadily and effectively at work, to keep alive the angry passions of the infidel by the powerful and influential aid of appealing to their sympathies and their wants. And that all their combinations and plans have failed, as well abroad as at home, next to a kind and all-bountiful Providence, we have to thank, and do most cordially thank your Excellency, for the watchfulness and anxiety you have shown, and the precautionary measures you have taken for the security of our lives and property.

(Signed)

JOHN COCHRAN, Clerk,
 JAMES KETCHAN, Scotch Minister,
 T. PARKE, J. P.,
 EDMUND MURNEY, M. P. P.,
 and 312 others.

Belleville, County Hastings,
 26th December, 1838.

(Copy.)

Enclosure 4 in No. 29.

LETTER to the MAGISTRATES.

GENTLEMEN,

Government House Toronto, 17th June, 1839.

Encl. 4 in No. 29.

I AM directed by the Lieutenant-Governor to acquaint you that he has perused with much attention and deep interest the memorial addressed by you to his Excellency, and transmitted to Mr. Secretary Macaulay, by Mr. Wilkins, with his letter to that gentleman of the 30th ultimo.

Previously to entering on a more particular reply to the general subject-matter of your representation, I am instructed to convey to you the strongest assurance that his Excellency is fully aware of the numerous and serious difficulties which have for some time past attended the performance of your magisterial duties; and that he justly appreciates the integrity and loyalty of the motives by which your conduct has invariably been guided.

After this explicit declaration of his Excellency's sentiments on this point, it can scarcely be necessary for me to add, that there never was the most remote intention of conveying the slightest censure on your proceedings, by those acts of the Executive Government which you consider calculated to lessen your influence with the public, and, by consequence, to impair your power of being useful as magistrates.

The more material object is to place the principles of those acts of the Government before you in such a manner as may induce you to acquiesce in their propriety and expedience, in spite of some inconveniences with which they may have been accompanied; and to this task I am now to address myself.

Your objections seem to resolve themselves into two heads, viz:—

1st. A general complaint against the practice of releasing, without trial, parties who had been imprisoned upon suspicion of treason; and, 2dly, a particular remonstrance against the liberation of Franklin, Fisk, and Loomis.

I shall, therefore, adopt the same division in the observations which I am about to offer to your consideration.

Of all the powers which can be intrusted to a government, that of arresting and detaining persons in custody upon *secret information* ought certainly to be exercised with the greatest delicacy and discretion. The extraordinary powers resulting from the suspension of the Habeas Corpus Act are conferred solely with a view to the *public safety* in times of pressing emergency and great public danger. Their true and only legitimate object is the preservation of the public peace, by the confinement of those persons who are suspected of a design to disturb it; and when the danger which induced their arrest has passed away, the common rules for the administration of justice, and the constitutional safeguards of personal liberty, instantly revive.

If the evidence openly taken against Prisoners be sufficiently to justify their committal, without resorting to *secret information*, the magistrates obviously possess authority to act without reference to the Executive Government. If, on the contrary, vehement suspicion be the only ground for the detention of prisoners, and the extraordinary powers vested in the Government by the suspension of the Habeas Corpus Act be consequently necessary to warrant

their confinement, their discharge ought to follow *immediately* upon the termination of the danger which led to their arrest.

Such at least are the principles by which the Executive Government has been directed; and in authorizing the release of prisoners confined under the extraordinary powers confided to the Lieutenant-Governor in council, it was not intended in any way to restrain the magistrates from instituting any proceedings against them in the *usual and ordinary course of law*. The only question, therefore, is, whether the Government was correct in supposing that the public security did not demand, in the instances to which you have alluded, the further exercise of the extraordinary powers with which it was invested? And it seems a very satisfactory answer to this question, that the release of the prisoners, which forms the gravamen of your complaint, only anticipated by a short period a result which would soon have taken place from the non-removal by the Legislature, during their late session of the suspension of the Habeas Corpus Act.

Having thus endeavoured to set before you the general principle by which the measures of this government have been guided, I shall next advert to its proceeding, in reference to the three individuals mentioned by you.

On the 31st of December, Mr. Bethune addressed Mr. Secretary Macaulay a letter, from which the following is an extract:—

“I understand that Bildad Franklin has made an application to be bailed: it will, therefore, be necessary to have his Excellency's warrant sent down without delay, as it is doubtful whether the evidence before the committing magistrate would warrant his detention in gaol, and the evidence of Loomis cannot be made known to the judge.”

On the 16th of January Bildad Franklin petitioned the Lieutenant-Governor for his release, representing—“That he had been for some years labouring under a disease of the liver and lungs, which was much aggravated by his confinement in a damp prison; he further represents his family and affairs in a most deplorable state, and prays that he may be restored to them.”

Mr. Sheriff Ruttan adds this certificate to this petition in the following terms:—“I certify that the statement made by B. Franklin, regarding his health, business, and family, is correct.”

To which is subjoined a certificate of a surgeon to the same effect. No remonstrance is made by the sheriff against the release of Bildad Franklin, and the Council regarded the sheriff's certificate as an implied recommendation in the prisoner's favour. Under these circumstances it certainly did not appear that the province would be exposed to any danger from the liberty of an individual, thus represented as suffering by disease aggravated by confinement; and it would, consequently, have been deemed an act of extreme rigour, savouring of cruelty, to incur the chance of the prisoner's losing his life merely upon suspicions unsupported by evidence sufficient for his trial and conviction. Such were the considerations which led to the discharge of Bildad Franklin; and it is conceived, that on this view of his case, no unprejudiced person can doubt the propriety of the treatment pursued towards him—particularly when it is remembered that no restraint was thereby imposed upon the magistrates in the exercise of their ordinary and regular functions.

If I have succeeded, as I confidently trust I have, in establishing, that the discharge of Bildad Franklin was a necessary act of justice, it will only remain for me to add, that Levi Loomis and Almeran Fisk, who were also confined merely on suspicion of treason, were discharged at the suggestion of Messrs. Ruttan and Bethune, who, in the postscript to a letter, dated 4th March, 1839, have thus expressed themselves:—

“Since writing the above, we have ascertained that Levi Loomis and Almeran Fisk have not been discharged as yet, and we beg, therefore, to request that they also may receive the favourable consideration of his Excellency the Lieutenant-Governor, and be discharged from custody.”

In conclusion, I am desirous to communicate to you the most unequivocal pledge of his Excellency's earnest desire to support and uphold the magisterial authority in every part of the province; and at the same time to claim from you that liberal construction of the acts of his administration, which the Lieutenant-Governor is satisfied you will be disposed to place upon them, from the knowledge you possess of the present situation of this country, and from the conviction you must feel of the urgent necessity for a scrupulously just, as well as firm and vigorous, administration of the government.

The Lieutenant-Governor has heard with great regret of recent transactions of an unpleasant nature in the Midland District; and I am to add, that his Excellency is prepared promptly to co-operate with you in order to put down any attempt that may be made to disturb the public peace.

I have, &c.

R. A. TUCKER, Prov. Sec.

To the Worshipful

(Signed)

R. C. Wilkins,	C. Short,
S. Hawling,	J. B. Crowe,
J. V. Murphy,	R. McMartin,
W. Bowen,	D. Campbell,
J. Steele,	C. Biggar, and
R. B. Ramny,	B. Weller, Esqrs.
W. Robertson,	

No. 29.
Sir George Arthur
to the Marquis of
Normanby.
1st July, 1839.
Encl. 4 in No. 29.

Copy.]

Enclosure 5 in No. 29.

LETTER from the MAGISTRATES of PERCY.

River Trent, 15th June, 1839.

SIR,

No. 29.
Sir George Arthur
to the Marquis of
Normandy.

1st July, 1839.

Encl. 5 in No. 29.

In consequence of a riot, of rather an aggravated nature, having occurred at Percy, on the 5th instant, at the general training of the Percy Division of the 5th Northumberland Militia, and it being reported that one or more persons were in jeopardy of their lives from the bruises received in it, we thought it our duty, as magistrates, to make an inquiry into the circumstances of the case; and on Saturday last, together with Mr. Meyers, we proceeded to that township, to inquire into the circumstances of the riot, and the causes which gave rise to it.

In making this report to you for the information of his Excellency the Lieutenant-Governor, we do not think it necessary to enter into the case, which we thought proper to deal with in a summary way, or to allude to others which may hereafter come before us in our magisterial capacity; but we do think it our duty to make his Excellency acquainted with the circumstances which caused the riot, as indicative of the state of feeling in this and, we fear, in the adjacent parts of the country.

On the morning of the day alluded to; (Wednesday, the 5th June,) when the Percy Division of the Northumberland were ordered for general training, a party of people from Cranahe, the adjoining township,—but totally unconnected with the regiment,—to the number of about thirty, made their appearance with a red flag, on which were written, or printed, the words “Lord Durham and Reform;” which flag they paraded through the village of Percy Mills, and afterwards hoisted on a pole at Stone’s Tavern, where the division of the regiment met to train. In the course of the day, a heavy shower of rain fell, and the Colonel ordered the men into a barn for shelter, and, while they were proceeding thither, a lad of some seventeen or eighteen years of age came from behind the tavern, with a pole of about twelve feet long, on which was fixed a piece of old cotton as a flag, having an eagle and the word “Liberty” rudely painted on it, and further embellished with seven blue stars and as many stripes. This flag the lad thrust into the face of an old man, a sergeant in one of the companies present. The old man (who, by-the-by, is an old soldier, and served at Copenhagen in the Peninsula and at Waterloo), naturally indignant at such treatment, bear the flag down, when the lad attacked him, beat him, and, in a fall the old man had, kicked him while on the ground. This case we have dealt with as an assault only, under the Summary Punishment Act.

While the Colonel remained, those men who are well disposed towards the Government and Constitution of the country were restrained from displaying any feeling of hostility towards those who, to say the least of it, made a wanton exhibition on the occasion of party emblems, known to be obnoxious to many on the ground. But, when the men were dismissed, and the Colonel had departed, those loyal fellows who, through the day, had submitted with patience to the parading of the offensive flag through the village, its display while they were in the ranks, the jeers and taunts of its supporters, and styling themselves Reformers, could no longer endure the reiterated provocations they received when dared by the Reformers to touch the flag. Although this latter party mustered, by accounts which we place confidence in, from eighty to a hundred men, some half score, or at the most a dozen men, determined they would no longer bear what they considered a most open and wanton insult, and they accordingly went with the determination of having the obnoxious Durham flag removed. They went unarmed, and without any weapon except an axe, which was used only for the purpose of cutting down the pole on which the flag was hoisted. Although the weaker party were unarmed, the Reformers commenced a most furious attack upon them with clubs, whipple-trees, and other dangerous weapons, and it is asserted that, at the last part of the affray, they entered the tavern and a neighbouring blacksmith’s shop, whence they took fire-irons, bars of iron, and every heavy and offensive instrument they could lay hands on. Notwithstanding the fearful odds, both as to numbers and weapons, among the Reformers, so styled, the smaller party maintained their ground for some time, and actually captured the offensive “Durham flag” which gave rise to the conflict, but which was afterwards retaken by the Reformers, re-hoisted, and a man by the name of Curtis (who fled the country during the winter to avoid the execution of a warrant issued against him for treasonable practices), was chaired around and under it by the now victorious Reformers. Some of the smaller party certainly suffered very severely from the dangerous weapons of their adversaries, and there are some very bad broken heads among them: on the other hand the Reformers had but little to boast of, with all their superiority of numbers and weapons, seventeen of their number (nearly, if not quite double the number of the smaller party), being rendered perfectly hors de combat. Two men, by the name of Cameron, loyalists, did extraordinary execution, each knocking his man down with a single blow; the elder, it is said, knocked down seven of his opponents. The brave fellows would not avail themselves of the weapons used by their adversaries, but, as their opponents fell, they each took the weapon of the fallen man, and hurled it over an adjoining fence, and continued fighting with their fists only, until one of them was knocked down, and so completely stunned, that his brother, fearing for his life, bore him away from the field. The affray may be said to have then ended, although the victorious Reformers afterwards treated some of the smaller party, while unresisting, in a most brutal and inhuman manner.

We have been rather prolix in describing the riot as we understood it to have occurred, and glad should we be if we could venture to assure his Excellency that it was an ordinary riot with no definite end in view, beyond the hope for the moment of routing, and if you please, beating the opposite party. With the smaller but loyal party, we believe that no intention existed of commencing a riot when they went on the ground, nor has there been any desire

manifested of prosecuting the matter in a judicial way. The general answer has been, that there is no wish for any further proceeding, as each one is satisfied with what he got and what he gave. But with the reformers or rebels the case is not so there is among the leading men of them a deadly hostility to and a thorough hatred of everything British; they went on the ground prepared to create a riot. Among the Cramahie people there were arms; men of the most notoriously disloyal character during the past winter were leaders and instigators to the present riot. W. L. McKenzie's name was mentioned as one under whose auspices the Durham flag would wave for the benefit and prosperity of the province.

In addition to all this, threats of private vengeance have been uttered against the persons and properties of individuals.

Neither can we consider this riot and the proceedings connected with it as the last convulsive struggle of an expiring faction. Quite the reverse. The same Durham flag was hoisted the day previous at the training of the 3rd Northumberland, where and when a speech is said* to have been made by the colonel of the regiment, in approval of elective institutions. No doubt that such a speech, instead of an order to remove party emblems from the ground on such an occasion, was mainly the cause why the flag was subsequently carried to Percy, and supported there by persons from beyond the limits of the Province.

Should his Excellency require proof on oath of the existence of any conspiracy at present, of the guilty intercourse of parties professing to be British subjects with plotters on the other side, or of a concerted plan for making disturbance in the country within a limited time, we must fairly say we have no such evidence, neither can we get it. Those who are truly loyal of course are not admitted into the secrets of the opposite party. The timid and the lukewarm believe the Government must succumb to the rebels, and some of them from indifference as to the result, some from actual apprehension, will not give evidence. Those who are admitted into the secrets of the party will of course not betray themselves. They feel morally certain the Government are unable and unwilling to punish them, and they are generally of a class who take very little account of the sanctity of an oath. As an instance of this, in a case of assault connected with the late riot, two men were sworn for the accused. Their recollection was very good so far as regarded the assault; but, although they admitted to have ridden in the waggon while and in which the Durham flag was paraded, and were round the pole, when the flag was hoisted on it, and also knew the individuals generally who composed the meeting, yet persisted in a declaration that they did not know who had the charge of the flag, who hoisted it, or, in short, who had anything to do with it. But that plotting against the peace of the country is going on, and that traitors are amongst us, and permitted to be unmolested, we have no doubt of for an instant.

After what has been said, we beg of you, Sir, to call the attention of his Excellency to the fact that, in almost any case (but especially should he by any means, particularly at his own control, discover that our suspicions with respect to the state of this part of the country are correct) we are but indifferently provided for the maintenance of the peace. The constabulary force, such as it is, is not to be depended on. It is most inefficient for its most ordinary duties, and to trust to the exertions of individuals might be dangerous. There is an asperity and bitterness of feeling in the country, occasioned by restless and designing men, who have long hindered the advancement and disturbed the peace of the province, and who, many of them, have personally experienced, although they have ill appreciated, the lenity of the Government. If his Excellency shall be of opinion that we are right, we earnestly request that he would be pleased to place some permanent force in the neighbourhood to keep down the vagaries of the disaffected among us, and to prevent the necessity of an application for assistance to those who might be prompt enough to afford it, although not altogether so temperate as might be desirable in the execution of a difficult service.

His Excellency may probably think we are travelling beyond the limits of our duty in venturing to submit any opinion of our own to his Excellency until called upon to do so. The circumstances of the times, and the state of the country, must be our apology. We know of no medium or official channel between the executive and the magistracy; and therefore, having the peace of the country at heart, we are obliged to address his Excellency directly, that we may not hereafter have to reflect on ourselves for having withheld information, or our own humble opinions, when either one or the other might be of the slightest service.

We have, &c.

(Signed)

WILLIAM ROBERTSON,
J. BROOKS CROWE.

The Hon. John Macaulay,
&c. &c. &c.

We have omitted to mention that a very strong and very general opinion appears to prevail in Percy and Murray, that some important movement will be made among the disaffected in a very short time, probably on or about the 4th July. This impression arises from some intemperate, and, on their part, unguarded threats used by the disaffected against individuals known to be supporters of the Government. We can, if required, get an affidavit from a person who has recently been on the other side, that several persons told him, while there, to the effect that the 4th of July would be an eventful day for Canada.

(Signed)

J. B. C.
W. R.

No. 29.
Sir George Arthur
to the Marquis of
Normanby.
1st July, 1839.
Encl. 5 in No. 29.

* "Is said." I was present and heard the speech.—Signed W.R.

(Copy)

Enclosure 6 in No. 29.

LETTER from Colonel CAMPBELL to the ADJUTANT-GENERAL of the Militia.

SIR,

Seymour, 20th June, 1839.

No. 29.
 Sir George Arthur
 to the Marquis of
 Normanby.

1st July, 1839.

Encl. 6 in No. 29.

An affray having taken place in the township of Percy on the 5th instant, after the dismissal of the militia by me, to which the attention of the magistrates has been called, and those gentlemen having now terminated their inquiries, which will probably be laid before his Excellency the Lieutenant-Governor; a report from me also, as commanding officer of the regiment, may perhaps be expected. I, therefore, do myself the honour of submitting to you, for his Excellency's information, the following account of what took place on that occasion.

The 5th Northumberland regiment under my command being composed of the population of the townships of Seymour and Percy. I am unable, in consequence of distance, want of direct roads, and the necessity of crossing the river Trent, over which there is but one ferry in Seymour, to call the regiment together by townships. I accordingly named the 4th instant for the muster of the people of Seymour, and the following day for that of the men of Percy, at a central part of the township of Percy, called Stone's Tavern. On approaching the ground, in the latter township, I observed the people assembled in groups, but perceived no indication whatever of any extraordinary feeling amongst them, though I remarked a good many strange faces in the crowd. Shortly after my arrival, and while I was in the tavern, I heard the report of a musket, and immediately afterwards a person came up to me and drew my attention to a flag which had at that moment been hoisted in front of the house. It was a large red flag, on which was marked in large characters "Lord Durham and Reform." Round the flag was assembled a large group, whilst around me, at the door of the house, appeared to be collecting persons of a different political character, some of whom were very urgent that I should order the flag to be cut down. As there was nothing objectionable in the flag itself—though I could not but be aware that the name of Her Majesty's late Governor-General of these provinces has for some time past been used as a rallying word for the disaffected—I did not conceive that I should be justified in using the military power at my command for such a purpose. But, feeling that there would be a gross impropriety, under any circumstances, in mustering the men under any other than the national flag, I withdrew them to a building on a neighbouring farm—the day being wet—and then, for the first time, perceived that there was a reluctance on the part of some of the men to move from the standard of disloyalty. No man, however, belonging to the regiment refused to obey my orders; and after a short time the whole were assembled in the building already mentioned.

Whilst the rolls were being called, one of the captains stated to me that he had just heard that a man of the regiment had been attacked and badly treated by some of the people at the flag-staff, and requested permission to go down with a portion of his company to his rescue. This, however, I refused; but went down myself to withdraw him, and when on the road was informed that the man who had been beaten was the aggressor, he having knocked down one of the Durham men for a disloyal speech. At this moment an officer and two other persons of the regiment came up to me with a flag which had just been taken from a fellow by the name of Sheppard, who, availing himself of the absence of the greater portion of the militia, attempted to raise it. It was a white flag, with a coarse representation of an eagle, and a number of stars and stripes, evidently intended to represent the flag of the United States of America. This flag I retained until after the dismissal of the regiment, and then handed it to a magistrate, with a request that he would take the necessary steps for bringing the offender to justice.

On returning to the regiment, I addressed them on the impropriety of making militia meetings scenes of political squabbling—that I could there give no countenance to party feeling—that I knew them only as soldiers, and as such, while under my command, they should assemble under no other flag than the national one—that I could readily imagine many of them might not see the impropriety of hoisting the flag of a nobleman so recently high in office in this country; but I feared it had been brought there for the purpose of exciting angry feelings, and hoped they would disappoint those mischievous individuals who brought it, by going quietly to their homes. After this, and until my departure from the township, nothing could be better than the conduct of the people of Percy.

When I left the tavern there did not appear to me to be more than thirty or forty people remaining about the place, principally aliens, liberated prisoners, and self-banished traitors, who returned to the country on the liberation of their associates in treason, to rouse anew a feeling which, for a time, had been completely suppressed.

Thus far I have spoken from my own observation of what occurred, but I regret to add that I have since been informed, that shortly after my departure, which was not until a late hour in the day, a small band of loyal men, amongst whom was an officer of the regiment, returned to the tavern for the purpose of cutting down the flag, which they succeeded in doing, but not without an opposition which produced a general battle, which ended in the recapture of the flag and a great deal of bloodshed; but fortunately without loss of life. I also learn that in the evening a man of the name of Comfort Curtis, one of the leaders in the troubles of last winter, was chaired.

It is certainly much to be lamented that any of the well-disposed men of the township should have taken part in this affray; but it is scarcely to be expected that they should have quietly tolerated what they appear to have considered insulting conduct on the part of men who, but a few months ago, were busily employed in plotting the destruction of their persons and properties, and whose forfeited lives have been spared by the lenity of Government, in the hope of

exciting a feeling which they have shown themselves utterly incapable of entertaining; so far from it, indeed, that it appears to have confirmed them in their long-established belief that the forbearance of Government has proceeded from a dread of their numbers and power; and I have but little doubt, that had I adopted any other course than that of separating the angry elements of which the meeting was composed, even the respect which they have always shown for my authority would have failed to prevent a conflict in the early part of the day, which would have been attended with lamentable consequences.

As it is by no means improbable that militia musters may have been considered by officers, as well as men, no improper occasion for the discussion of political subjects and a display of party power, and as it is very evident that much mischief may accrue from an injudicious use of the power of haranguing bodies of armed men on subjects unconnected with their allegiance to their sovereign and their duty as soldiers, I hope it will not be deemed impertinent in me to suggest that the present would be no unfit time—viewing the near approach of a general election—for the issue of a general order prohibiting all such discussion at militia meetings.

(Signed)

I have, &c.

D. CAMPBELL,
Lt. Col. 5th N. R. M.

The Adjutant-General of Militia, Toronto.

No. 29.
Sir George Arthur
to the Marquis of
Normanby.
1st July, 1839.

Encl. 6 in No. 29.

(Copy.)

MY DEAR SIR,

Belleville, June 20th, 1839.

I RECEIVED your letter of the 15th instant, marked confidential, but the official one to which you refer has not yet reached me.

I enclose a letter which I have this moment received from Mr. Bowen, of Frankford, a magistrate for the Newcastle district, and respecting which I shall to-morrow proceed to investigate more fully, and the result I will immediately communicate for the information of his Excellency.

One thing, however, is certain, that where clear and certain information can be had implicating individuals in seditious practices, it is useless any longer to allow them to escape with impunity.

You inquire whether I think the revolutionists in Hastings are armed?

I do not think so badly of these as of the disaffected in Percy, Cramahe, and Murray.

I do not believe that they are armed in any way to enable them effectually to carry on any military movements beyond a few days.

But certainly last winter many muskets were taken by Major Warren and Colonel Landon, in the neighbourhood of Brighton, loaded with ball and buck-shot, and in an evident state of preparation.

Will you let me know whether the commission of the peace you sent me authorizes me to act in the Newcastle and Midland districts?

Believe me, &c.

(Signed) DE ROTTENBURG.

The Hon. John Macaulay, Toronto.

(Copy.)

SIR,

Frankford, 17th June, 1839.

I FEEL it my duty to give you the earliest information of the substance of a communication which has just been made on oath to me. It is to the effect that my informant was late at night on Saturday last warned by a person supposed to be in some repute with the disaffected, that a rising is shortly intended to take place in this province, and that it will be general. From the person who gave him this warning professedly on account of a personal friendship between them, he was not able to collect on what day the rising is to take place, but from another source he learns that it is likely to be within three weeks, and from a third person he did hear that it was likely to take place on the 23rd instant. He has been advised not take up arms against the reformers, and promised protection if he does not. There are circumstances which he says confirm him in the belief that some mischief is hatching, as an unusual degree of bustle and activity among the known leaders of the disaffected, in riding to and from the back townships, without any visible occasion for doing so.

I am sorry the account I give you is so meagre, but my own observation leads me to think there is an unusual degree of activity among those who have hitherto kept the country in a state of excitement; and I do firmly believe, from what I hear and see, that something serious will occur, and that shortly, unless measures are taken by the Government to overawe and punish those persons who have hitherto abused the lenity shown to them, and will not be satisfied with anything short of an overthrow of the existing state of things, and universal confusion and destruction to the country.

I have, &c.

(Signed) WILLIAM BOWEN.

The Baron De Rottenburg.

(Copy)

Enclosure 7 in No. 29.

No. 29.
Sir George Arthur
to the Marquis of
Normanby.
1st April, 1839.
Encl. 7 in No. 29.

LETTER from Mr. MANNERS to the Honourable Mr. MACAULAY.

Haldimand, N. D., June 26th, 1839.

SIR,

I HAVE the honour to enclose, for the information of his Excellency the Lieutenant-Governor, a handbill which has been just left at my residence by the constable of this town (whom, not knowing the object of his visit, and being seriously indisposed, I did not see), who stated to a gentleman that happened to be present that he had called upon me at the especial request of several loyal subjects of Her Majesty, who were justly apprehensive that the projected meeting will, if unrestrained, be productive of much mischief, if not of actual and immediate outrage.

The reasons alleged for applying to me, in preference to other magistrates who reside much nearer "The Four Corners," it is unnecessary to state; neither do I believe that they are entirely well founded; but I beg to assure his Excellency that I shall always be ready and happy to assist in enforcing any measures for the preservation of the public peace which he may deem expedient, and shall be glad to receive his instructions on the present occasion.

The persons whose names are subscribed to the enclosed are nearly all *Americans* by birth, and implacable enemies of Her Majesty's Government. I am sorry to say that every day furnishes fresh instances of the fatal tendency of Lord Durham's unfortunate and inconsiderate Report.

I have, &c.

(Signed) GEORGE MANNERS.

The Hon. John Macaulay,
&c. &c. &c.

NOTICE.

We, the undersigned, freeholders of the township of Haldimand, request the friends of Lord Durham's Report to meet at the Baptist Meeting-House, at the Four Corners, on Monday, the 1st day of July, at 11 o'clock, A.M., to pass such resolutions as they may think proper and best calculated to bring that form of Government which his Lordship has recommended into effect.

EPHRAIM DOOLITTLE.
MOSES HINMAN.
JONATHAN RUSS.
T. M. HINMAN.

SAMUEL G. TURNEY.
TRUMAN CARD.
JOHN WILSON.
WILLIAM BRADLEY.

Haldimand, June 20th, 1839.

(Copy)

Enclosure 8 in No. 29.

LETTER from Mr. McMAHON to the Honourable Mr. MACAULAY.

Brighton, 25th June, 1839.

SIR,

I FEEL it my duty to acquaint you, that private preparations are making by the disaffected inhabitants in this quarter, to celebrate the 4th of July in Brighton; and who are to be assisted, I understand, by some of their sympathizing friends from Rochester: likewise, that Presque Isle is threatened with an attack between that and the 15th of the month.

Circumstances are daily occurring here to strengthen our suspicions of the probability of this statement, as, for instance, the individuals who have fled from this neighbourhood to the United States last winter, through fear of being arrested for treasonable practices, and returned in the spring, have all crossed over to Rochester during the past and present week, on pretence of business.

I have also the honour to state, that I have received a letter from Colonel de Rottenburg at Bellville, apprising me of a report that was made to Colonel Dundas, at Kingston, by a Mr. Fairfield, of Bath, that 500 stand of arms have been lately landed at Presque Isle, or about it, which report may be correct, as the harbour affords so many small inlets and creeks, along with the many disaffected inhabitants living all round that would naturally aid in concealing anything of the kind rather than making it known. This information, coupled with the conduct of the disloyal here and in Percy, on the 4th and 5th instant, clearly proves to us, that something is going forward upon the opposite side to encourage such proceedings.

It is to be regretted that such a place as Presque Isle should be left so unprotected, while Bellville and the river Trent are guarded; both interior places. May I therefore request that you will be pleased to lay this information before his Excellency the Lieutenant-Governor, for his consideration.

I have, &c.

(Signed) B. McMAHON, J.P.

The Hon. John Macaulay,
&c. &c. &c.

P.S.—I trust his Excellency will be pleased to order us a few men, which will prevent any disturbance that may be contemplated.

(Copy.)

Enclosure 9 in No. 29.

SIR,

Belleville, June 21st, 1839.

I HAVE the honour to enclose a copy of a deposition made before William Bowen, J.P., the substance of which was conveyed to you in my letter of yesterday.

I saw Messrs. Bowen and Crowe, and other magistrates, yesterday, at Frankford; and all these gentlemen express the greatest anxiety at the state of their neighbourhoods, and their belief that an insurrection is on the eve of breaking out.

It is most difficult to get persons to give evidence upon oath of the state of affairs, from the apprehension entertained by them that such a course will entail injuries upon their persons and properties by the disaffected.

I feel great reluctance in offering an opinion to his Excellency Sir George Arthur upon this subject; for, should such prove to be erroneous, the consequences might be regretted by his Excellency should he act upon the same; on the other hand, it is equally my duty to give all the information in my power to the Lieutenant-Governor.

Under all circumstances, and weighing well such evidence as has been brought before me, I am of opinion that a coup d'état is in contemplation; but whether the plan is well laid, or the disaffected at the moment of trial will have the boldness to execute it, are points which can be only conjectured.

I shall continue to use the greatest vigilance, and report all circumstances.

Your letter has never yet reached me.

I have, &c.

The Honourable John Macaulay,
Toronto.

(Signed) DE ROTTENBURG, Lt.-Col. P.S.

(Copy.)

Midland District } Personally came before me, William Bowen, Esq., one of Her Majesty's Justices of the Peace, Philip Embury, of the township of Sydney, gentleman, who, being duly sworn, doth depose and say, that on Saturday, the 15th day of June, 1839, about the hour of nine or ten o'clock by night, Robert Grace, of the township of Rawdon, in said district, yeoman, came to this informant's house, and stated that he, Robert Grace, had purposely called upon him, the said Philip Embury, to warn him of the approaching danger, as he Embury was his particular friend, and therefore he, Robert Grace, did not want any harm to befall him the said Embury, nor his family; further, this informant saith that the said Robert Grace told him that there was going to be a scrape, as there was going to be a rising of the Reformers from Sandwich to Cornwall very shortly, and advised him, for God's sake, not to turn out against them, and not to fight at all, but to stay at home and mind his business, and no harm would befall him, Embury, for if it should happen that he was taken prisoner he would do his utmost to have him relieved; but also stated, that those who did not fight against the Reformers would not be hurt in their persons or property, but those who would resist them would be harshly treated. And the said Philip Embury further maketh oath and saith, on Thursday, the 13th instant, he was sincerely warned by his (Embury's) son-in-law, Benona Sweet, of the township of Madoc, in said district, who said that he, Benona Sweet, would not fight against his own country, the United States, but as all his wife's relations were Tories and Government people, he did not wish to fight against them, and wished to remove from Madoc, so that he would not be compelled to be in the scrape.

This deponent also saith that he has been further informed by one Thomas Wright, of Sidney, that he (Wright) had heard from some of the reformers that a rising was intended, as he supposed, on the 23rd of this month. This deponent further saith, that he has of late seen several of the leading characters of those who are known to be disaffected riding about the country in an unusual manner; as Joseph Cavalry, Aaron Hearnis, Gideon Turner, Robert Bird, and others besides; and that deponent verily believes that some mischief is intended towards the Government and Her Majesty's peaceable subjects.

(Signed) PHILIP EMBURY.

Sworn before me, at Frankford, Midland District, 17th June, 1839.

(Signed) W. BOWEN, J.P.

Certified a true copy.

(Signed) DE ROTTENBURG, Lt.-Col. & J.P.

(Copy.)

MY DEAR SIR,

Belleville, June 26th, 1839.

I ENCLOSE a printed circular, addressed to Bildad Franklin, Brighton, from J. Greenleaf, brother of the man whose communication in cipher was lately forwarded by Major Parker to Mr. Berzy, Postmaster, Toronto.

Franklin is the man who was released last winter, having been arrested for treasonable practices.

I have no doubt that something more is intended than meets the eye, and we should be on our guard.

The Postmaster here gave this to me, but sent the others on.

No. 29.
Sir George Arthur
to the Marquis of
Normanby.
1st July, 1839.
Encl. 9 in No. 29.

I cannot understand why I have not for the last eight days heard from Toronto. Your letter has never reached me, and I cannot but suspect something is not right.

I have, &c.

(Signed) DE ROTTENBURG.

The Hon. John Macaulay, Toronto.

LORD DURHAM.

AN adjourned meeting, for the purpose of taking into consideration Lord Durham's "Report," will be held at the Widow Brown's Inn, Haldimand, Four Corners, on the 1st day of July next, to commence at o'clock.

Enclosure 10 in No. 29.

SIR,

Government-House, Toronto, 25th June, 1839.

Encl. 10 in No. 29.

I HAVE the honour to acknowledge the receipt of your two letters of the 20th and 21st instant, addressed to Mr. Macaulay, in reference to the indications of disturbance in the townships connected with your military charge.

I have laid these letters and their several enclosures before the Lieutenant-governor, and I am directed to observe to you, that with the political character evinced by a considerable portion of the population of these townships, marked by occasional ebullitions of turbulence, it would not be unreasonable to consider the indications now described by your informants as evanescent, or that they could not, from the want of arms, be conducted to any alarming result. His Excellency, nevertheless, having the fullest confidence in your judgment and discretion, to meet any difficulties which may occur, has directed me to enjoin on you a continued vigilance, and the maintenance of the force within your reach in a constant state of readiness to act with efficiency for the preservation of order: and should any crisis overtake you for which such force would be unequal, you will immediately thereon communicate with Colonel Dundas at Kingston, and at the same time report promptly to his Excellency such measures as you may take.

I have, &c.

(Signed) S. B. HARRISON.

Lieutenant-Colonel Baron De Rottenburg, Belleville.

SIR,

Government-House, Toronto, 29th June, 1839.

IN the temporary absence of the private secretary from Toronto, I have received and laid before the Lieutenant-governor your communication of the 26th instant, addressed to Mr. Macaulay, and transmitting a printed notice of "An adjourned meeting for the purpose of taking into consideration Lord Durham's Report."

From Mr. Secretary Harrison's letter to you of the 25th instant, in answer to your letters of the 20th and 21st of the same month, you will be able to collect his Excellency's sentiments in regard to the prospect of political commotion in Belleville and its vicinity; and you will perceive that whilst his Excellency encourages a hope that the danger of the recurrence of an outbreak is much less than it is supposed by some persons to be, he is equally aware of the necessity for extreme vigilance on the part of the Government, and reposes implicit confidence in your discretion in adopting such precautionary measures as the circumstances of the case may seem to require.

To enable you to provide effectually for the preservation of public peace, his Excellency will authorize you to call out for a month's service another company of 100 men, if it shall appear to you very desirable to do so.

The accompanying copy of a letter from Mr. McMahon will apprise you of the apprehensions entertained by that gentleman for the safety of Brighton; and in reference to that part of Mr. McMahon's letter which relates to Presque Isle, I am to inform you that his Excellency has already directed the attention of Captain Sandom to that point, and requested his most particular attention to it.

The date of Mr. Harrison's letter will prove that it could not have reached you before the time when you last wrote, and thus any impression founded on the apprehension that your correspondence may have been intercepted will have been satisfactorily removed.

I have, &c.

(Signed)

R. A. TUCKER,

Provincial Secretary.

Lieutenant-Colonel the Baron De Rottenburg, Belleville.

(Copy.—Private.)

Enclosure 11 in No. 29.

CORRESPONDENCE WITH CAPTAIN SANDOM.

(Extract.)

Her Majesty's Steam-vessel Traveller, near Gananoqui,
25th June, 4 p.m., 1839.

Encl. 11 in No. 29.

As reports circulate quickly and seldom lose in their transit, I avail myself of a few moments yet left to beg you will be good enough to mention to Sir George Arthur that some four or five men of Johnstone's party placed themselves on one of the small American islands, near a British island, where some of my men were stationed, and, on the night before last,

opened a fire with rifles upon them. The young officer in charge of my boat behaved with the greatest prudence and judgment, although he had much to do to restrain the ardour of his seamen, who were anxious to follow the miscreants into the American territory, whither they instantly fled in a small boat. I am on my way twenty miles farther down the river to examine further into the matter: it will turn out to be part of a vexatious system which these fellows are determined to pursue till some serious collision is produced. I trust, however, it will always redound to the credit, as in this instance, of the British forces employed.

Yours truly,

(Signed) W. SANDOM.

Colonel Halkett.

Her Majesty's Ship Niagara,
Kingston, 26th June, 1839.

SIR,

I BEG to acquaint your Excellency that the circumstance partially communicated to Colonel Halkett yesterday, of some of the troublesome people who are permitted to roam about the Thousand Islands, having dared to fire, from one of the small American islands, upon a part of the British territory, where I had stationed a detachment of seamen for the purpose of preventing depredations upon British property, appears to have been one of those mischievous acts of these lawless people which might have produced fearful results, had not the prudence of the naval officer restrained his men from following them into the American territory: for the present nothing further results, but I shall take care to keep your Excellency acquainted with any movements of importance which may be made; as I feel assured they ought to be carefully watched, and knowing their names and persons, as my officers do, I trust it will be effectually done.

I have, &c.

(Signed) WILLIAMS SANDOM,

Captain Commanding on the Canadian Waters.

To his Excellency Sir George Arthur,
Lieutenant-Governor of Upper Canada, &c. &c. &c.

Assistant Military Secretary's Office,
Toronto, 29th June, 1839.

SIR,

I HAVE had the honour of laying before the Lieutenant-Governor your communications of the 25th and 26th instant, relating to the circumstance of four or five men of Johnson's party having fired from a small American island upon some of your men who were stationed upon a British island in the St. Lawrence, and I am directed to acquaint you that his Excellency fully concurs with you in commending the laudable forbearance exercised on that occasion by the young officer in charge of the British party.

As the American authorities, it may be hoped, will now exert themselves to apprehend Johnstone, it is desirable that, by prudence and forbearance, we should avoid any proceedings which may lead to collision or induce them to withdraw from a friendly co-operation.

The Lieutenant-Governor would cheerfully acquiesce in any course taken by you, upon a previous understanding with the senior officer of the United States' service, employed on the St. Lawrence.

I have, &c.

(Signed)

F. HALKETT.

Captain Sandom,
&c. &c. &c.

No. 30.

(No. 150.)

COPY of a DESPATCH from Lieutenant-Governor SIR GEORGE ARTHUR, K.C.H., to the Marquis of NORMANBY.

MY LORD,

Government House, Toronto, 1st July, 1839.

As there appears to be considerable and increasing excitement prevailing among the party in this province, who, styling themselves Reformers, include a considerable number of known Republicans, which may call forth the manifestation of hostile feeling on the part of those who differ from their views, I have thought it right in anticipation of the approaching anniversary of the Orangemen, to issue an earnest exhortation to them to endeavour to allay irritation, and to check, as much as possible, all strong expression of display of party feeling.

I have the honour to enclose a copy of this document, which, as your Lordship will perceive, is couched in the form of a circular letter addressed by me to the magistrates of the different districts throughout the province, and which has been transmitted to them through the respective clerks of the peace, accompanied with an injunction to the latter to make the substance of it generally known.

No. 29. B
Sir George Arthur
to the Marquis of
Normanby.

1st July, 1839.

Encl. 11 in No. 29.

No. 30.
Sir George Arthur
to the Marquis of
Normanby.

1st July, 1839.

No. 30.
Sir George Arthur
to the Marquis of
Normanby.
1st July, 1839.

I have likewise caused the same document to be communicated to the mayor and corporation of the city of Toronto.

I have, &c.

GEO. ARTHUR.

The Marquis of Normanby,
&c. &c. &c.

(Circular.)

Enclosure in No. 30.

GENTLEMEN,

Government House, 24th June, 1839.

Encl. in No. 30.

ADVERTING to violations of the peace, which on several occasions last year were the consequence of certain public processions, on the 12th July, I consider myself called upon to express my views upon the subject.

I cannot but feel a very deep regret that any cause should be allowed to exist for the recurrence of annual scenes, which must necessarily have the effect of producing discord, and a feeling of ill-will amongst the different classes of Her Majesty's subjects.

In the present condition of this province, whether it be considered as regards the state of political feeling, or of religious sentiment, there is no one subject which requires greater attention from all truly loyal men than the cultivation of kindly feelings towards each other. It therefore becomes imperatively the duty of every one, whatever may be his station or means, to carry out such a principle of action, and to encourage and foster such feelings.

The short but eventful history of this province during the last eighteen months obviously shows that the great body of the people, without distinction of creed or party, were found remarkable for their fidelity to the government, and their firmness in subduing domestic, as well as foreign enemies. Each class, therefore, should entertain for the high and generous qualities of the others those sentiments of respect to which they must necessarily feel themselves entitled.

Strongly impressed with these views, I would affectionately yet earnestly entreat the members of the associations alluded to, to consider seriously the very mischievous tendency of the divisions by which they thus contribute to the agitation of the community, and to determine that they shall be no longer continued.

All persons must be aware that societies, similar in character, have been for some time past generally dissolved in the mother country. They originated in a peculiar state of things which has passed away. Their existence, in the altered circumstances of the country, having been found to be pregnant with many injurious effects on the public welfare, they were put an end to.

Considering the state of our circumstances, it seems hardly possible to conceive that any friend to the best interests of this province can wish to maintain here associations which are inapplicable to our social or religious condition, and which have been discountenanced by the highest authority in the country of their origin.

Whilst I am ever willing to recognize the good intentions of that class, by which these associations are cherished, I must appeal to their good sense and correct principles for a willing compliance with my request.

It surely is not too much, in times like the present, when, at any hour, every man may be required to go forth with his neighbour, in defence of his Queen and country, to call upon all to abstain from any proceedings calculated to revive past dissensions, or to rekindle animosities, which time and change of country should altogether extinguish.

For these reasons it is my desire that each of the magistrates in the district should, by every means within his power, endeavour to make known my earnest wishes in this respect, and my hope that by the mild measures of persuasion those processions may be discontinued which have hitherto tended so greatly to provoke animosity and unkindly feeling.

I have, &c.
(Signed)

GEO. ARTHUR.

To the Magistrates of the District of

No. 31.

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

Government House, Toronto, 2nd July, 1839.

MY LORD,

Half-past 11 P.M.

In my Despatch, No. 149, of yesterday's date, I conveyed to your Lordship the latest information respecting the state of affairs in this province. Up to the latest moment by which it may be possible to catch the "Liverpool," on her homeward voyage, I have delayed sending off my despatch-bag, in the hope of the arrival of the messenger with my Despatches, by that steamer, but I have been disappointed.

No. 31.
Sir George Arthur
to the Marquis of
Normanby.
2nd July, 1839.

The excitement in the country has increased. Some disaffected persons, calling themselves reformers, are showing unusual activity; but I cannot discover any sufficient cause for the panic which just now is felt more or less, in every part of the province.

The approaching 4th of July is looked to by the loyalists as though some invisible mischief were then to happen; but with every source of information open to me, I cannot think there is any thing to dread.

I have all along informed Her Majesty's government that it is absurd to think of Upper Canada as containing a whole community of loyalists. There is a considerable section of persons who are disloyal to the core; reform is on their lips, but separation is in their hearts. These people having, for the last two or three years, made a "responsible government" their watchword, are now extravagantly elated because the Earl of Durham has recommended that measure.

They regard it as an unerring means to get rid of all British connexion, while the Earl of Durham, on the contrary, has recommended it as a measure for cementing the existing bond of union with the mother country.

I know that the American people are as zealous as ever for the "Patriot cause," as it is called; but at this time, no movement is visible amongst them upon any extensive scale, and it seems to me impossible that enlarged operations could be going on without some symptom of them being visible.

An intimation from Mr. Derbshire, of which I have the honour to inclose an extract, of a coming storm, has this evening been communicated to me.

This gentleman came out with the Earl of Durham, and, I believe, has remained in the states for the purpose of collecting information. He also sounds the alarm, but as he does not open out the source of his information, all I can say is, that I cannot conceive it possible that such extensive mischief can be thus, as it were, at our very door, without some more manifest indication of hostilities.

Your Lordship may be assured that I will be watchful to detect danger, and prompt to meet it; but I must again, in sincerity say, that although there is a restlessness and an anxiety amongst all classes, I cannot discover any adequate cause for so much excitement as prevails.

I have, &c.

(Signed)

GEO. ARTHUR,

The Marquis of Normandy,
&c. &c. &c.

[Copy.]

Enclosure in No. 31.

Sir, I HAVE the honour to enclose for the information of his Excellency the Lieutenant-Governor, an extract from a letter I yesterday received from J. Derbshire, Esq., dated New York, 22d June, 1839.

Toronto, 2d July, 1839.

Encl. in No. 31.

I have, &c.

(Signed)

ALLAN N. McNAB.

S. B. Harrison, Esq.,
Secretary.

Extract of a Letter from J. DERBSHIRE, Esq., dated New York, 22d June, 1839.

[Copy.]

New York, June 22d, 1839.

I HAVE written to Sir George Arthur to inform him that an intention is said here to exist of giving you all some trouble on the 4th July next. It is a grand day with the Yankees, who would think any enterprise in the cause of liberty, commenced upon the anniversary of their glorious declaration of independence, not only as destined to succeed by the blessing of Divine Providence (according to their cant), but as justifiable, even were it an enterprise to storm the gates of heaven itself; as Satan and his imps did in times of yore ere yet the world began. It is also a day upon which great licence prevails, and men go about with their arms for the purpose of celebrating the day by the noisy expositions of gunpowder, and upon which considerable bodies of armed conspirators might direct themselves, singly or in parties, upon given points of rendezvous without exciting the suspicion of the authorities, civil or military, supposing that such authorities would have the wish to interfere, or the courage to do so upon that day in particular commemorative of a great victory over British power, which I very much doubt. Of one thing I am certain, viz., that the "Patriot" party have been for

No. 31.
Sir George Arthur
to the Marquis of
Normandy,
2d July, 1839.

No. 31.
Sir George Arthur
to the Marquis of
Normanby.
3d July, 1839.
Encl. in No. 31.

some time actively engaged organising a new invasion and insurrection; and I see no reason why they should not think the 4th July as good a day for them as any other.

But independently of these circumstances of probability, my information is from one well acquainted with the secrets of the patriots here, and from whom last August and September I received intimation of the secret organization then in preparation, and who gave Lord Gosford information of the determination of the Lower Canadians to rebel.

I am bound, therefore, to attach some degree of credit to what he says, and to sound the alarm, even at the risk of proving, as I sincerely hope may be the case, a false one.

No. 32.

COPY of a DESPATCH from Lieutenant-Governor Sir GEORGE ARTHUR, K.C.H.,
the Marquis of NORMANBY.

MY LORD, Government House, Toronto, 3rd July, 1839.

THIS morning I had the honour to receive your Lordship's despatch marked of the 12th ultimo, by the steamer "Liverpool," which reached New York on Sunday last, and is to start again from thence on the 6th instant.

Although the slightest possible period is thus allowed me for acknowledging the receipt of this despatch, and I have but a slight hope that this communication can possibly be in time for the "Liverpool," I am anxious to offer your Lordship my best thanks for the information you have communicated to me of the probable arrangements of Her Majesty's Government in relation to the Canadas; and to express my very great satisfaction at learning that the further progress of the bill which has been introduced into the House of Commons for the union of the two provinces will be deferred to another session of Parliament, in order to afford to the inhabitants of the Canadas an opportunity of giving expression to their sentiments on a measure so vitally important to them.

On the measure itself, I shall, I trust, be excused from offering as yet any decided opinion, as I have hardly had time to make myself acquainted even with its general outline; but I am sensible that the subject of it is one which presents many difficulties, and I accordingly rejoice to find that all the provisions of the contemplated bill are likely to undergo very deliberate consideration previously to its becoming a law.

Notwithstanding the hurried manner in which I am now compelled to address your Lordship, I must beg leave to observe that the delay which will occur in the final settlement of the great question of the future constitution of the government of these provinces, supplies an additional argument for an early attention on the part of your Lordship to the financial condition of Upper Canada, as extreme inconvenience must shortly be experienced in carrying on the ordinary operations of Government, unless the fostering hand of the mother-country be promptly extended in our support.

In my despatch No. 131, of the 8th ultimo, I have endeavoured to explain my views on this interesting matter very fully to your Lordship, and to point out as closely as I could the only means by which our financial embarrassments can be removed. To the suggestions contained in that despatch I must, therefore, respectfully and most earnestly refer your Lordship, as being calculated to relieve this province from the pressure of its present debt, without imposing any burden on the parent state.

I have, &c.

(Signed)

GEO. ARTHUR.

The Marquis of Normanby,

&c. &c. &c.

No. 33.

(No. 163.)

COPY of a DESPATCH from Lieutenant-Governor Sir GEORGE ARTHUR to the
Marquis of NORMANBY.

MY LORD, Government House, Toronto, 27th July, 1839.

I PROPOSE, in this despatch, to follow up the observations upon the state of the province, which are contained in my despatches to your Lordship of the 1st and 2nd instants.

No. 32.
Sir George Arthur
to the Marquis of
Normanby.
3rd July, 1839.

F. Despatch.

8th June, No. 131.
Vide Sir G. Arthur's
Correspondence
"Financial."

No. 33.
Sir George Arthur
to the Marquis of
Normanby.
27th July, 1839.

Immediately after addressing the last of these communications to your Lordship, I received from Mr. Derbishire the letter, of which the accompanying enclosure is a copy, wherein he intimated considerable apprehension of further frontier troubles; and his statement was rather remarkably confirmed by Mr. _____, from the State of New York, of whose letter on the subject, which reached me about the same time, a copy is also herewith transmitted.

From various quarters less to be depended on, all kinds of warnings and intimations of approaching danger reached me; but so far from these anticipations being realized, we are now on the eve of closing the month of July—the 4th day of which was represented, in particular, to be replete with peril—without anything really serious having occurred in any part of the province.

There was a movement in the Midland district, which excited, for a few days, some degree of apprehension; but I sent two companies of the 93rd Regiment down there for a fortnight, and the excitement subsided without the necessity of calling out any more of the militia—a point which has been much pressed upon me by the local magistracy.

Meetings have been held in various parts of the province, in order to pass resolutions testifying approbation of the Earl of Durham's scheme of "responsible government;" but they have been conducted in an orderly manner, and ought not, perhaps, to have been interfered with; though, in two instances, some Irislmen, deeming them disloyal, dispersed the meetings with violence.

The "dominant church" and the "clergy reserves"—subjects that so long agitated the public mind—seem to have been wholly superseded by the question of "responsible government," which, in effect, appears to be in high vogue with parties of the most opposite feelings.

The leaders of the Orange party cherish it even more highly than the Reformers; but this cannot long endure—although it cannot be doubted that it will always be a popular measure with those who most desire change.

The meetings in favour of "responsible government" are still in progress, and it is, therefore, difficult to define, whilst this captivating and exciting cause is influencing all classes, the exact state of feeling in the country; but there are circumstances from which, in some respects, I draw favourable conclusions, whilst in regard to others I cannot say that the aspect of affairs is so encouraging.

Of the frontier I can speak with more decision; and although I would not venture to be confident that when the idle, dissolute citizens of the western country are thrown out of employ in the winter months, they may not prove troublesome, I nevertheless feel convinced that the support which they have hitherto received will be largely withdrawn.

Many Americans are ashamed of the part they have taken; others have no disposition to throw away more money in a bad speculation; and all, I am certain, have learned from experience, that the undertaking engaged in is far more difficult and hazardous than had been supposed.

There was, in fact, a mighty delusion in this respect, extending over all the States of Michigan, Ohio, Kentucky, New York, and Vermont, as well as in several districts of this province; and, deeply as I lament that so much misery has been inflicted on Her Majesty's Canadian subjects—that so many lives have been sacrificed, both in the field and on the scaffold—and that so much treasure has been expended—yet be assured, my Lord, Her Majesty's Government has great cause to be devoutly grateful to an overruling Providence that a national war has been so far averted; and there is far less reason now to apprehend that calamity than there has been for many months past.

Mr. Henry Clay is now at Buffalo on a political excursion, and reminding the people that the affair of the "Caroline" remains unatoned for. The President is also on the frontier, and so is General Scott: the latter I hope to meet in a few days on the western frontier, whither I am about to proceed on a tour of inspection.

It is my purpose to visit every district before the close of the season, and to avail myself of this interval of tranquillity to use all the means at my command to restore confidence in the country. In all probability it will not be in my power to address your Lordship by the next steamer.

I have &c.
(Signed) GEO. ARTHUR.

The Marquis of Normanby,
&c. &c. &c.

No. 33.
 Sir George Arthur
 to the Marquis of
 Normanby.
 27th July, 1839.
 Encl. 1 in No. 33.

(Copy.)

Enclosure 1 in No. 33.

Mr. DERBISHIRE to his Excellency Lieutenant-Governor Sir GEORGE ARTHUR.

New York, June 22nd, 1839.

SIR,

I HAVE lately heard from a person in this city, well acquainted with the designs of the brigand party, bent upon wresting the Canadas from British rule, that a new invasion is in preparation, and fixed for the 4th of July next; and although I doubt not you are well informed, and well prepared for the enemy, I have thought it my duty to make this communication; convinced that I shall have your forgiveness should the event happily prove that I have even sounded a false alarm.

I am not given to attach importance to the thousand-and-one rumours which wanton falsehood or credulity is prone to circulate upon matters of this kind; but my information comes from one who, in the months of August and September last, gave me distinct intimations of the secret organization on foot for the invasion of the Canadas, which were literally fulfilled by subsequent events in most of their particulars. I cannot, therefore, altogether disregard his warning in a case of so much importance.

Independently of the positive information given to me by this individual, I have, from various other circumstances, which have fallen within the scope of my observation and knowledge, arrived at the conclusion, for some weeks past, that the enemies of Canada are as active as ever they were, high in hope, and confident in their reliance upon *foreign aid* and funds. I did not certainly anticipate that the plot would develop itself in action at so early a period, and it was my intention to take care, before I left this for England, that all the information I could gain upon the subject should be communicated where it could best serve the interests of our country. Arms, I understand, have been transmitted pretty regularly from here to Rochester, and within the last week several noted "patriots" have left for the frontier—so far giving colour to the report of an approaching movement.

Speculations upon the course of future events are dangerous. I am aware, to the best established reputations. I cannot, however, help indulging in the expression of a belief that the 4th of July would be a likely day for the explosion of a plot against British power in the Canadas. The mere circumstance of an enterprise, in the name of liberty, commenced upon that day, would, I fear, draw after it the aspirations of many for its success, who would otherwise be disposed to condemn an act of so criminal and unjustifiable a nature. The people of this country have come to view that day, and all belonging to it, as holy. The faculties of thought and sentiment are under subjection to habit, which is said to have the force of a second nature over us, and I should much fear that any manifestation of the popular will in favour of what is termed the liberation of the Canadas, made upon that day, might subsequently be adopted as a national sentiment and an object of national solicitude. Even the most respectable people here—they who are most anxious to avoid a rupture with England, and who would most deeply feel the shame of a treacherous conduct towards an ally—are very seducible upon the subject of the Canadas.

The conspirators, I take it, are aware of these points in favour of a demonstration upon the 4th July, and may be swayed by such considerations in making it the appointed day of attack. The day has a magical power in the States: it is, besides, favourable to a perfidious attack, such as I suppose to be in contemplation. It is a day of general licence: the authorities cease to act, and would have no power of restraint if they did act. Men assemble in multitudes, and go armed upon that day; and I perceive that all along the frontier military celebrations are appointed to take place. One, in particular, by the Brady Guards at Detroit, for which 6000 dollars have been set apart, and at which a gathering of militia and volunteer corps, from all neighbouring parts, and even from Cleveland (Ohio), Buffalo, and Rochester, is expected, constituting a force of several thousand bayonets, probably, cannot fail to have attracted notice.

Should my anticipation of evil prove groundless, your Excellency will not impute to me, I trust, under the circumstances I have named, the character of an alarmist. Your Excellency is, no doubt, armed at all points; but with a foe as relentless, secret, and treacherous as the savage Indians, whose *vices* they inherit without their *virtues*, it is scarcely possible to carry vigilance too far; and twice already have we been taken by surprise in the Canadas.

I shall be a few weeks longer on this side the Atlantic, and shall be happy to attend to any suggestions your Excellency may deem fit to make to me, addressed to the care of Mr. Moore, packet-agent here, or of Mr. Buchanan, British consul here.

I have written to Sir John Colborne upon this subject, stating to him the name of my informant, with whose accurate foreknowledge of patriot movements his Excellency is already acquainted.

I have, &c.

(Signed) S. DERBISHIRE.

P.S.—General Scott is at Oswego at present. He has lately been in Maine, where Mr. Forsyth is, at present. I have heard that the "patriots" have some expectation that British regulars will join them, having been corrupted with gold and promises; but to this I cannot attach any credit.

S. D.

(Copy.)

Enclosure 2 in No. 33.

LETTER from _____ to _____.

SIR,

Haldimand, 7th July, 1839.

THE gentleman, to whom the letter which I have the honour to enclose is addressed, having requested me to peruse its contents, and if I deemed the intelligence therein conveyed of sufficient importance to transmit it to Toronto, for the inspection of his Excellency the Lieutenant-Governor, I consider it my duty to do so, more particularly, as he states, that the writer assured him personally that his information was derived from unquestionable authority. Mr. _____ returned last week from the city of New York, where the enclosed was delivered to him by Mr. _____.

The meeting, to which my last despatch referred, passed off very peaceably, in consequence of the prudence and forbearance of those who were opposed to its object. I was confined to my house by a severe inflammatory attack, but I have been most credibly assured that a great number of Lord Durham's approvers were armed with rifles, which were deposited in out-houses and other secret places near the place of meeting. I have the names of some who were thus armed. A similar meeting is to be held to-morrow at Coburg, but no breach of the peace is apprehended. I avail myself of this opportunity to acknowledge the receipt of your communication of the 29th of June, which reached me on Tuesday last.

I have, &c.

GEORGE MANNERS.

To _____,
&c. &c. &c.

(Signed)

DEAR _____,

22nd June, 1839.

SINCE we parted this afternoon I have received information, which cannot at present be divulged, that another invasion of Upper Canada, from this side of the water, is in progress, and upon a most extensive scale, but so secretly conducted, that persons in the vicinity of where it is concocting are not aware of its existence; they are *this time* abundantly supplied with money and men. You may rely on this information being correct; it is got a moving with early, in order to burst out before the fall elections, with the view of aiding the administration-party in carrying their ticket: the other party favour it also, in the hopes that interference, &c., on the part of this Government may oust Van Buren; so that you see both parties are well agreed on one point—that the Canadians shall be murdered and robbed, that by some chance or other it may politically affect the elections. So we go!!!

Yours, &c.

(No. 166.)

No. 34.

COPY of a DESPATCH from Lieutenant-Governor Sir GEORGE ARTHUR to the Right Hon. the Marquess of NORMANBY.

MY LORD,

Government House, Toronto, 27th July, 1839.

WITH my despatch, No. 150, I had the honour to transmit, for your Lordship's perusal, copy of a circular letter which I had addressed to the magistrates, intimating my hope—"That, by the mild measures of persuasion, those Orange processions may be discontinued, which have hitherto tended so greatly to provoke animosity and unkindly feeling."

The Orange party being numerous in this province, and the members, in the main, loyal, constitutional men, I was aware it was a subject to be treated with much caution, and my letter to the magistrates was framed accordingly.

The appeal was not altogether without the desired effect, and I have been gratified to find that many individuals declined attending the processions.

But some members of the Orange Association have been greatly offended at this interference on the part of Government, and as your Lordship will perceive by the accompanying paper, the Provincial Grand Master especially, who is the editor and proprietor of the same newspaper, is highly indignant at my meddling with his craft.

Your Lordship will, I hope, be able to find time to read the article through, together with the proceedings of the Grand Orange Lodge of British North America, at their last annual meeting.

I would also beg leave to draw your Lordship's attention to the accompanying copies of a letter from Mr. Phillips, a magistrate in this district, tendering his resignation of that office, and of his commission in the militia, in consequence of the part he had been induced to take in the Orange procession which took place at Toronto on the 12th instant, and of the answer which I caused to be returned to that communication.

No. 33.
Sir George Arthur
to the Marquis of
Normanby.
27th July, 1839.
Encl. 2 in No. 33.

No. 34.
Sir George Arthur
to the Marquis of
Normanby.
27th July, 1839.

No. 1 and 2.

No. 3 and 4.

No. 34.
Sir George Arthur
to the Marquis of
Normanby.
27th July, 1839.

In such an association there is, of course, great diversity of character and sentiment among its members; many, it cannot be doubted, are influenced by the very best motives; but I am convinced "the Orange Society, if continued, is likely to prove a source of the greatest mischief in Upper Canada."

Entertaining this view very strongly, I propose, steadily and resolutely, but calmly, to direct the attention of Government to the gradual suppression of this association.

Nothing can be done by the Legislature, as it would be impossible to get a Bill through the House of Assembly.

I trust, however, to do much by mild persuasion; but as it is one of the most important questions to be dealt with in my government, I shall be much obliged by any advice or suggestions with which your Lordship will honour me.

I have, &c.

(Signed)

GEO. ARTHUR.

The Marquis of Normanby,
&c. &c. &c.

Enclosure I in No. 34.

From the *Statesman*, Saturday 13th July, 1839.

ORANGISM.

Encl. 1 in No. 34.

His Excellency Sir George Arthur has thought proper to publish "a letter of advice" to the Orangemen of Upper Canada, through the medium of the magistracy!!! Had his Excellency thought fit to confine his "mild measures of persuasion" to public processions on the 12th of July, it is not unlikely that the objectionable course taken by Sir George Arthur might have been passed over, and his "advice" generally, if not absolutely, attended to and enforced; but when his Excellency thinks proper to issue a demi-official mandate, not only calling in question the motives of upwards of 20,000, of as loyal, as brave, as intelligent, and as highminded Britons as there are in any portion of Her Majesty's dominions, but actually to state that it can hardly be possible that any friend to the best interests of the province can wish to maintain the association itself; we may express our feelings in return by stating, that we can hardly conceive it possible that any friend to the best interest of the province will now fail to rally beneath the Orange standard, and to convince Sir George Arthur, and, through his Excellency, the Most Noble the Marquis of Normanby, that there yet dwells too much of the pride and spirit of Britons in the hearts of the Orangemen of Upper Canada to submit to positive insult, more particularly where it is accompanied by meditated aggression. It is well known to our readers that for years we have not encouraged or countenanced public processions, and that in fact, none have taken place here for the last four years. So much for what our own private feelings have been; what they may be hereafter time will tell.

But we blame not Sir George Arthur, he has his instructions—he must obey them, whether they are or are not illegal and impolitic; but we are free agents, and have a duty to perform—an ungracious one we admit, but nevertheless a duty, and as such it will be, with God's help, faithfully performed.

These are no times for talking, and we purposely abstain from commenting on the "letter of advice." We have good reasons for doing so—those we shall explain at other times, and in other places—they are not intended for the judges or crown officers, or the other members of the "compact," to whom Sir George refers for advice, and the days of whose reign are numbered; but for those who will treasure up in their heart of hearts this fresh and wanton insult, until the day of reckoning shall arrive when they will be called on either to sustain the ruling "compact," or to prostrate it in the dust.

Orangemen are only getting their eyes open in Upper Canada! They now look on facts with their own eyes, and not through the optics of others. They are, even now, casting off the political servility into which they were near been entrapped, and recurring back to the ancient principles of their institution—the principles of the glorious Revolution of 1688—the principles which animated the hearts and nerved the arms of the men of the north when they closed the gates of Derry, and took refuge in Enniskillen—the principles which actuated the men of Devon, when they flocked to Torbay to hail the immortal Prince of Orange—the principles which placed the present royal family on the throne, in opposition to the legitimate but tyrannical sovereign—the principles which established the liberty of the subject on the imperishable foundation of the will of the people—their constitutional capacity.

Orangemen are bound not only to obey, but to support also, the civil and military powers, in the just and lawful discharge of their official duties, when called on. This they will ever do, not alone, because they are bound to do so, but because their feelings, their principles, and every bent and inclination of their minds are in unison with its performance. But while they support the constitution, and the laws, they can afford to be liberal too, and the ungrateful *clique*, whom they have so long supported, may ere long discover that Orangemen can be liberal as well as loyal—that liberality is a game at which two can play; and that those political gamblers, who have so long hurled the ball to their own advantage, may yet find it to recede on themselves!

We forbear to pursue this subject—other times and places will present themselves. Upwards of 20,000 loyalists, of the male adult population of the country have been set at defiance, scorned at and frowned upon, while not half as many hundreds have been fawned upon, caressed, and extolled! But let the ball roll on, the day of retribution is approaching; let us stand prepared.

“Ye sons of the wise, let our spirits arise,
And scorn the smiles of temptation;
Be courageous and true to the orange and blue,
And they'll bring you through all tribulation.”

Remember the words addressed by the immortal Prince of Orange to the gentlemen of Somerset and Dorset, who assembled to meet him at Exeter on the 15th of November, 1688. “Our duty,” said the Prince, “to God, obliges us to protect the protestant religion, and our love to mankind—your liberties and properties. It is our principle and resolution rather to die in a good cause than live in a bad one; well knowing that virtue and true honour is its own reward, and the happiness of mankind our great and only design.”

After all, our brother Britons may ask us, what would you have us do that liberty may be established for all, and our principles and privileges secured? We reply, what but unite yourselves in a covenant, not to be broken? Keep the strictest guard upon the treacherous actions of your determined and implacable enemies—treasure up in your “heart of hearts,” not only the names of the unblushing compact who have heartlessly and openly betrayed you; but also the temporising and more noxious beings who have smiled while they destroy; who professed open approbation, the more securely to work with private detraction. A day must come when the House of Assembly will be compelled to appear before their constituents to give an account of their stewardship; let that day be a day of tribulation and anguish, of weeping and gnashing of teeth, to your unprincipled and ungrateful traducers; let the day of dissolution of parliament conclude the political existence of your enemies.

This is our advice, that you will treasure it up till the day of consummation may arrive, we know you too well to doubt.

We should like much if some of our contemporaries would inform us at what places “violations of the peace were the consequence of certain public processions on several occasions last year.” Perhaps Sir George Arthur’s advisers would find it difficult to name those “several occasions,” although they put it prominently forward in his Excellency’s letter.

** Since writing the foregoing we have enjoyed the pleasures of another 12th of July, and certainly a more joyous day we never spent. The Orangemen of the township of Elizabeth town (seven lodges) with two from Yonge, and one from Kitley, in all ten lodges, celebrated the day at New Dublin. We have heard the numbers assembled stated at 1500, and some persons even went so high as 2000; but these calculations included the whole multitude, and not the Orangemen alone, as there were only a few over 500 actual Orangemen on the ground. But they were attended by multitudes of all sexes and ages, from the children of four years old to the hoary headed veterans of four score years.

We have only time to say, that we thought it almost impossible that so large a crowd of people could be assembled with so little noise and without some accident occurring. But we rejoice to say that there was not an angry look, an angry feeling, or an angry word seen or heard through the entire day. The appearance of liquor was not seen upon a man; joy and gratitude beamed in every countenance, and the multitude retired to their homes with as much propriety and solemnity as if they were going to the house of prayer on the Lord’s day.

We have neither space nor time to state particulars. We cannot close, however, without expressing our sincere sorrow at the foolish, ill-advised, and most injudicious course of Sir George Arthur. He has roused a spirit which will not be easily allayed; and how mortifying to us to see thousands of the country’s bravest and boldest defenders, who, but a short week before would have followed his Excellency with shouts of triumph and congratulation, on this day receive his name only with contumely! Write to the magistrates, forsooth! ask them to interfere. Wait, wait, Sir George, till you get the authority of a restraining law (such as the Marquess of Normanby got for Ireland); and then, indeed, you may promulgate your magisterial circulars.

Enclosure 2 in No. 31.

LOYAL ORANGE INSTITUTION OF BRITISH NORTH AMERICA.

Proceedings of the Grand Orange Lodge of British North America, at its Annual Meeting, and election of Officers, held at Brockville, in Upper Canada, on Tuesday, 11th day of June, 1839.

The Right Worshipful the Grand Master in the Chair.

The Deputy Grand Secretary having taken a return of all members present with the offices held by them respectively, together with the names and offices of visiting brothers, all of whom were individually examined and vouched for; the opening prayer was then read, and a lecture repeated for the information of the brethren.

The following resolutions were then fully discussed, and unanimously adopted.

1. Resolved—That the 1st, 2nd, 3rd, 4th, 5th, and 6th resolutions, passed at a meeting

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of the Grand Lodge, held in the city Toronto, on the 16th, 17th, 18th, 19th, and 20th days of January, 1838, be adopted by this meeting, and that the particular attention of the brethren throughout the province be directed thereto.

2. Resolved—That as many communications have lately been made from various parts of the provinces for advice and direction in matters of moment, involving the tranquillity of the country and the stability of the Order; and as it is desirable that the Grand Lodge should combine, in one general view, the sentiments which it has hitherto laboured to inculcate, be it therefore resolved—that every Orangeman must at all times bear in remembrance the leading principle under which he was voluntarily enrolled—the principle of firm and unmixed loyalty to our Sovereign, and to the Constitution in Church and State—a loyalty not adapted for party purposes, nor moulded to the taste of “clique” or “compact” in the colony; a loyalty of neither sale nor barter for power or privilege—not to be offered as a bribe, nor withdrawn in menace—but a steady, unchanged, and unchangeable sentiment, founded on the principles of the Constitution, and deeply impressed on our hearts, by the many privations and sufferings which our illustrious ancestors have encountered in its cause. Keeping this great sentiment ever in view, the conduct of an Orangeman can never want a certain and unerring guide; and thus, a dignified obedience to the laws of the province, will ever extinguish Orangemen, and secure to them, in return, the support and protection of the laws.

3. Resolved—That we hold ourselves bound to our God, to our country, and to each other, to defend Her Majesty Queen Victoria, against all her enemies, whether internal or external; and that in case a foreign enemy should again invade this province (as is constantly expected), we pledge ourselves by our unalterable principles and sacred oaths, to aid and defend Her Majesty, and the province, as we have before done, by all the means within our power, and at the hazard of our lives.

4. Resolved—That whether it be owing to a preconcerted design, or be but the necessary result of the torrent of misrepresentation against our institution, which even our patient contempt does not appear to have wholly exhausted, not only have numerous attacks been directed against our principles, but in several recent instances, our most esteemed and respected brethren have been treated with personal discourtesy; their feelings and exertions rewarded with marked disrespect; and that, too, by persons so nearly connected with the Executive Government of the country, as to hazard the presumption that their imprudence and temerity was countenanced by the Government itself. Of the ingratitude and impolicy of such conduct, the Grand Lodge forbears to speak more particularly, leaving it to time, the operation of circumstances, and the force of truth, to apply the remedy. The Grand Lodge cannot, however, fail to impress upon their brethren, that although in the selection of his advisers, or in the distribution of his patronage, our Sovereign's representatives may be (and no doubt is) deceived; still, that to us, as Orangemen, it will be indifferent by whom the power of the country is exercised, so it be intrusted to safe hands, and is employed judiciously for the public welfare. Those governors, who, eschewing family combinations and a political judiciary, are resolved to do justice to every British subject, without reference to his creed, or to his country, shall receive, not only our obedience, but our approbation and support; and if, unhappily, men of a different description be placed in office, they shall receive while in office, as men placed in authority by our Sovereign, the obedience which is due to those deputed by Her Majesty; and that although we may regret an imposition upon the representative of our Queen, still our loyalty will direct us to obey those to whom Her Majesty may intrust the execution of particular duties—under no circumstances can this loyalty be forgotten—no instances of official folly—no appearance of slight—no effusion of calumny—shall ever be allowed to effect this steady principle; but we will now, in the hour of our country's necessity, prove ourselves unabated in our zeal, unaltered in our sentiments, and will come forward, one and all (as we have already done), the cheerful and voluntary defenders of that Constitution, to which we have pledged our fealty.

5. Resolved—That we have read in the public newspapers, with much satisfaction, the loyal declarations that have at various times been made by the very Reverend Bishop Macdonnell, and other leading members of the Roman Catholic Church; we have no doubt of the sincerity of such declarations. And although we regret to find some deluded persons of that persuasion joined the enemies of our country, and a few expatiated their treasons on the scaffold, still we entertain no doubt, but that the Roman Catholics of Upper Canada, sensible of the great benefits they enjoy, will not suffer themselves to be made the dupes of wicked and designing men, for the most diabolical purposes, as their brethren were in the Lower Province; and we flatter ourselves that not only our own example, but the virtuous and loyal conduct of their venerable bishop will have the happiest effect, and be productive of the best results. We declare solemnly that we are not enemies to any body of people, on account of their religion, their faith, or their mode of worship. We consider every loyal subject our fellow-labourer, and he shall have our aid and protection.

6. Resolved—That the Grand Lodge cannot pass over in silence the noble conduct of their brethren, in almost every section of the province, during the late unnatural rebellion in 1837, and the subsequent foreign invasions in 1838 and 1839, particularly in the city of Toronto, where *three hundred and seventeen* members of the Order tendered their services and were sworn in by his Worship the Mayor, and by Aldermen Dixon, Monro, and Armstrong, on the night of Monday, and the morning of Tuesday, the 4th and 5th days of December, 1837; also of upwards of *four hundred* of their brethren in the county of Simcoe, who volunteered under the gallant Colonel Dewson; to the Newcastle brethren, commanded by Lieutenant

Colonel Boulton, and by Captains Elliott and Clarke; to the men of York county, under Colonel Thompson, and Captains Magrath and Stewart; those of Haldimand, commanded by Captain Clarke; the men of the West, under Colonels Radcliff and Dunlop; and the brave heroes of Leeds, led by our gallant Grand Master in person, to the desperate and bloody attack at Prescott. That while the Grand Lodge is proud to notice instances of particular zeal, it is happy to believe that upwards of one-half of the entire number of volunteers who took up arms through the recent disturbances, and by whose bravery and undaunted spirit Upper Canada was preserved to the British Crown, were members of the Order; and that such devotion and zeal is pre-eminently entitled to the gratitude and thanks of the Grand Lodge, and to the imitation and example of the province at large.

7. Resolved.—That it appearing to the Grand Lodge that many persons of equivocal character, and some of them supposed to have been, till very lately, secretly in favour of the rebel cause, have had the audacity to offer themselves to some lodges as candidates for admission into our loyal body; it be most solemnly enjoined on the masters of all lodges, and the brethren in general, most particularly to scrutinize the character of every candidate for admission; and to be more than ordinarily vigilant that no traitor, or suspected traitor, may find an asylum in our loyal association.

8. Resolved.—That the errors into which the Right Hon. the Earl of Durham has fallen, in his Lordship's Report on the state of these provinces, so far as they relate to the numbers of the Roman Catholic population of Upper Canada, and to the alleged hostility of Orangemen; while they are subjects of regret to the Grand Lodge, yet they cannot at the same time prevent the members of this institution from expressing their assent to the general accuracy of his Lordship's statements, and their desire to see many of his suggestions carried into practical effect; particularly a thorough local responsibility upon all matters of domestic government, which great healing measure is so eminently calculated to restore peace to these distracted colonies, promote their future greatness and prosperity, and secure their "eternal connexion" with the parent state.

9. Resolved.—That the Grand Lodge has much pleasure in congratulating their brethren on the steady progress of the institution, both in numbers and respectability; and is happy to inform them that, within the last year, the lodges have increased from 240 to 254, and the members from 19,200 to 20,320, being an increase within the year of 14 lodges, 1120 members.

10. Resolved.—That the Grand Lodge sees no occasion to depart from the 4th Resolution, deliberately adopted at the last grand annual meeting, upon the subject of the removal of the Grand Lodge; more especially as it is now almost certain that a union of the provinces will speedily take place, and that it cannot yet be ascertained at what place the seat of Government will be permanently located.

11. Resolved.—That a select committee be appointed to select an agent to visit the several lodges of the society, and generally to promote the welfare of the institution; and that the following brethren compose said committee:—

Colonel Gowan, Mr. Hopkins, Captain Hill, Mr. Nulty, Mr. Dennison, Mr. McCrum, Mr. Harris, Mr. Dack, Mr. McClean.

OGLE R. GOWAN, G.M., Chairman.

The Right Worshipful the Grand Master having left the chair, and Captain Hill, Grand Master of the County of Leeds, being called thereto, it was unanimously resolved.—That the lasting thanks of the Orangemen of America be returned to Lieutenant-Colonel Gowan, M.P., for his untiring devotion, his numerous sacrifices, and his great abilities, in promoting the true and lasting interests of the Orange cause.—(Carried with three cheers.)

THOMAS HILL, G.M., County Leeds, Chairman.

Brockville, 11th June, 1839.

Enclosure 3 in No. 34.

COPY of a LETTER from Mr. PHILLIPS to His Excellency, Lieutenant-Governor,
Sir GEORGE ARTHUR, K.C.H.

SIR,

Gore of Toronto, 11th July, 1839.

HAVING received a copy of your letter, dated the 24th June, addressed to the Mayor and Aldermen of the city of Toronto, to use his influence to prevent the Orangemen celebrating their public procession on the 12th July; also a similar letter addressed to the magistrates of the Home District, through the Clerk of the Peace, to use their influence to prevent the Orangemen to celebrate their public procession on the said 12th July.

Sir, I consider myself called upon, as a loyal British subject, to prevent, as far as it is in my power, any violation of the peace taking place on that day, or at any other time, which comes under my notice, which would have any tendency to infringe on the laws of this my adopted country; but, Sir, you will excuse me in differing in opinion with your Excellency on that subject, knowing the bad and lasting impression it will have on the minds of Her Majesty's loyal subjects, both here and in the country of their origin, to use any means to prohibit them, in celebrating such a glorious and memorable event—a day that every loyal subject should celebrate; and, when other societies, similar in character,

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are allowed to celebrate their public processions unnoticed, and without any molestation, we consider the Orangemen should be indulged with the same privilege.

If we are not, Sir, on these grounds, I herewith tender you my resignation as a Justice of the Peace, as well as Captain of the 7th Company of the West York Militia.

I remain, &c.

(Signed)

T. B. PHILLIPS.

His Excellency Major-General Sir GEORGE ARTHUR, K.C.H.
&c. &c. &c.

Enclosure 4 in No. 34.

COPY of a LETTER from Mr. HARRISON to T. B. PHILLIPS, Esq.

Government House, 22nd July, 1839.

SIR,

Encl. 4 in No. 34.

I HAVE the honour to acquaint you that I have laid before the Lieutenant-Governor your letter of the 11th instant, in which you tender your resignation of the Commission of the Peace, and your appointment as a captain of militia, on the ground of his Excellency's desire that the magistrates should, by every means within their power, endeavour to make known his earnest wishes and hopes that, by mild measures of persuasion, those processions may be discontinued, which have hitherto tended so greatly to produce animosity and unkindly feeling.

In accepting your resignation of these offices, his Excellency has directed me to intimate to you his sincere regret that, in a matter in which the utmost anxiety is felt to remove a continued source of discord between classes of Her Majesty's loyal subjects, who must, as such, esteem and regard each other, you should feel called upon to take a course so directly opposed to the views and wishes of the Imperial and Provincial Government, as to render your retirement from the public service of the country an act of conscientious necessity.

I have, &c.

(Signed)

S. B. HARRISON.

To T. B. PHILLIPS, Esq.,
Gore of Toronto.

No. 35.

(No. 171.)

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

MY LORD,

Government House, Toronto, 29th July, 1839.

No. 35.
Sir George Arthur
to the Marquis of
Normanby.
29th July, 1839.

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, No. 76, of the 5th of this month, enclosing copies of the two Bills recently introduced into Parliament, on the subject of Canada.

The course intended to be pursued by Her Majesty's Government, in relation to the Bill for reuniting the provinces of Upper and Lower Canada, will afford ample time for a full expression of the public sentiment on this most important question; and I doubt not but that the state of the general feeling in this province will shortly be developed in a manner to lessen the difficulty of legislating upon it.

I have, &c.

(Signed)

GEO. ARTHUR.

The Marquis of Normanby,
&c. &c. &c.

No. 36.

(No. 172.)

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

No. 36.
Sir George Arthur
to the Marquis of
Normanby.
19th July, 1839.

MY LORD,

Government House, Toronto, 29th July, 1839.

I HAVE the honour to inform your Lordship that I have again gone through the whole of the cases of the prisoners under sentence, and have

selected eleven more for a free pardon, under circumstances which, I feel satisfied, I can fully justify. This leaves 78 of the Prescott and Windsor brigands and four other convicts for transportation as soon as the "Buffalo" arrives, or is ready to receive them.

No. 36.
Sir George Arthur,
to the Marquis of
Normanby.
19th July, 1839.

I have the honour herewith to transmit to your Lordship the following documents:—

1st. A certified list of all the convicts who are to be conveyed from Upper Canada to Van Diemen's Land.

No. 1.

2nd. Copies of two of the patents of pardon by which the capital sentences of the convicts were commuted to transportation for life. (One of these documents applies to the case of British subjects, and the other to that of aliens; similar patents have been prepared for the whole of the 78 brigands.)

No. 2.
No. 3.

3rd. Copy of the papers connected with the order for transportation of William Highland, tried and convicted before a Militia Court Martial for desertion.

No. 4.
No. 5.

4th. Copy of the Civil Secretary's letter to the Law Officers of the Crown, and of the answer of the Attorney-General thereto. (In accordance with the suggestion contained in this answer, I have caused an exemplification of the Provincial Statute, 1 Vic. c. 3, to be sent to the Governor of Van Diemen's Land.)

No. 6.
No. 7.

5th. Copy of the Provincial Secretary's letter to the Colonial Secretary of Van Diemen's Land, transmitting a list of the brigands, with particular observations on those cases which seem to present any grounds for a more favourable consideration.

No. 8.
No. 9.

6th. Copy of a warrant to the officer in command of the "Buffalo," to take charge of the convicts, and convey them to their destination.

No. 10.

I have caused these several instruments to be prepared by the law officers of the Crown in this province; great care and consideration have been used in their preparation, and I hope they will be found to be correct, and sufficient for the purpose intended.

As, however, the circumstances under which the proceeding has become necessary are new in this province, I thought it prudent to put your Lordship in full possession of all that has transpired on the subject as early as possible; so that if it should happen that, unfortunately, any error has crept into the proceedings, Her Majesty's Government may be in a situation to take immediate steps either to remedy it, or to prevent any ill consequences ensuing by a communication to the colony to which the prisoners are destined.

Upon the case of William Highland, who, it will be perceived, has been tried for desertion before a Militia General Court Martial, I am anxious to remark that there have been several cases of desertion from the regiments of incorporated militia, the men taking off with them their arms, accoutrements, and ammunition. It is of great importance that this disgraceful crime should be checked; and as Highland's case is one of the worst, inasmuch as he left his post to desert, I have selected him for severe punishment, and trust the example may prove efficacious.

I have, &c.
(Signed)

GEO. ARTHUR.

The Marquis of Normanby,
&c. &c. &c.

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Enclosure 1 in No. 36.

PROVINCE OF UPPER CANADA.

RETURN of Convicts to be conveyed in Her Majesty's Ship BUFFALO, to VAN DIEMEN'S LAND, and to remain there during the period of TRANSPORTATION, inserted opposite to the name of each of them.

No.	Name of Convict.	Crime.	Date of Conviction.	Sentence.	Commuted Punishment.
1	Edwin Merrit	murder	1st October, 1838	death	transportation for life.
2	Horace Cooley	burglary	26th Sept. 1838	ditto	ditto.
3	Aaron Dresser, jun.	Piratical invasion of Upper Canada.	3d December, 1838	Death.	Transportation for Life.
4	William Gates		3d "		
5	George T. Brown		6th "		
6	John Cronkhite		10th "		
7	James Pierce		10th "		
8	Miram Sharp		19th "		
9	Calvin Mathers		26th "		
10	Daniel Liscum		28th "		
11	Jerry Griggs		28th "		
12	Moses A. Dutcher		29th "		
13	Al-on Owen		17th "		
14	Daniel D. Heustis		17th "		
15	David Allen		19th "		
16	Stephen S. Wright		22d "		
17	Nathan Whiting		22d "		
18	Thomas Baker		17th "		
19	John Gillman		26th "		
20	Hiram Loop		6th "		
21	Elon Fellowes		6th "		
22	Orlan. Blodgit		6th "		
23	Reilly Whitney		8th "		
24	John Thomas		8th "		
25	Asa H. Richardson		8th "		
26	Edward A. Wilson		8th "		
27	Robert G. Collins		8th "		
28	Thomas Stockton		8th "		
29	David Howth		10th "		
30	Michael Fraer		10th "		
31	Emanuel Garrison		10th "		
32	Leonard Delino		10th "		
33	Henry Shew		13th "		
34	Joseph Thompson		13th "		
35	Jehiel H. Martin		13th "		
36	Luther Darby		13th "		
37	Joseph Stewart		17th "		
38	Chauncey Bugbee		17th "		
39	Andrew Leeper		17th "		
40	John Berry		17th "		
41	Orn W. Smith		17th "		
42	Garret Hicks		25th "		
43	John G. Swanberg		22d "		
44	Solomon Reynolds		19th "		
45	Samuel Washburn		19th "		
46	Gilebn Goodrich		19th "		
47	Chauncey Mathers		26th "		
48	Jacob Padlock		22d "		
49	Bemis Woodbury		22d "		
50	Asa Priest		22d "		
51	Foster Martin		26th "		
52	Ira Polly		28th "		
53	Andrew Moore		28th "		
54	Lysander Curtis		28th "		
55	Nelson S. Griggs		28th "		
56	William Reynolds		28th "		
57	James Inglis		11th "		
58	Hugh Cathoun		11th "		
59	John Brattle		27th "		
60	Patrick White		27th "		
61	John Morrisette		27th "		
62	Joseph Leforte		27th "		

Enclosure 1 in No. 36—continued.

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No.	Name of Convict.	Crime.	Date of Conviction.	Sentence.	Commuted Punishment.
63	Samuel Snow	Physical invasion of Upper Canada.	28th Dec. 1838.	Death.	Transportation for Life.
64	Elzar Stevens		28th "		
65	John S. Gutridge		7th January, 1839.		
66	John Sprague		28th Dec. 1838.		
67	Robert Marsh		28th "		
68	Riley M. Stewart		28th "		
69	Alvin B. Sweet		28th "		
70	James P. Williams		28th "		
71	William Nottage		7th January, 1839.		
72	John Henry Simmons		28th Dec. 1838.		
73	Elijah C. Woodman		7th January, 1839.		
74	Chauncy Sheldon		28th Dec. 1838.		
75	John C. Williams		2d January, 1839.		
76	James M. Aitcheson		7th "		
77	John B. Tyrrell	3d "			
78	Henry V. Barnum	28th Dec. 1838.			
79	James De Witt Fero	7th January, 1839.			
80	Michael Morin	28th Dec. 1838.			
81	William Highland	{desertion, & taking arms.	29th April, 1839	transporta- tion for 14 years.	sentence confirmed.
82	John M'Manigall	murder	22d May, 1839	death.	{transporta- tion for Life.

I do hereby certify that the foregoing is a correct Return of the eighty-two convicts now about to be conveyed to Van Diemen's Land, in Her Majesty's ship Buffalo, and who are all subject to transportation, under the condition of the pardons respectively granted to them; or in virtue of the sentence of a court of competent jurisdiction.

In testimony whereof I have hereunto set my hand and affixed my seal, at the city of Toronto, in the province of Upper Canada, this 27th day of July, in the year of our Lord 1839, and in the third year of Her Majesty's reign.

By his Excellency's command,

R. A. TUCKER,
Provincial Secretary.

(Copy.)

Enclosure 2 in No. 36.

LETTERS PATENT commuting the Sentence of Death, passed upon certain persons (Subjects of Great Britain) by a Militia General Court-Martial for High Treason at Sandwich to transportation for Life to Van Dieman's Land.

GEO. ARTHUR.

UPPER CANADA.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, &c. &c. &c.

To all to whom these Presents shall come Greeting:

WHEREAS by an Act passed by our Provincial Parliament of our province Upper Canada, on the twelfth day of January, in the first year of our reign, intitled "An Act to protect the Inhabitants of this Province against lawless aggressions from Subjects of Foreign Countries at peace with Her Majesty," it is among other things enacted, that if any person, being a citizen or subject of any foreign state or country at peace with the United Kingdom of Great Britain and Ireland, having joined himself before or after the passing of this Act to any subject of our sovereign Lady the Queen, her heirs or successors, who are or hereafter may be traitorously in arms against Her Majesty, her heirs or successors, shall, after the passing of this Act, be or continue in arms against Her Majesty, her heirs or successors, within this province, or commit any act of hostility therein, then it shall and may be lawful for the Governor of this province to order the assembling of a militia general court-martial for the trial of such person agreeably to the militia laws of this province, and upon being found guilty by such court-martial of offending against this Act, such person shall be sentenced by such court-martial to suffer death, or such other punishment as shall be awarded by the Court. And whereas, in and by the said Act it is further enacted, That if any subject of Her Majesty, her heirs or successors, shall within this province levy war against Her Majesty, her heirs or successors, in company with any of the citizens or subjects of any foreign state or

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country, then being at peace with the United Kingdom of Great Britain and Ireland, and offending against the provisions of this Act, then such subject of Her Majesty, her heirs or successors, shall be liable to be tried and punished by a militia general court-martial in like manner as any citizen or subject of a foreign state or country at peace with Her Majesty, her heirs or successors, is liable under this Act to be tried and punished." And whereas at a militia general court-martial duly convened according to the laws and statutes of our said province, and commenced and holden at the town of London, in the district of London of our said province, on Thursday the twenty-seventh day of December, in the year of our Lord one thousand eight hundred and thirty-eight, and in the second year of our reign, for the trial of persons charged with offending against the provisions of the said hereinbefore in part recited Act, James Milne Aitcheson, John Burwell Tyrrell, Henry Verrelon Barnum, James De Witt Fero, and Michael Morin, were severally in due form of law arraigned and placed upon their trial before the said militia general court-martial upon the charge following, that is to say, that they, the said James Milne Aitcheson, John Burwell Tyrrell, Henry Verrelon Barnum, James De Witt Fero, and Michael Morin, being our subjects, on the third day of December, in the second year of our reign, and on divers other days between that day and the sixth day of the same month of December, at the township of Sandwich in the Western District and province of Upper Canada, in company with divers citizens of a foreign country then at peace with the United Kingdom of Great Britain and Ireland, that is to say, of the United States of America, unlawfully and wickedly did commit divers acts of hostility within the province of Upper Canada, that is to say, that they the said James Milne Aitcheson, John Burwell Tyrrell, Henry Verrelon Barnum, James De Witt Fero, and Michael Morin, together with the said citizens of the said United States of America, did then and there levy and make war on us, and did then and there, together with the citizens aforesaid, with guns, muskets, bayonets, and other warlike weapons, kill and slay divers of our loyal subjects, contrary to the form of the statute in such case made and provided; the said Militia General Court Martial having full power, authority and jurisdiction to hear and determine the said charge; and whereas the said James Milne Aitcheson, John Burwell Tyrrell, Henry Verrelon Barnum, James De Witt Fero, and Michael Morin and each of them, were in due course of law convicted and declared guilty by the said militia general court-martial of the said charge so as aforesaid preferred against them and each of them: And whereas the said militia general court-martial upon such conviction did then and there, in due form of law sentence, order, and adjudge, that they the said James Milne Aitcheson, John Burwell Tyrrell, Henry Verrelon Barnum, James De Witt Fero, and Michael Morin, and each of them should suffer death by being severally hanged by the neck until they and each of them should be dead, at such time and place as our Lieutenant-Governor of our said province should direct and appoint for the crime whereof they and each of them had, in manner aforesaid, been convicted and adjudged guilty. And whereas the said finding and sentence of the said Militia General Court-Martial hath in due course of law and with our assent been confirmed and approved by our Lieutenant-Governor of our said province: And whereas by an act passed by our said provincial Parliament of our said province of Upper Canada, on the 4th day of March, in the seventh year of the reign of our late royal predecessor King William the Fourth, of glorious memory, it is enacted "that it shall and may be lawful for the Lieutenant-Governor of our said province to commute the sentence of death, which may be passed upon any person convicted of a capital crime, for transportation for life or term of years to such place in our dominions as may be assigned for the reception of convicts." And whereas our said Lieutenant-Governor of our said province hath thought fit to remit and hath remitted the said sentence and judgment of death, so, as aforesaid, passed upon the said James Milne Aitcheson, John Burwell Tyrrell, Henry Verrelon Barnum, James de Witt Fero, and Michael Morin, and to commute the same for transportation to our penal colony of Van Diemen's Land for the life of them and each of them, the said James Milne Aitcheson, John Burwell Tyrrell, Henry Verrelon Barnum, James de Witt Fero, and Michael Morin: And whereas we, having taken the said remission of the sentence and judgment of death passed, as aforesaid, upon them, the said James Milne Aitcheson, John Burwell Tyrrell, Henry Verrelon Barnum, James de Witt Fero, and Michael Morin, and the commutation of the said sentence and judgment of death to transportation for life to our said penal colony of Van Diemen's Land into our royal consideration, have thought fit to allow and confirm, and by these presents we do allow and confirm the same. And we do therefore, in the exercise of our royal clemency and mercy, order, direct, and command that the said sentence of death, so, as aforesaid, pronounced and adjudged against and upon them the said James Milne Aitcheson, John Burwell Tyrrell, Henry Verrelon Barnum, James de Witt Fero, and Michael Morin be remitted, and that the same be commuted for transportation for life to our penal colony of Van Diemen's Land. And in pursuance of such commutation of the said sentence that they, the said James Milne Aitcheson, John Burwell Tyrrell, Henry Verrelon Barnum, James de Witt Fero, and Michael Morin be transported to and remain transported to our said penal colony of Van Diemen's Land, for and during the natural lives of them the said James Milne Aitcheson, John Burwell Tyrrell, Henry Verrelon Barnum, James de Witt Fero, and Michael Morin, and each of them.

In testimony whereof we have caused these our letters to be made patent, and the Great Seal of our said province to be hereunto affixed. Witness our trusty and well-beloved Sir George Arthur, K. C. H., Lieutenant-Governor of our said

province, and Major-General commanding our forces therein at Toronto, this twenty-third day of July, in the year of our Lord one thousand eight hundred and thirty-nine, and in the third year of our reign.

By Command of His Excellency in Council,
R. A. TUCKER, Secretary.

G. A.

No. 36.
Sir George Arthur
to the Marquis of
Normanby.
19th July, 1839.
Encl. 2 in No. 36.

I certify that the foregoing is truly copied from the original patent, as prepared in this office under the Great Seal of the province.

Office of the Secretary of the Province,
Upper Canada, 27th July, 1839.
R. A. TUCKER, Provincial Secretary.

Copy.] Enclosure 3 in No. 36.

LETTERS PATENT commuting the sentence of Death, passed upon certain Citizens of the United States by a Militia General Court-Martial, for feloniously invading the Province at Sandwich; to Transportation for Life to Van Diemen's Land.

GEO. ARTHUR.

UPPER CANADA.

Victoria by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen,
Defender of the Faith, &c. &c. &c.

To all to whom these presents shall come Greeting:

WHEREAS by an Act passed by our Provincial Parliament of our province of Upper Canada, on the twelfth day of January, in the first year of our reign, entitled "An Act to protect the inhabitants of this province against lawless aggressions from subjects of foreign countries at peace with Her Majesty," it is among other things enacted, "that if any person, being a citizen or subject of any foreign state or country at peace with the United Kingdom of Great Britain and Ireland, having joined himself before or after the passing of this Act to any subjects of our Sovereign Lady the Queen, her heirs or successors, who are or hereafter may be traitorously in arms against Her Majesty, her heirs or successors, shall, after the passing of this Act, be, or continue in arms against Her Majesty, her heirs or successors, within this province, or commit any act of hostility therein, then, it shall and may be lawful for the governor of this province to order the assembling of a militia general court-martial, for the trial of such person agreeably to the militia laws of this province, and upon being found guilty by such court-martial of offending against this act, such person shall be sentenced by such court-martial to suffer death, or such other punishment, as shall be awarded by the court." And Whereas, at a militia general court-martial, duly convened according to the laws and statutes of our said province, and commenced and holden at the town of London, in the district of London of our said province, on Thursday, the twenty-seventh day of December, in the year of our Lord one thousand eight hundred and thirty-eight, and in the second year of our reign, for the trial of persons charged with offending against the provisions of the said hereinabove in part recited Act, Samuel Snow, Elizar Stevens, John Seymour Gutridge, John Sprague, Robert Marsh, Riley Monson Stewart, Alvin Burroughs Sweet, James Peter Williams, William Nottage, John Henry Simmons, Elijah Croker Woodman, Chauncy Sheldon, and John Chester Williams, were severally in due form of law, arraigned and placed upon their trial before the said militia general court-martial, upon the charge following; that is to say, that they the said Samuel Snow, Elizar Stevens, John Seymour Gutridge, John Sprague, Robert Marsh, Riley Monson Stewart, Alvin Burroughs Sweet, James Peter Williams, William Nottage, John Henry Simmons, Elijah Croker Woodman, Chauncy Sheldon, and John Chester Williams, on the third day of December, and on divers other days between that day and the sixth day of December, in the second year of our reign, with force and arms at the township of Sandwich, in the western district, and province of Upper Canada, being citizens of a Foreign State at peace with the United Kingdom of Great Britain and Ireland, that is to say, of the United States of America, having joined themselves to divers of our subjects, who were then and there unlawfully and traitorously in arms against us, the said Samuel Snow, Elizar Stevens, John Seymour Gutridge, John Sprague, Robert Marsh, Riley Monson Stewart, Alvin Burrows Sweet, James Peter Williams, William Nottage, John Henry Simmons, Elijah Croker Woodman, Chauncy Sheldon, and John Chester Williams, with our said subjects so unlawfully and traitorously in arms as aforesaid, did then and there feloniously levy and make war against us; and did then and there, armed with guns, bayonets, and other warlike weapons, feloniously kill and slay divers of our loyal subjects, contrary to the form of the statute in such case made and provided, and against our peace, our crown, and dignity; the said militia general court-martial having full power, authority, and jurisdiction to hear and determine the said charge; And whereas, the said Samuel Snow, Elizar Stevens, John Seymour Gutridge, John Sprague, Robert Marsh, Riley Monson Stewart, Alvin Burroughs Sweet, James Peter Williams, William Nottage, John Henry Simmons, Elijah Croker Woodman, Chauncy Sheldon, and John Chester Williams, and each of them, were

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in due course of law, convicted and declared guilty by the said militia general court-martial of the said charge so as aforesaid preferred against them and each of them: And whereas the said militia general court martial, upon such conviction, did then and there in due form of law, sentence, order, and adjudge that they the said Samuel Snow, Elizar Stevens, John Seymour Guttridge, John Sprague, Robert Marsh, Riley Monson Stewart, Alvin Burroughs Sweet, James Peter Williams, William Nottage, John Henry Simmons, Elijah Croker Woodman, Chauncey Sheldon, and John Chester Williams, and each of them should suffer death, by being severally hanged by the neck until they and each of them should be dead, at such time and place as our Lieutenant-Governor of our said province should direct and appoint, for the crime whereof they and each of them had in manner aforesaid been convicted and adjudged guilty: And whereas the said finding and sentence of the said militia general court martial hath in due course of law, and with our assent been confirmed and approved by our Lieutenant-Governor of our said province: And whereas by an Act passed by our Provincial Parliament of our said province of Upper Canada, on the fourth day of March, in the seventh year of the reign of our late royal predecessor King William the Fourth, of glorious memory, it is enacted, "that it shall and may be lawful for the Lieutenant-Governor of our said province to commute the sentence of death which may be passed upon any person convicted of a capital crime, for transportation for life, or term of years, to such place in our dominions as may be assigned for the reception of convicts." And whereas our said Lieutenant-Governor hath thought fit to remit, and hath remitted, the said sentence and judgment of death, so as aforesaid passed upon the said Samuel Snow, Elizar Stevens, John Seymour Guttridge, John Sprague, Robert Marsh, Riley Monson Stewart, Alvin Burroughs Sweet, James Peter Williams, William Nottage, John Henry Simmons, Elijah Croker Woodman, Chauncey Sheldon, and John Chester Williams, and to compute the same for transportation to our penal colony of Van Dieman's Land, for the life of them and each of them the said Samuel Snow, Elizar Stevens, John Seymour Guttridge, John Sprague, Robert Marsh, Riley Monson Stewart, Alvin Burroughs Sweet, James Peter Williams, William Nottage, John Henry Simmons, Elijah Croker Woodman, Chauncey Sheldon, and John Chester Williams. And whereas, we having taken the said remission of the sentence and judgment of death passed as aforesaid upon them, the said Samuel Snow, Elizar Stevens, John Seymour Guttridge, John Sprague, Robert Marsh, Riley Monson Stewart, Alvin Burroughs Sweet, James Peter Williams, William Nottage, John Henry Simmons, Elijah Croker Woodman, Chauncey Sheldon, and John Chester Williams, and the commutation of the same sentence and judgment of death to transportation for life, to our said penal colony of Van Dieman's Land, into our royal consideration, have thought fit to allow and confirm, and by these presents we do allow and confirm the same, and we do therefore, in the exercise of our royal clemency and mercy, order, direct, and command that the said sentence of death so as aforesaid pronounced and adjudged against and upon them the said Samuel Snow, Elizar Stevens, John Seymour Guttridge, John Sprague, Robert Marsh, Riley Monson Stewart, Alvin Burroughs Sweet, James Peter Williams, William Nottage, John Henry Simmons, Elijah Croker Woodman, Chauncey Sheldon, and John Chester Williams, be remitted, and that the same be commuted for transportation for life, to our penal colony of Van Dieman's Land; and in pursuance of such commutation of the said sentence, that they the said Samuel Snow, Elizar Stevens, John Seymour Guttridge, John Sprague, Robert Marsh, Riley Monson Stewart, Alvin Burroughs Sweet, James Peter Williams, William Nottage, John Henry Simmons, Elijah Croker Woodman, Chauncey Sheldon, and John Chester Williams, be transported, and remain transported, to our penal colony of Van Dieman's Land; for and during the natural lives of them the said Samuel Snow, Elizar Stevens, John Seymour Guttridge, John Sprague, Robert Marsh, Riley Monson Stewart, Alvin Burroughs Sweet, James Peter Williams, William Nottage, John Henry Simmons, Elijah Croker Woodman, Chauncey Sheldon, and John Chester Williams, and each of them.

In testimony whereof we have caused these our letters to be made patent, and the great seal of our said province to be hereunto affixed. Witness our trusty and well-beloved Sir GEORGE ARTHUR, K.C.H., Lieutenant-Governor of our said province, and Major-General commanding our forces therein, at Toronto, this twenty-third day of July, in the year of our Lord, one thousand eight hundred and thirty-nine, and in the third year of our reign.

By command of his Excellency in Council,
 R. A. TUCKER, Secretary.
 G. ARTHUR.

I certify that the foregoing is truly copied from the original patent, as prepared in this office, under the great seal of the province.

Office of the Secretary of the Province,
 Upper Canada, 27th July, 1839.
 R. A. TUCKER, Pro. Sec.

Copy

Enclosure 4 in No. 36.

Letter to Mr. Justice Jones.

SIR,

Toronto, 27th July, 1839.

WHEREAS William Highland, a private in the third battalion of the incorporated militia of this province, (the said battalion being embodied for actual service,) was, by and at a

militia general court-martial held at Niagara, in the district of Niagara and province aforesaid, on the 29th day of April, in the year of our Lord 1839, duly convicted of deserting his post when sentry at Mississagua fort on the night of the 29th day of March in the same year, and of taking with him his arms, accoutrements, and ammunition. And whereas the said Court did adjudge the said William Highland to be transported as a felon for the term of fourteen years, and which sentence of the said court-martial her Majesty intends should be carried into execution. I am therefore, by the Queen's commands, to notify you the said sentence, together with her Majesty's pleasure that the same be carried into execution, and that the said offender be transported as a felon for the said term of fourteen years to the colony of Van Diemen's land, that colony having been duly appointed as the place to which any offender convicted in this province, and under sentence of transportation, shall be sent or transported. Which notification is hereby made to the intent that you may make such order for the transportation of the said William Highland as is by law required, and to you may seem necessary.

I have, &c.

(Signed)

GEORGE ARTHUR.

The Hon. Mr. Justice Jones.

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19th July, 1839.
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Copy.

Enclosure 5 in No. 36.

Province of Upper } Whereas in and by an Act of the Parliament of the province of Up-
Canada, } per Canada, passed in the first year of the reign of her Majesty Queen
Victoria, intituled "an Act to amend and reduce into one Act the
Militia Laws of this Province," it is among other things enacted, "That during the time any
portion of the militia of this province shall be embodied for actual service under and by virtue
of this Act, they and every of them, as well officers as privates, shall be liable and subject to
all the rules, regulations, pains and penalties of any act or acts of the British Parliament that
are or may be in force for the punishment of mutiny, desertion, or other crimes, in the army
of her Majesty the Queen, her heirs or successors: provided, nevertheless, that no officer, non-
commissioned officer, or private militia man, shall be sentenced to the loss of life unless for
desertion to the enemy, traitorous correspondence, or for traitorously delivering up to the
enemy any garrison, fortress, post or guard, or vessel; either armed or employed in the service
of government, anything herein contained; or any statute, law, or usage to the contrary notwith-
standing: provided also, that no officer, non-commissioned officer, or private of militia, shall
be liable to the punishment of being flogged by the sentence of any court-martial."

Encl. 5 in No. 36.

And whereas in and by an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of her said Majesty, intituled "an Act for punishing Mutiny and Desertion, and for the better payment of the Army and their Quarters," it is among other things enacted, "that whenever any sentence of transportation, heretofore or hereafter passed by any court-martial holden in the East Indies, or in any part of her Majesty's foreign dominions, is to be carried into execution, or when sentence of death has been or shall as aforesaid be commuted to transportation, the same shall be notified by the officer commanding in chief her Majesty's forces at the presidency or station, or in his absence by the adjutant-general for the time being, to some judge of one of the supreme courts of judicature in the East Indies, or chief justice or some other judge, as the case may be; in any part of her Majesty's foreign dominions, who shall make order for the transportation or intermediate custody of such offender, in like manner as for the transportation or intermediate custody of any other convict, and the necessary proceedings shall be taken according to such order for the transportation or intermediate custody of such offender."

And whereas William Highland, a private in the third battalion of the incorporated militia of this province, the said battalion being embodied for actual service, at a Militia General Court Martial held at Niagara, in the district of Niagara and province aforesaid, on the twenty-ninth day of April, in the year of our Lord one thousand eight hundred and thirty-nine, was duly convicted of deserting his post when sentry at Mississagua Fort, on the night of the twenty-ninth day of March in the same year, and of taking with him his arms, accoutrements, and ammunition, and was thereupon sentenced by the said Militia General Court Martial, to be transported as a felon for and during the term of fourteen years, and a notification in writing of the aforesaid conviction and sentence of transportation, together with Her Majesty's pleasure upon the same, as also that the colony of Van Diemen's Land has been duly appointed as the place to which any offender convicted in this province and under sentence of transportation, shall be sent or transported; hath by His Excellency, Sir George Arthur, Knight Commander of the Royal Hanoverian Guelphic Order, Lieutenant-Governor of the province of Upper Canada and Major-General Commanding-in-Chief Her Majesty's regular and militia forces within the said province, been made known to me the Honourable Jonas Jones, one of the judges of Her Majesty's Court of Queen's Bench within this province, pursuant to the direction in the said secondly-recited Act contained.

It is, therefore, hereby ordered by me the said Jonas Jones, one of the justices as aforesaid, that the said William Highland be transported for the term of fourteen years to the colony of Van Diemen's Land; and that he the said William Highland be sent down as soon as conveniently may be to Lower Canada, to be there kept and detained in intermediate custody until he shall thence be transported to the colony of Van Diemen's Land, or shall be otherwise discharged in due course of law.

Given under my hand and seal at the City of Toronto, in the province of Upper Canada, this twenty-ninth day of July, in the year of our Lord one thousand eight hundred and thirty-nine, and in the third year of Her Majesty's reign.

(Signed) JONAS JONES, J.

No. 36.
 Sir George Arthur
 to the Marquis of
 Normanby.
 19th July, 1839.
 Encl. 5 in No. 36.

By His Excellency Sir GEORGE ARTHUR, Knight Commander of the Royal Hanoverian Guelphic Order, Lieutenant Governor of the Province of Upper Canada, Major-General Commanding Her Majesty's Forces therein, &c. &c. &c.

To all to whom these presents shall come—Greeting:

These are to certify, that Jonas Jones, Esq., whose name is subscribed to the foregoing instrument is a judge of the Court of Queen's Bench, duly appointed in and for the province of Upper Canada, and that full faith and credence are due and ought to be given to his signature and acts, in that capacity, in all places.

Given under my hand and office seal, at Toronto, in Upper Canada, this twenty-ninth day of July, in the year of our Lord one thousand eight hundred and thirty-nine, and of Her Majesty's reign the third.

By His Excellency's Command
 (Signed) S. B. HARRISON.

(Signed) GEO. ARTHUR.

(Copy.)

Enclosure 6 in No. 36.

SIR,

Government House, Toronto, July 28th, 1839.

THE Lieutenant-Governor has had under his consideration the patents and several documents prepared by you for the transportation of the convicts about to proceed to Australia.

I am desired by His Excellency to inquire whether you feel quite confident that those documents are all that are necessary to be used on this occasion.

His Excellency observes that, in the case of W. Highland, you have followed the course of proceeding prescribed by the Mutiny Act, and he would therefore suggest whether a compliance with the same Act may not be equally necessary in the case of all the convicts who were tried and sentenced by Militia Courts Martial.

It has also occurred to the Lieutenant-Governor, that, although it may not be necessary in the cases of those brigands whose sentence has been commuted into transportation to follow the rule prescribed by the Mutiny Act, yet that it may be desirable that an exemplification of the Provincial Acts, under which the Militia Courts Martial were constituted, should be transmitted to the public authorities at Van Diemen's Land.

These, of course, are submitted as suggestions, merely for your consideration, and as the subject is one of considerable importance, and, from its novelty, not perhaps altogether free from difficulty, His Excellency would wish that you should immediately communicate upon it with the Solicitor-General.

The departure of His Excellency at an early hour to-morrow morning renders an immediate attention necessary.

I have, &c.

(Signed)

S. B. HARRISON.

The Attorney-General.
 &c. &c. &c.

(Copy.)

Enclosure 7 in No. 36.

LETTER from C. A. HAGERMAN, Esq., to S. B. HARRISON, Esq.

Attorney-General's Office,

Toronto, 28th July, 1839.

SIR,

WITH reference to your letter of this day's date on the subject of the several documents prepared by me relating to the transportation of the convicts about to proceed to Australia, I have the honour to state that, having conferred with Mr. Justice Macaulay and the Solicitor-General, it was, in their opinion, unnecessary to prepare certificates from a judge of the trial of the brigands before the Court Martial at Kingston, as is required under the Mutiny Act, and the reason assigned is, that the brigands were not tried for any offence against the Mutiny Act, but for a crime punishable before a tribunal specially created for that purpose.

The several provincial Acts, under which the proceedings against the prisoners have been tried and convicted, are referred to, and in part recited, in the patents commuting their punishment to transportation; but, for greater caution, I will request the Secretary of the Province to prepare an exemplification of the Provincial Statute 1 Vic. cap. 3, which may accompany the other documents to be transmitted to Van Diemen's Land.

I have, &c.

(Signed)

C. A. HAGERMAN, A.G.

S. B. Harrison, Esq.,
 &c. &c. &c.

P.S. I understand it to be his Excellency's intention to send an official notification of the order for the transportation of the prisoners to the Governor of Van Diemen's Land.

(Signed)

C. A. H.

(Copy.)

Enclosure 8 in No. 36.

LETTER from R. A. TUCKER, Esq., to the Colonial Secretary, of Van Diemen's Land.

No. 36.
Sir George Arthur
to the Marquis of
Normanby.
19th July, 1835.

SIR, Government House, Toronto, 29th July, 1839.

Encl. 8 in No. 36.

By the direction of the Lieutenant-Governor of this Province, I have the honour to enclose you the list of eighty-two convicts who are to be conveyed in Her Majesty's ship "Buffalo" from Quebec to Van Diemen's Land; there to remain under sentence of transportation for offences committed by them in Upper Canada.

The seventy-eight names first mentioned in this list are descriptive of individuals who have been tried and convicted before *Militia General Courts Martial* for attempting to invade this country. They were all sentenced to death, and have had that sentence commuted to transportation for life.

No. 79, William Highland, was also convicted by a *Militia General Court Martial*, but his crime was desertion, and his sentence transportation for the term of fourteen years only.

The remaining three were convicted before the *Civil Courts* of capital crimes, and have had the capital punishment respectively pronounced upon them, commuted to transportation for life.

At the suggestion of his Excellency Sir George Arthur, I have noticed, in the columns of remarks, such circumstances attending any of these cases as appeared to me to form some extenuation of the guilt of the parties: and I trust that those observations may tend to procure for them such a measure of indulgence as the circumstances in which they are placed may reasonably warrant.

I am induced to add that, with the exception of one individual, Jacob Paddock, who was excluded, in consideration of his general bad conduct, from the benefit of a free pardon, which would otherwise have been extended to him on the ground of his extreme youth, I am not aware that the great political offence of which the brigands have been guilty has been aggravated by any other act of moral turpitude.

I have, &c.

(Signed) R. A. TUCKER, Provincial Secretary.

To the Colonial Secretary, Van Diemen's Land.

Enclosure 9, in No. 36.

[COPY.]—LIST of EIGHTY-TWO CONVICTS to be embarked on Board Her Majesty's Ship "Buffalo," to be conveyed from the Province of UPPER CANADA to the COLONY of VAN DIEMEN'S LAND. Encl. 9 in No. 36.

No.	Name.	Age.	REMARKS.	
A 1	David Allen	37	Of the 79 brigands included in this list, the cases of 17 appeared to the Executive Council, upon a careful investigation of various circumstances connected with them, as exhibiting somewhat stronger grounds for the extension of indulgence than presented themselves in the other cases. I shall accordingly, consider those 17 as forming a distinct class, and shall prefix the letter A to the names of each of them as a general designation of that class; taking care to add, with reference to particular individuals, such observations as seem to be peculiarly applicable to them.	
A 2	Thomas Baker	47		
A 3	George T. Brown	22		
A 4	John Cronkhite	30		
A 5	Aaron Dresser, jun.	22		
A 6	Moses A. Dutcher	23		
A 7	William Gates	23		
A 8	John Gillman	38		
A 9	Jerry Griggs	22		
A 10	Daniel D. Heustis	27		
A 11	Daniel Liscum	22		
A 12	Calvin Mathers	24	A 2. <i>Thomas Baker</i> .—This man is acknowledged to be a drunkard; and it is alleged that, without any previous connexion with the pseudo-patriots, he was tempted, whilst in a state of intoxication, to join in the expedition against Prescott.	
A 13	James Pierce	22		
A 14	Hiram Sharp	22		
A 15	Nathan Whiting	48		
A 16	Stephen S. Wright	25		
17	John Berry	40		
18	Orlan Blodgett	23		
19	John Bradley	30		
20	Chauncey Bugbee	22		
21	Hugh Calhoun	25		
22	Robert G. Collins	34		
23	Lysander Curtis	33		A 5. <i>Aaron Dresser, jun.</i> —Several most respectable inhabitants of Kingston presented a petition in his favour. His father bears a good character, and his deep anxiety for his son, evidenced by his frequent and urgent solicitations in his behalf, rendered this case so particularly interesting, that a free pardon would probably have been granted Dresser, if there had not been strong reason for believing that he acted a prominent part among the brigands, and was designed to bear an officer's commission among them.
24	Luther Darby	48		
25	Leonard Dejno	25		
26	Eton Fellowes	22		
27	Michael Fraer	23		
28	Emanuel Garrison	22		
29	Gideon Goodrich	43		
30	Nelson S. Griggs	28		
31	Garret Hicks	27		
32	David Howth	24		
33	James Inglis	30		
34	Andrew Leeper	42		
35	Joseph Lesorte	29		
36	Hiram Loop	26		

Enclosure 9 in No. 36—*continued.*

No. 36.
 Sir George Arthur
 to the Marquis of
 Normanby.
 19th July, 1839.
 Encl. 9 in No. 36.

No.	Name.	Age.	REMARKS.
37	Jehiel H. Martin	31	against, rather than in favour of, the grant of a free pardon which has been solicited for him in many quarters.
38	Foster Martin	32	
39	Chauncey Mathers	24	25. <i>Leonard Delino.</i> —An order for the execution of this person was actually issued, and his case was, of course, at one time considered as one of the <i>worst</i> ; but his conduct during his confinement has been exemplary, and the Rev. Mr. Cartwright, who has been most zealous in endeavouring to convey religious impressions to the minds of the brigands, conceives that his efforts have been particularly successful in the case of Delino, and has interceded very strongly for him.
40	John Morrisette	22	
41	Andrew Moore	26	
42	Alson Owen	24	
43	Jacob Paddock	17	
44	Ira Polly	23	
45	Asa Priest	42	
46	Solomon Reynolds	33	
47	William Reynolds	23	
48	Asa H. Richardson	23	27. <i>Michael Fraer.</i> —Such strong recommendations of this man have been received, that he seems to be hardly, if at all, less entitled to indulgence than those included in the class of 17.
49	Henry Show	23	
50	Owen W. Smith	26	
51	Joseph Stewart	25	43. <i>Jacob Paddock.</i> —The very bad conduct of this individual prevented him from participating in the free pardon which was granted to all the other youths.
52	Thomas Stockton	29	
53	John G. Swanberg	27	50. <i>Owen W. Smith.</i> —Strongly recommended by several respectable individuals.
54	John Thomas	26	
55	Joseph Thompson	22	
56	Samuel Washburn	25	51. <i>Joseph Stewart.</i> —Ditto.
57	Patrick White	22	52. <i>Thomas Stockton.</i> —Ditto.
58	Reilly Whitney	25	54. <i>John Thomas.</i> —Ditto; and his conduct during his confinement very favourably spoken of both by the sheriff and Mr. Cartwright.
59	Edward A. Wilson	23	
60	Beemis Woodbury	25	
A 61	John C. Williams	..	58. <i>Reilly Whitney.</i> —A petition in his behalf, numerously signed, has been received, and there is a strong certificate of his good conduct during the period of his incarceration.
62	James M. Aitcheson	..	
63	Henry V. Barnum	..	
64	James Delbitt Ferö	..	
65	John S. Gutridge	..	
66	Robert Marsh	26	The following 18 brigands were captured at Windsor, in the Western District:—
67	Michael Morin	31	
68	William Nottage	..	
69	Chauncey Sheldon	52	A 61. <i>John C. Williams</i> is the only one of the Windsor brigands included in the list of 17; and he owes his station in that list entirely to the consideration which was felt for his brother, who is a very respectable inhabitant of this province.
70	John H. Simmons	23	
71	Samuel Snow	38	71. <i>Samuel Snow.</i> —Strongly recommended.
72	John Sprague	28	73. <i>Elizar Stevens.</i> —Seven ministers of the gospel in the United States have recommended this man, as having borne a good character.
73	Elizar Stevens	..	
74	Riley M. Stewart	31	
75	Alvin B. Sweet	22	75. <i>Alvin B. Sweet.</i> —The recommendations of this man are strong, and from respectable quarters.
76	John B. Tyrrell	24	76. <i>John B. Tyrrell.</i> —The merits of Mr. Burwell, the uncle of this man, may perhaps justify the extension of an indulgence to him, which he otherwise is not entitled to claim.
77	James P. Williams	..	
79	Elijah C. Woodman	..	
80	William Highland	..	
81	Edwin Merrit	..	
81	Horace Cooley	..	
82	John M. Manigall	..	

Office of the Provincial Secretary of Upper Canada,
 27th July, 1839.

(Signed) R. A. TUCKER, Sec.

(Copy.)

Enclosure 10 in No. 36.

PROVINCE OF UPPER CANADA.

WARRANT to COMMANDER of H. M. ship "BUFFALO," to take charge of certain convicts for Van Diemen's Land.

By His Excellency Sir George Arthur, K.C.H., Lieutenant-Governor of the Province of Upper Canada, and Major General, commanding Her Majesty's Forces therein, &c. &c.
 To the Captain or commander of her Majesty's ship "Buffalo," and to the superintendent of convicts on board the said ship, and to any or either of them:—*Greeting.*
 Whereas it hath been communicated to me, by her Majesty's Principal Secretary of State for the Colonies, that you, or some of you, have been appointed to receive on board the said ship "Buffalo" all convicts who may be under sentence of transportation from this colony to Australia, and to convey such convicts to the place or places to which they may have been sentenced to be transported in Australia; And whereas, David Allen, Thomas Baker, George J. Brown, John Cronkhitc, Aaron Dresser, the younger, Moses A. Dutcher, William Gates, John Gillman, Jerry Gregg, Daniel D. Heustis, Daniel Liscum, Calvin Mathers, James Pierce, Hiram Sharp, Nathan Whiting, Stephen S. Wright, John Berry, Orian Blodged, John Bradley, Chauncey Bugbee, Hugh Calhoun, Robert G. Collins, Lysander Curtis, Luther Darly, Leonard Delino, Elon Fellowes, Michael Fraer, Emanuel Garrison,

Encl. 10 in No. 36.

Gideon Goodrich, Nelson S. Greggs, Garret Hicks, David Howth, James Inglis, Andrew Leeper, Joseph Laforte, Hiram Loop, Jehiel H. Martin, Foster Martin, Chauncey Matthers, John Morrisette, Andrew Moore, Alson Owen, Jacob Paddock, Ira Polly, Asa Priest, Solomon Reynolds, William Reynolds, Asa H. Richardson, Henry Shew, Orin W. Smith, Joseph Stewart, Thomas Stockton, John G. Swanberg, John Thomas, Joseph Thompson, Samuel Washburn, Patrick White, Reilly Witney, Edward A. Wilson, Beemis Woodbury, John C. Williams, James M. Aitcheson, Henry V. Barnum, James De Witt Fero, John S. Gutridge, Robert Marsh, Michael Morin, William Nottage, Chauncey Sheldon, John H. Simmons, Tamuel Snow, John Sprague, Elizar Stevens, Riley M. Stewart, Alvin B. Sweet, John B. Tyrrell, James P. Williams, Elijah C. Woodman, Edwin Merrit, Horace Cooley, John Mc Mángall, and William Highland, have, and each of them have been convicted of certain crimes, by them committed, and upon such conviction have, by due course of law been sentenced and ordered for transportation to her Majesty's Penal Colony of Van Dieman's Land, as by the several patents, records, and certificates, relating to the said several convicts, and herewith transmitted and delivered to you, will more fully and at large appear, reference being thereto had.

No. 36.
 Sir George Arthur
 to the Marquis of
 Normanby.
 19th July, 1839.
 Encl. 10 in No. 36.

Now these Presents are to authorize, charge, and command you, the captain or commander of her Majesty's ship "Buffalo," and the superintendent or other person appointed to take charge of convicts on-board the said ship, to receive: and you, and each of you, are hereby authorised, charged, and commanded, to receive on board the said ship the said several convicts, whose names are hereinbefore enumerated and written down, and that you, and each of you, do safely keep and detain the bodies of the said convicts, and that you and each of you do convey them, and each, and all of them, the said convicts, to her Majesty's said Penal Colony of Van Dieman's Land, in pursuance of their several sentences, as aforesaid; and that you, the said captain or commander of the said ship "Buffalo," and the superintendent or other person appointed to take charge of convicts on board the said ship, or some of you, do, on the arrival of you, or any or either of you, on board the said ship "Buffalo" at the said penal colony of Van Dieman's Land, forthwith deliver into the charge and custody of the governor, or person administering the government of the said penal colony; or to such other person as may there be lawfully appointed to receive the same, the bodies of the said several convicts, together with the several patents, records, and certificates, setting forth and relating to the convictions and sentences, of the said several convicts: to the end that the governor, or person administering the government of the said penal colony, or such person, as by law, may for that purpose be duly appointed, may receive and detain the aforesaid convicts in the said penal colony of Van Dieman's Land, in pursuance of, and according to the terms and conditions, sentences, and judgments, specified and set forth in the said patents, records, and certificates, relating to the said convicts.

In Testimony whereof, I have hereunto set my hand, and affixed my seal of office, at the City of Toronto, in the province of Upper Canada, this 27th day of July, 1839, and in the third year of her Majesty's reign.

(Signed) GEO. ARTHUR,
 Lieutenant-Governor.

By his Excellency's command,
 (Signed) R. A. TUCKER,
 Provincial Secretary.

(No. 174.)

No. 37.

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

My Lord, Government House, Toronto, 21st August, 1839.

In the "Evening Mail," London newspaper, of the 5th ult., I find, under the head of "Parliamentary Intelligence," the report of a speech of Mr. C. Buller, in which, among other strictures upon my dispatch No. 107, of the 13th of May last, that gentleman is reported to have expressed himself to the following effect:—

"I have no hesitation in saying that the assertions on which Sir George Arthur has built his complaints were untrue. Not that I charge Sir George Arthur with stating any thing which he knew to be untrue, but that he had not taken sufficient caution, and that he should not have put forth those statements without being first well assured of their accuracy. With respect, for instance, to those two unfortunate men whose case was made a subject of comment; all that the Report of Lord Durham did was simply to mention the fact. Sir George Arthur asserted that Lord Durham had over-rated the number of signatures to the petitions in their favour at 30,000, and affirmed that it was only 5000; and in order to show how perfectly accurate he was, he gave a list of the signatures. But a gentleman had called on me, and stated to me that he alone had presented a petition to Sir George Arthur to which were attached more signatures than he had acknowledged."

No. 37.
 Sir George Arthur
 to the Marquis of
 Normanby
 21st August, 1839.

For Despatch
 No. 107.

Vide Correspondence
 relative to the Affairs
 of Canada, ordered to
 be printed, June, 1839,
 p. 31.

No. 37.
Sir George Arthur
to the Marquis of
Normanby.
21st August, 1839.

Your Lordship will readily believe that it is not my intention to enter upon a controversy with Mr. Buller on this subject; but you will at the same time feel that I must naturally be anxious to offer some observations to Her Majesty's Government on assertions which, if they do not impugn my veracity, at least accuse me of very culpable negligence and inaccuracy.

In support of this charge, Mr. Buller, I perceive, refers to the testimony of a gentleman who had informed him that he had presented a petition to me, to which were attached more signatures than I had acknowledged.

From many circumstances I am led to conclude that the individual here alluded to must be a Mr. James Durand, the brother of a man who was convicted of treason, and pardoned by me; as that person did, in conjunction with a Mr. John Paterson, present to me an address from the inhabitants of West Flamborough, to which 4850 signatures were attached, I have hardly a doubt that he is the person to whom Mr. Buller refers.

Upon that supposition it will not be difficult to point out the fallacy of the argument upon which the accuracy of my statement has been assailed; for it will be found that the petition to which Mr. Durand adverts was a *congratulatory address* presented to me soon after my arrival in this province, containing a *general recommendation* "on behalf of all the unhappy prisoners now under sentence of condemnation for high treason," and not a *particular application* in favour of Lount and Matthews, to which alone I adverted in my despatch of the 13th of May last.

The mistake of classing the address presented by Messrs. Durand and Paterson, with the petitions for a *particular extension of mercy to Lount and Matthews* I had myself, as I have already explained to your Lordship, inadvertently fallen into; and hence arose the discrepancy between the numbers stated in two of my despatches, viz: No. 4, of the 14th of April, 1838, and No. 107, of the 13th of May, 1839; the former including the signatures to the congratulatory address from West Flamborough, and the latter being strictly and exclusively confined to the petitioners in favour of Lount and Matthews.

As the only means, therefore, at present in my power, of refuting the statement of Mr. Buller, and establishing the correctness of my own, I have now the honour to transmit to your Lordship a return, *verified on oath*, from the clerk of the Executive Council, detailing the number of petitions presented in favour of Lount and Matthews—the places in which they respectively originated, and the number of signatures attached to each of them.

The perusal of this document will, I trust, thoroughly convince your Lordship that I had ample foundation for the assertions contained in my despatch No. 107, of the 13th of May last: and here I might accordingly be content to let this matter rest, if no other considerations were involved in it than such as apply to myself *individually*; but it seems to me a matter of some public import, in relation to my character as Lieutenant-Governor of this province, that the question of fact upon which I am at issue with Mr. Buller, should undergo a rigid examination; and I therefore propose, on the next meeting of the Provincial Parliament, to draw the attention of the legislature to this question, with a view to the appointment of a committee to investigate and ascertain the exact number of petitions presented to the Executive Government praying for a pardon to Lount and Matthews.

I have, &c.

(Signed) GEO. ARTHUR.

The Marquess of Normanby,
&c. &c. &c.

Enclosure 1 in No. 37.

Encl. 1 in No. 37. ADDRESS of 4850 of the inhabitants of West Flamborough, and the adjacent townships, to His Excellency the Lieutenant Governor; and the Governor's reply thereto. The address was presented by James Durand, and John Paterson, Esqrs.

To His Excellency Sir GEORGE ARTHUR, K.C.H., Lieutenant-Governor of the province of Upper Canada, Major-General commanding Her Majesty's forces therein, &c. &c.
May it please your Excellency,

We, the inhabitants of West Flamborough, and the adjacent townships, in the Gore district, beg to congratulate your Excellency on your safe landing on this continent, and

to hail your arrival in this province as the representative of our most gracious sovereign the Queen.

And in thus approaching your Excellency, with this sincere expression of our congratulations, we beg, with intense, yet most respectful earnestness, to appeal to the just and dignified exercise of your Excellency's matured and comprehensive judgment, no less than to your humane feelings, on behalf of all the unhappy prisoners now under sentence of condemnation for high treason.

We are led to believe that thus extending the royal mercy would be generally satisfactory to the country.

No. 37.
Sir George Arthur
to the Marquis of
Normanby.
21st August, 1839.
Encl. 1 in No. 37.

Enclosure 2 in No. 37.

List of petitions presented in favour of Lount and Matthews, as also the headings to the same, and the number of persons who signed them.

Isaac Webb, and 3289 others, praying that a pardon may be extended to Samuel Lount, a prisoner in the Home district gaol, under sentence of death for the crime of high treason	3290
Ann Henderson and 787 others, to the same purpose, in favour of the same	788
Jacob Gill and 74 others, to the same purpose, in favour of the same	75
James M'Kay and 66 others, to the same effect in favour of the same	67
John B. Warren and 156 others, inhabitants of the county of York, in the Home district, to the same purpose, in favour of Peter Mathews	157
Samuel Bentley and 196 others, to the same purpose, in favour of the said Peter Mathews	197
William Roe and 23 others, to the same purpose, in favour of Samuel Lount	24
Total number of signers	4598

Encl. 2 in No. 37.

William Henry Lee, of the city of Toronto, in the Home District, Esquire, senior and confidential clerk to the Executive Council for the province of Upper Canada, maketh oath and saith, that the foregoing list contains the whole number of petitions in favour of Lount and Mathews, which have come into his possession, and that the list is in all respects a just and true statement of the number of signatures thereto. He also saith, that the said petitions were respectively read in Council on the 9th of April, 1838.

WM. H. LEE.

Sworn before me at Toronto, this twenty-first day of August, 1839.

J. G. CHEWOTS, J. P., Home District.

(No. 176.)

No. 38.

EXTRACT of a DESPATCH from Lieutenant-Governor Sir GEORGE ARTHUR, K.C.H., to the Marquis of NORMANBY.

Government House, Toronto, 21st August, 1839.

In my despatch, No. 163, of the 27th July, I endeavoured to give your Lordship an account of the state of the province.

I referred to the communications I had received, and to the rumours which had been abroad, respecting approaching danger. I also informed your Lordship that whilst the meetings upon the question of "responsible government," as advocated by the Earl of Durham, were in progress, it was not easy to define the exact state of feeling in the country. Of the more tranquil state of the frontier I spoke with greater confidence, and informed your Lordship that, availing myself of a quiet period to leave Toronto, I was about to proceed on a tour of inspection through all the districts.

It gives me concern to state, that events have not justified my conclusions; and, having been obliged to return to Toronto sooner than I had intended, I have it in my power to give your Lordship a hasty sketch of the occurrences of the last three weeks, and hope this despatch may reach New York before the departure of the steamer "Liverpool," the arrival of which vessel has not yet been announced.

No. 38.
Sir George Arthur
to the Marquis of
Normanby.
21st August, 1839.

No. 38.
 Sir George Arthur
 or the Marquis of
 Normanby.
 21st August, 1839.

The first unpleasantness was a serious fray between a party of about 200 French Canadians, employed in the lumber trade, on the river Trent, in the Newcastle district, and some Irish labourers.

The magistrates, unable to quell the riot, called for the assistance of a company of the militia force. These fired upon the rioters (as it seems to me, unnecessarily), but happily no one was either killed or wounded.

I do not consider this quarrel to have originated in political differences, although it terminated by the French Canadians shouting "Papineau for ever!" coupled with some angry disloyal expressions.

On the 28th July a small party of brigands crossed from Oswego to Coburg, on Lake Ontario, in the American schooner "Guernsey," headed by Lett, the murderer of Captain Usher, and, on landing, were received and harboured in the house of Mr. Ash and his son, two respectable yeomen in good circumstances, residing near Coburg.

The direct object of this gang was to murder two or three respectable persons, and then to rob the bank; but this was, as it would seem, only part of their main political object of harassing and injuring the loyal, and keeping alive excitement.

Amongst the few persons who joined these villains was a "patriot" named "Moon," who had evidently been previously in political connexion with at least some of the party; but, when he had ascertained how truly diabolical their object was, he formed the resolution to disclose the scheme of the conspirators to the magistrates, and a plan was consequently laid for their apprehension. But it was badly executed: Lett and some others made their escape, and four only of these ruffians were taken.

They are to be put on their trial before a Militia General Court-martial on Monday next, under the Provincial Act, 1st Vict., ch. 3.

"Moon" deeply implicates by name a great number of persons in this province, and especially in the Newcastle and Midland districts, as being parties to a plot to rise, whilst a body of ruffians again invade the province from the States. He declares that the patriot cause is in as great activity as ever; that the "Durham Meetings" originated with the patriots, and that more serious and better organized schemes of invasion and insurrection are in progress, than have yet taken place.

The disclosures of this man to the magistrates have created an excitement amongst the loyalists at Coburg, which surpasses all description. Moon has been examined and re-examined by the law officers of the Crown, and before the president of the Executive Council, at great length. His statements are consistent, and remain unshaken; and those officers credit all that he represents as coming actually within his own knowledge.

I have just had an interview with him myself, and am under the impression that he has been deeply enough implicated in treason with all the disaffected, although he appears to have been appalled at adding premeditated murder to that crime.

He fully corroborates all that is described in Mr. Derbshire's letter, and is supported by other statements from Rochester; but I cannot avoid thinking, that although a very shrewd and artful man, he has been overreached himself. To engage him the more heartily in their cause, the "Patriot Executive Government," no doubt, represented their numbers to be greater, and their resources more powerful than they are.

No longer doubt that some wicked schemes are again—perhaps they have never been discontinued—in progress, both in the States, and in this province—and, possibly, all the persons "Moon" names, are secret partisans—at the same time I cannot believe that the combination is so extensive, as to occasion any immediate serious alarm. The trial of the prisoners will, possibly, bring more to light.

On the Niagara frontier, about a fortnight ago, an American soldier fired across the river twice, at a small detachment stationed at Queenston. The second shot was returned by our sentry. An explanation followed, and the officer in charge of the American troops sent a very proper apology, with an assurance that the offender was drunk, and would be brought before a court-martial.

An affair of a more serious nature has again occurred on the River St. Lawrence. On the 4th instant the American steamer "St. Lawrence" passed by Brockville, where her Majesty's schooner "Montreal" was then at anchor.

Commander Fowell states, that not knowing the vessel, he hailed her to show her colours, and on her failing to do so, he caused a musket to be fired, but

intended it should be with blank-cartridge: the musket however was loaded with ball. Whether the second musket fired was loaded with ball or blank-cartridge, does not appear.

There was doubtless a want of courtesy on the part of the American steamer, as it is usual to display colours on such occasions; and, of course, the Commander of an armed vessel ought to be satisfied that any other vessel approaching him, whilst at anchor off a British port, had no hostile intention; but, on reading the correspondence, I cannot say that I discover any necessity for the course pursued by Commander Fowell; and if it were not absolutely necessary, it certainly was highly imprudent.

My letter to Captain Sandom will show your Lordship the view I take of the matter; and, with every desire to avoid interfering unduly with the Naval branch of the service, I must say, that all my endeavours to avoid collision may be frustrated if the utmost attention be not paid to my wish, that points of mere ceremony, or courtesy, should not be pushed to an extreme in these waters.

The correspondence that has passed on this subject is enclosed, by which your Lordship will perceive that Colonel Worth has taken up the affair very seriously, and, apparently, with little recollection of the use which has been made of American vessels in the repeated attacks upon this province.

Far more to be lamented than any of the circumstances to which I have referred, are the effects of Lord Durham's Report.

The bait of "Responsible government" has been eagerly taken, and its poison is working most mischievously.

It was M'Kenzie's schemes for getting rid of what Mr. Hume called the "baneful domination of the mother country;" and never was any better devised to bring about such an end speedily.

That measure recommended by such high authority is the worst evil that has yet befallen Upper Canada.

There has been rather a larger meeting at Hamilton than at other places, to advocate "responsible government." One copy of the resolutions passed has been sent to me, which requires some notice, and I intend to avail myself of the opportunity of dispassionately placing before the public the opinion I entertain that "responsible government" cannot exist in any province—separation must follow, as a necessary and inevitable consequence.

Enclosure 1 in 38.

COPY of a LETTER from Lieutenant-Governor Sir GEORGE ARTHUR, K.C.H.,
to Captain W. SANDOM, R.N.

SIR,

Government House, Toronto, 21st August, 1839.

I HAVE the honour to acknowledge the receipt of your letters, communicating a correspondence which had passed between yourself and Colonel Worth, in relation to the conduct pursued by Commander Fowell, in causing a musket-shot or shots to be fired ahead of the American steam-boat "St. Lawrence," with a view to compel that vessel to show her colours, after she had disregarded the demand made on her to do so.

If it can be distinctly shown that it is obligatory, as you appear to consider, upon all vessels to show their colours under such circumstances; if there were strong grounds for suspecting the "St. Lawrence" steamer, either from her appearance, or from her being out of her usual track, of having hostile intentions; or, if a due regard to the safety of Her Majesty's schooner "Montreal," on the near approach of a vessel under such circumstances, rendered the measure adopted essential to security, I should consider that in either case Commander Fowell would be fully justified in requiring the unknown vessel to display her colours.

But I cannot say that a perusal of the statements before me induces a conviction that there existed in effect any necessity for such a proceeding in the present instance; and considering the grounds on which we are understood to employ armed vessels on these waters, and the difficulty of precisely defining at the moment the exact line which separates the British from the American waters, there should be, I think, the greatest for-

No. 38.
Sir George Arthur
to the Marquis of
Normandy.
21st August, 1839.

No. 1.

Nos. 2 to 10.

No. 11.
No. 12.

Encl. 1 in No. 38.

No. 38.
 Sir George Arthur
 to the Marquis of
 Normanby,
 21st August, 1839.
 Encl. 1 in No. 38.

bearance in exacting and endeavouring to enforce compliance with any acts of mere courtesy or compliment.

It is scarcely necessary for me to add that the mistake of firing ball, instead of blank cartridge, is a very serious one, and is an occurrence, I must confess, which I should not have expected.

I have, &c.

To Captain W. SANDOM, R.N.,
 &c. &c. &c.

(Signed) GEORGE ARTHUR.

(Copy.)

Enclosure 2 in No. 38.

Sir GEORGE ARTHUR to Mr. FOX:

SIR,

Government House, Toronto, 21st August, 1839.

Encl. 2 in No. 38.

I have the honour to transmit to your Excellency the accompanying copy of a correspondence which has passed between Captain Sandom, R.N., and Colonel Worth of the United States army, relative to some musket-shots that were lately fired a-head of the American steamboat "St. Lawrence" by her Majesty's schooner "Montreal," commanded by Commander Fowell, to cause the former vessel to heave to, after she had failed to comply with a demand made on her to show her colours when in the immediate vicinity of the British shore near Brockville, and of her Majesty's armed vessel.

By the enclosed copy of my letter to Captain Sandom your Excellency will perceive that I am not well satisfied, from the explanations afforded, that there existed any necessity for firing in this instance; at the same time, considering the outrages that have been committed along our frontier by ruffians conveyed in American vessels, strong grounds may be advanced for the exercise of unusual circumspection; and no good reason, perhaps, can be assigned for the want of courtesy that was shown by the captain of the steamer; while, further, Captain Sandom is probably right in his conclusion, that all vessels are bound to show their colours on approaching so near to any port as the "St. Lawrence" approached to that of Brockville.

Your Excellency will perceive by Colonel Worth's letter, that it is proposed by that officer to place guards of the United States troops on board the American steam-boats navigating the St. Lawrence, in consequence of a belief entertained by him that their presence is requisite to preserve the vessels from injury from the British side.

However unnecessary such a step may be as a means to the end contemplated, it should obviously have the certain good effect of saving the vessels so guarded from being forcibly taken possession of by lawless individuals from the American shore, for the purpose of employing them as heretofore in the furtherance of piratical incursions on the British territory.

I have, &c.

His Excellency Henry S. Fox,
 &c. &c. &c.

GEORGE ARTHUR.

Enclosure 3 in No. 38.

SIR,

Kingston, 10th August, 1839.

Encl. 3 in No. 38.

I HAVE the honour herewith to enclose copies of a correspondence which has taken place between Colonel Worth and myself, with reference to the Commander of one of Her Majesty's vessels having called upon a steam-vessel of the United States to display her colours.

I avail myself of this opportunity to suggest, for your Excellency's consideration, the propriety of collectors of customs, and others, whose duty it may be to enforce navigation laws on vessels obtaining their clearance from the Custom-House, that they should be provided with the colours necessary to show the nation to which they belong.

In this respect, as well as not having proper documents on board to show the honesty of their occupations, the vessels navigating these waters, are lamentably deficient; were it otherwise, and strictly acted upon by the authorities on the United States side, as well as in Canada, I venture to believe the evils now so frequently experienced by improper persons landing upon our shores, might be very much curtailed.

I have the honour to be, &c.

(Signed) W. SANDOM, Captain R.N., commanding
 H. M. Naval Forces in Canada.

His Excellency Major-General Sir George Arthur, K. C. H.
 Lieutenant-Governor, &c. &c. &c.

(Copy.)

Enclosure 4 in No. 38.

From Colonel WORTH to Captain SANDOM.

Head-Quarters, Northern Depot,
United States, America, Sackett's Harbour,
August 5th, 1839.

No. 33
Sir George Arthur
to the Marquis of
Normanby,
21st August, 1839.

SIR,

I HAVE the honour to submit to your examination the enclosed copy of a Report received from the United States Deputy Marshall, stationed at Ogdensburgh. The details of this transaction are confirmed by other sources. I desire to be informed whether this act, regarded as a flagrant outrage committed from the deck of Her Majesty's armed schooner, "Montreal," has the sanction of your authority.

The Major-General, commanding the Eastern Division of the United States, being present, the Report referred to has been laid before him, as also this communication. Captain Hill, Quarter-Master, Depot, U. S. A., who will have the honour to deliver this, is instructed to await your reply.

I have the honour to be, &c. &c.

(Signed) W. J. WORTH, Colonel
Commanding.

Captain Sandom, R. N. Commanding
Naval Forces, Canada.

Enclosure 5 in No. 38.

Ogdensburgh, 4th August, 1839.

DEAR SIR,

WHEN the steamer "St. Lawrence" was passing Brockville this afternoon, between four and five p. m., on her way to this place, she was fired upon from an armed vessel lying off in the stream, being first hailed and requested to show her colours, or heave-to, disregarding the orders, they were fired upon the second time; they were musket-shots. They then, on board the armed vessel, made preparations to man and load a cannon, but the "St. Lawrence" by this time was passed out of reach.

I have the honour to be, &c.

(Official.) (Signed) W. MELHINCH,
Colonel Worth, Commanding U. S. Army,
Sackett's Harbour.

Enclosure 6 in No. 38.

Kingston, 5th August, 1839.

(Copy.)

SIR,

I HAVE the honour to acknowledge the receipt of your letter of this day's date, together with its enclosure,—the copy of a Report received from the Deputy Marshal, stationed at Ogdensburg, stating that the steamer St. Lawrence had been fired upon from the deck of Her Majesty's hired schooner Montreal, and requesting to know whether it had the sanction of my authority.

In reply I beg to inform you, that I hear of such circumstance with great sorrow and regret, that such a proceeding has not the slightest authority from me, but it is, on the contrary, a direct infringement of the orders given by me to the officers employed for the protection of the British shores of the St. Lawrence.

I will make immediate inquiry into the circumstances, and communicate with you upon the subject.

I have, &c.

(Signed) WILLIAMS S. SANDOM.

Colonel Worth, Commanding U. S. Army,
Sackett's Harbour.

(Copy.)

Enclosure 7 in No. 38.

Kingston, 9th August, 1839.

SIR,

WITH reference to my letter of the 5th instant, in reply to yours of that date, on the subject of the St. Lawrence steam-vessel having been fired upon from H.M.'s hired schooner Montreal.

I have the honour to inform you that I have made the most minute inquiries into that transaction, and transmit herewith a copy of the statement of the commander of the Montreal relative to the circumstance.

No. 38.
 Sir George Arthur
 to the Marquis of
 Normandy,
 21st August, 1839.
 Encl. 7 in No. 38.

By this statement, you will perceive that the muskets were directed to be fired with blank cartridges, in order to call attention to the request, that colours should be displayed, and I feel quite assured that, on a reconsideration of the subject, you will admit the propriety and justice of such a demand—the laws of nations sanction it—the invariable practice of the national vessels of all maritime powers is to exact it.

This vessel bore down upon that of Her Majesty, having her colours displayed, and came unnecessarily near, obstinately refusing that compliance which common-courtesy always offers voluntarily, when a vessel is entering the port, or harbour, or town, of a friendly nation, as did the St. Lawrence, by passing within 150 yards of Brockville.

That the report which Commander Fowell states to have reached him “of a number of brigands from the United States’ frontier” being about to effect a landing on some part of the Canadian territory, is not without foundation, we have a proof that many of these characters did lately leave Oswego in the schooner Guernsey for that purpose, some of whom were apprehended in the town of Cobourg, armed, with the avowed intention of committing murder and robbery, and are now imprisoned upon that charge.

The schooner has since been seized by the authorities at Oswego, as I understand.

This circumstance, coupled with the events which have lately transpired upon these waters under our own observation, will surely justify the expectation, that by a strict adherence to the practice of maritime nations, “that vessels should be compelled to display the colours of the nations to which they belong,” and “have on board documents to prove the honesty of her calling,” we may, in a great measure, frustrate the machinations of the evil disposed, and effectually prevent the recurrence of events which, I feel assured, you, Sir, as well as myself, deeply deplore.

Colonel Worth,
 Commanding U.S. Army,
 Northern Frontier.

I have, &c.,
 (Signed) W. SANDOM, Captain,
 Commanding H.M. Naval Forces in Canada.

(Copy.)

Enclosure 8 in No. 38.

SIR,

Her Majesty's Ship Niagara, August 8th, 1839.

Encl. 8 in No. 38.

In further explanation of my conduct in H.M. schooner, Montreal, as represented by my letter to you of the 5th August, whilst lying off Brockville, for the protection of the British shores from the lawless attempts of certain freebooters, who have been in the habit of committing depredations upon them.

I beg to state that, upon the near approach of the steam-vessel (said to be the St. Lawrence), I was very anxious to know to which nation she belonged, and for this purpose I hailed her to show her colours, which was disregarded; therefore I considered it my duty, and strictly in accordance with the customs of the navies of all nations, to call attention by firing a musket ahead of the vessel in question, which I ordered to be done with blank cartridge, and wide from her; but, in consequence of some muskets being kept loaded, the first was, by accident, fired with a ball in it.

From the fact of my never having seen the St. Lawrence, or any other American vessel on the British side of the river, and having received recent information that armed vessels having on board a number of brigands from the United States’ frontier were about to effect a landing on some part of the Canadian territory under such circumstances I deemed it indispensably necessary to make myself acquainted with the nature and occupation of every vessel of which I had hitherto no knowledge, and the appearance of the above-mentioned vessel on her approach towards H.M. schooner Montreal bore a decidedly suspicious character. Had the steamer displayed her colours, which is usual on such occasions, the above measure would not have been resorted to by me, as I should then have concluded she was following her lawful occupation.

In reference to that part of the charge, of my “preparing to man and load a cannon,” I beg leave to state that the ship's company were previously at their usual evening quarters.

I have, &c.
 (Signed) W. NEWTON FOWELL, Commander.
 Capt. William Sandom, Commanding H.M. Naval Forces
 on the Lakes of Canada.

Copy.]

Enclosure 9 in No. 38.

Head Quarters, Northern Dept. U. S. A.

Encl. 9 in No. 38.

SIR,

Sackett's Harbour, N. Y. 10th August, 1839.

I HAVE the honour to receive your communication of the 9th instant, covering a copy of Commander Fowell's report to you, in further explanation of the firing upon the American

steamer "St. Lawrence," on the 4th inst., brought to your notice by my communication of the 5th.

From the tenor of yours in reply of the same date, in which you are pleased to say, "I beg to inform you that I hear of such a circumstance with great sorrow and regret, that such a proceeding has not the slightest authority from me, but it is, on the contrary, a direct infringement of the orders given by me for the protection of the British shores of the St. Lawrence."

I am quite unprepared for so elaborate a justification of an act which cannot but be regarded as a wanton outrage. It would be unbecoming in me to anticipate the consideration which the United States Government may be disposed to give the transaction by entering into any discussion of the nice question of international law, which your officer seems disposed to transfer to those inland waters, in all the vigour of its application to the high seas—but until otherwise instructed by my superiors, I shall protest against the doctrine in theory, and to the utmost exertion of my power resist it in practice as totally inapplicable to the case, and uncalled for by the circumstances of either frontier—at war with the rights of our citizens and opposed to the peace and quiet of the border. The St. Lawrence is a regularly advertised passage-vessel, as well known to the people on the river at either side of the St. Lawrence, her name so legibly written as to be so read by the naked eye at half a mile's distance. Your officer says, she was within 150 yards of his schooner. I am well informed she was in the channel, and infer, if so near, that his vessel was wide of the shore. Doubtless it would be in better keeping with national pride, for all our vessels to display the flag of the country on passing, by land or water, that of a foreign Government; under the circumstances however, I apprehend this is a matter in which our people are responsible to their own Government alone. I do not doubt Commander Fowell received information "of a number of brigands from the United States frontier," being about to effect a landing on some point of the Canadian territory, and the further information is believed to be correct, that a band of robbers, some eight or ten in number, did embark in the schooner "Gurnsey" from Oswego, on a marauding expedition near Cobourg, almost all of whom I am happy to learn are in your custody, as the "Gurnsey" is in that of the American authorities.

These are mere individual acts of rascality on the part, in nine cases out of ten, of refugees from Canada; but, I venture to say that this frontier is quite as unexcited and indifferent to the affairs of Canada at the present moment, as any portion of the interior of our country, and will probably so remain unless roused by a repetition of acts, such as form the principal subject of this communication; that the steamer "St. Lawrence," so notorious as a mere passage-vessel with, probably, no severer weapon on board than a lady's fan, should have been mistaken in broad daylight for a buccaneer argues a high degree of credulity. Your officer says, to be sure that he only meant to fire *blank* cartridges, but the mistake was quite awkward when a vessel having females on board was the object aimed at. Whether blank or ball, however, is quite immaterial to the question.

I have now the honour to give you notice, that I shall tender to the owners of each of the steamers navigating the St. Lawrence, a guard sufficient to resent on the instant (if insufficient to redress,) any insult offered, and that such guard, if accepted, will have my positive orders to return any and every fire opened upon them, come from what quarter it may.

It is hardly necessary that I should assure you, Sir, of the pain it would give me to witness a recurrence of the late deplorable events.

With high respect, &c.

To Captain Sandon, R.N., (Signed) W. J. WORTH, Col. Com.
Comd. Her Majesty's Naval Forces in Canada.

No. 41.
Sir George Arthur
to the Marquis of
Normanby.
21st August, 1839.
Enc. 9. in No. 38.

[Copy]

Enclosure 10 in No. 38.

Sir,

Kingston, 12th August, 1839.

I have the honour herewith to transmit, for your Excellency's information, the copy of a letter received from Colonel Worth subsequently to my despatching to your Excellency the correspondence to which it relates.

Encl. 10 in No. 38.

I will take the liberty to remark to your Excellency, that the "Saint Lawrence" is a new vessel, just commenced running as a packet; and that, in coming down upon the "Montreal," and so close to the town of Brockville, she was decidedly out of her course and route usually taken by the American vessels, who generally keep their own channel, as being the best.

I have renewed my instructions, that no unnecessary or improper obstructions may be offered to vessels pursuing their lawful occupations; and shall be glad to put into execution any further orders or wishes your Excellency may deem expedient to direct upon this subject.

I have, &c.

(Signed)

W. SANDON,

Captain commanding on the Canadian Waters.

His Excellency Major-General Sir George
Arthur, K.C.H., Lieut.-Governor.

No. 39.

(No. 179.)

COPY of a DESPATCH from Major-General Sir G. ARTHUR to the
Marquis of NORMANBY.

MY LORD,

Government House, Toronto, 27th August, 1839.

No. 39.
Sir Geo. Arthur to
the Marquis of
Normanby.
August 27, 1839.

IN my despatch, No. 176, of the 21st instant, I submitted to your Lordship a review of the then state of things in this province.

An opportunity of sending to New York having presented itself, I propose continuing the detail down to this date, although nothing particularly interesting has occurred since my last communication.

In that despatch, I adverted to the occurrence of a shot having been fired from Her Majesty's schooner Montreal, in consequence of the American steam-boat St. Lawrence having run close into Brockville without showing her colours.

Captain Sandom has since personally investigated that affair; a copy of his letter to me, in relation to it, is enclosed; and although I still think that the shot ought not to have been fired, your Lordship will be relieved to find that the person in charge of the American vessel acted very improperly.

The master of that steamer, who seems to have been below at the time, and was apparently unconscious of what his mate was doing, appears to justify Commander Fowell's proceeding.

With reference to the meeting lately held at Hamilton to consider the Earl of Durham's scheme of "responsible government," I intimated to your Lordship that it was my intention to make it an occasion to place before the public the opinion I entertained in relation to that question.

A copy of the reply, which accordingly I addressed to the committee, is herewith enclosed, together with the resolutions; and I hope that the views therein expressed will meet the approbation of Her Majesty's Government. I have gone, perhaps, into somewhat more detail, but it has been my endeavour to take for my guide the sentiments expressed in Parliament by your Lordship and Lord John Russell.

The expectation of further commotion, both within and from without, still gains ground. There is an anxious, restless foreboding, difficult to define, pervading the community, of a coming storm; but I trust from the knowledge and experience which I now have of the country, that if it cannot be dissipated, of which I by no means despair, we shall be able to encounter the worst with far less fuss and excitement than heretofore.

I have the honour to be, my Lord,

Your Lordship's most obedient humble Servant,

GEO. ARTHUR.

The Marquis of Normanby,

&c. &c. &c.

Enclosure 1 in No. 39.

SIR,

Toronto, 27th August, 1839.

Encl. 1 in No. 39.

WITH reference to your Excellency's letter of the 21st instant, by which I judged you required some further information on the subject of the commanding officer of Her Majesty's hired schooner Montreal having fired two muskets to enforce his demand for a merchant steam vessel to show her colours when coming close in with the town of Brockville, and near his vessel. I have the honour to inform your Excellency that I have made every inquiry respecting it, and find that the steam vessel was at the time coming down unusually near the British shore, and that had she continued the course she was then steering, she would have passed inside the small islet, and into the harbour. A few moments before she was hailed, she was so nearly in a line with Her Majesty's schooner, that had she not altered her course, she would probably have run the schooner down, and that it was with this impression of alarm for the safety of his vessel, which induced the commanding officer of the Montreal, to be unusually urgent to see the colours, not himself being aware of her occupation, or what vessel it was.

A gentleman, a passenger on board, has informed me, that the captain of the steam vessel, at the moment of the occurrence, was below in his cabin, and when, from the information of the passengers of what had passed upon deck, he the captain made inquiry; he strongly reprobated the act of the mate, or other person in charge upon deck, and stated, in the hearing of

all the passengers; that his vessel was decidedly inside the British line, and ought to have shown her colours without being called upon to do so; and further, that when some United States' officer, passenger on board, and the mate or clerk said it was their determination to put the circumstance in the public prints, as they considered it an insult, he the captain affirmed his determination to put in his counter statement to show the British officer was right in making the demand, and said "if he had not done so he deserved to have his epaulette torn from his shoulder."

From these circumstances, as well as from other information I have received upon the subject, it appears the motive which first actuated the commander of the "Montreal" in making the demand he did was not that of mere *etiquette*, but from an impression on his mind that the "Montreal" was in imminent danger of being run over by the steam-vessel; and in this feeling the whole of the crew of the schooner participated.

My orders have been most positive, that by no act of the vessels or boats employed for the protection of the British shore, should any cause of offence be offered. I felt most anxious to clearly understand this occurrence; and feel assured I can report to your Excellency, as well from my own personal inspection on the spot and inquiries, as from the proffered statement of the captain of the American steam-vessel, that her passing so unnecessarily near the schooner, moored close in with the town of Brockville, was one of those occurrences which sometimes take place when authority is vested in irresponsible hands. Had the captain of the steam-vessel been upon deck, this would not have occurred.

I have, &c.

(Signed) WILLIAMS SANDOM, Captain R.N.
Commanding in the Canadian Waters.

His Excellency Major-General Sir George Arthur,
&c. &c. &c.

Enclosure 2 in No. 39.

To his Excellency Major-General Sir GEORGE ARTHUR, K.C.H., Lieutenant-Governor of
Upper Canada.

Hamilton, G. D., 16th August, 1839.

WE take the liberty of forwarding to your Excellency the accompanying resolutions, in obedience to the instructions of a committee appointed at a public meeting of the freeholders and inhabitants of the district of Gore, held in pursuance of a requisition to the high sheriff.

Encl. 2 in No. 39.

We also beg leave to direct your Excellency's attention to the enclosed copy of the "Hamilton Journal" giving a report of the proceedings of the meetings at which the resolutions were severally passed, by which your Excellency will be satisfied of the numerous attendance (considering that the hay harvest was at this time at its height) and great respectability of the persons present.

On behalf of the committee, and more especially on behalf of the great body of persons whose sentiments are represented in the resolutions, we pray your Excellency's serious attention to the subject thus brought under your Excellency's notice, satisfied that the exigencies of the country imperatively require an energetic and immediate action on the great principles herein contained.

And we are your Excellency's most obedient humble servants,
(Signed) GEO. S. TIFFANY, Chairman of the Committee.
E. CARTWRIGHT THOMAS, Secretary of Committee.

Resolutions adopted at a General Meeting of the District of Gore, held at Hamilton the 27th of July, 1839, on requisition of the High Sheriff.

Hamilton, 27th July, 1839.

RESOLVED 1st.—That this meeting continues to feel a strong attachment to the British Crown; nevertheless, having observed with dismay the present unsettled state of public affairs, it is desirous of expressing its want of confidence in those who are known to exercise an undue influence over the government of the country, and declaring its belief that the present House of Assembly does not represent the wishes or sentiments of the constituency of the province, particularly in its late Report of its Committee, purporting to be the Report of the House of Assembly in answer to Lord Durham's Report on the State of the Province.

Resolved 2d.—That the Report of the Earl of Durham, in all its material points, has been received by an overwhelming majority of the people of Upper Canada with the most abundant gratification; and this meeting is of opinion that, provided *legislation be not delayed*, but that the leading principles of that Report be fully, fairly, and, above all, speedily carried out, this colony may yet attain a high degree of prosperity and happiness, and be maintained in happy connexion with the mother country to an unlimited period.

Resolved 3d.—That this meeting is of opinion that a *responsible government*, as recommended in Lord Durham's Report, is the only means of restoring confidence, allaying discontent, or perpetuating the connexion between Great Britain and this colony.

No. 39.
 Sir Geo. Arthur
 to the Marquis of
 Normanby.
 August 27, 1839.
 Encl. 2 in No. 39.

Resolved 4th.—That this meeting earnestly hopes that it will please his Excellency the Lieutenant-Governor to dissolve the present House of Assembly forthwith, in order that, by an appeal to the people of this province, their sentiments upon the present state of public affairs, and especially upon the Report of the Earl of Durham, may be obtained.

Resolved 5th.—That this meeting hereby pledges itself to support at the next election such candidates, and such only, as can declare themselves favourable to the leading principles of Lord Durham's Report, and shall be prepared to support the same by every means in their power.

Resolved 6th.—That the union of these provinces upon just and fair terms is our wish, and in our opinion such an union will be productive of the most happy results.

Resolved 7th.—That the following gentlemen (with power to add to their number) be appointed a committee, to draft an address to Her Majesty founded upon the foregoing resolutions, to procure signatures to the same, to invite the other districts of the province to join us; to enter into such correspondence as they may think proper, and to do such other acts as may seem to them necessary, for the purpose of carrying out the intentions of the meeting: The committee of management now acting at Dundas, on behalf of the county of Halton, appointed at their meeting yesterday: also G. S. Tiffany, N. Ford, D. Allison, A. Carpenter, J. L. Wilson, E. C. Thomas, R. G. Beasley, J. Smith, S. Mills, W. B. Vaneverry, D. Buchan, H. Capron, M. Aikman, G. Hugaboom, J. Jackson, Walter Scott, Caleb Hopkins, Harmanus Smith, E. C. Griffin, James Gagé, J. A. Wilkes, W. C. Ross, J. S. Sandiland, Major Bowen, William Kent, Abraham Cooke, and H. Moyle.

Resolved 8th.—That this meeting cannot separate without expressing its grateful thanks to the Earl of Durham for his deep attention to the welfare of the American colonists, nor without declaring the hope that his Lordship will continue to exert himself in his place in Parliament, and by every other constitutional means, on behalf of the same.

Resolved 9th.—That a copy of these resolutions being signed by the chairman and secretaries of this meeting, be forwarded to his Excellency the Lieutenant-Governor of this province, to the Marquis of Normanby, colonial secretary, and to the Earl of Durham.

Moved by William Chisholm, esq., seconded by James L. Willson, esq., that the thanks of the meeting be given to the sheriff for his able and impartial conduct while presiding at this meeting, which was unanimously carried.

(Signed) ALLAN McDONELL, Chairman.
 JAMES L. WILLSON,
 JOHN SMITH,
 JOSEPH DAVIES, } Secretaries.

Enclosure 3 in No. 39.

George S. Tiffany, Esq., and the Gentlemen composing the Committee appointed by the General Meeting, held at Hamilton, on the 27th July, 1839.

Government House, Toronto, 24th August, 1839.

Encl. 3 in No. 39.

The address you have transmitted to me, and the accompanying resolutions, of a public meeting held at Hamilton, are such as to render, in reference to so respectable a meeting, a reply on my part necessary.

I am requested to dissolve the present provincial assembly, for the purpose of referring to the constituency of this colony the expediency of establishing a system of government, the effect of which would be to make certain public functionaries in the province alone answerable for the exercise of the Royal prerogative, in the administration of public colonial affairs.

Although it was competent to Her Majesty's High Commissioner to offer any recommendation to Her Majesty, which seemed to him justly and properly to result from his investigations in this province; and although it belongs to Her Majesty and the Imperial Parliament to make any alterations in the constitution of this portion of the empire, which may appear wise and prudent, I do not conceive that the governor of this province is empowered to submit, for the consideration of the electors, a question involving most essential alterations in the fundamental principles of the constitution, under the authority of which the powers of government and legislation are exercised in the colony.

I have given to the system, called "responsible government," the most deliberate consideration; and I readily avail myself of this opportunity to lay before the community, with frankness and candour, some of the leading consequences which, I apprehend, must inevitably follow its adoption.

Judging from the reported expressions of opinion from Her Majesty's constitutional advisers, I am led to believe, that I am but reiterating their views, when I state to you, as the result of my own deliberations, that the proposed plan would lead to a state of things inconsistent with the relations of this colony, as a dependency of the British Crown.

I consider that the general influence of public opinion on the exercise of the functions of the sovereign, which the constitution of England practically allows, ought carefully to be dis

tinguished from the influence which the people of a particular portion of the empire may safely possess; and I cannot resist the conclusion, that the complete ascendancy of popular will in a colony, which must necessarily accompany the introduction of "responsible government," renders such colony practically independent, and its relations with the mother country thenceforth but a name.

Although by means of the powers of legislation, wisely granted to this province, the people have an immediate share in the management of their own public and local concerns, and although they elect without control the popular branch of the legislature, yet I deem it most essential that the influence of this part of our constitution should not be extended to such a length as would enable it virtually to supersede that legitimate action of the royal prerogative, guided by national will, upon which the connexion between the colony and the mother country must mainly depend.

I think it apparent that under the proposed system there would not be in existence any constitutional power which could preserve uniformity of principle in the policy of Her Majesty's Government and the Imperial Parliament, with that to be pursued in the colony, and I cannot imagine anything so incompatible with respect for the throne, with all sound notions of government upon monarchical principles, and with the connexion between the colony and the parent state, as the establishment of a distinct, independent, and inconsistent policy.

I think that so long as a colony enjoys the protection and support which are the consequences of a connexion with a mighty empire, it is essential that the colony, its government, and its legislature, should be modelled in such a manner as would enable it to insure strict harmony with the supreme powers of government vested in the parent state.

The powers required to be ceded to the popular branch of the legislature would extend, not merely to the control and removal of the officers of the local government, even when acting in obedience to instructions from the Ministers of the Crown, but would enable that body to dictate to those Ministers a course of proceeding in relation to the colony inconsistent with the general policy of the empire, to which a Minister, responsible directly to the Imperial Parliament, as well for his conduct in reference to the colonies as to the mother country, could not accede; and thus, instead of the maintenance of harmony, an impending, almost inevitable danger of collision would be produced.

The necessity for the people of Upper Canada preserving the sympathies and goodwill of the inhabitants of the neighbouring country has been powerfully recommended by the report, which formed the subject of consideration at the public meeting at Hamilton. Need I urge upon the subjects of the British Crown, in Upper Canada, the still more obvious duty and necessity of cultivating the affections of the sovereign and people, by whose power they are sustained, and to whose protection alone they can look with confidence?

I feel assured that whilst the Crown has shown its determination, on the one hand, to maintain inviolate this valuable portion of the British Empire, the inhabitants of this province must have perceived an extreme anxiety on the part of Her Majesty's Government to act, as much as possible in accordance with the views of the provincial legislature, in all local questions, and to accede in every practicable manner to its wishes, even when the measures contemplated could not fail to affect more general national concerns.

I have endeavoured to make myself intimately acquainted with the true interests of the people of Upper Canada. I know that much requires to be done, and that many difficulties have to be overcome, before the extensive tracts of uncultivated land can be made available to advance the provincial resources.

I am convinced of the necessity of diffusing over the whole province, the inestimable blessings of sound religious instruction and a good system of general education. I am of opinion that restrictions on trade, which work injuriously here, may be removed without real prejudice to the interests they were intended to protect; and that immigration, in a better state of things, may be effectually promoted; and I am prepared to assist in investigating and improving all the public departments of the Government, and to make the real and deep responsibility of all its officers fully apparent.

I am likewise deeply sensible of the necessity of developing the resources of the province by means of public improvements. I have lamented and endeavoured to counteract the causes which, for a time, have paralyzed the energies of the enterprising inhabitants of this colony; and I have joined in earnestly soliciting that aid which alone can place the financial affairs of the country permanently on a satisfactory basis.

I cannot permit an allegation,—that any persons are known to exercise an undue influence in this government,—to go abroad without contradiction. I should ill perform my duty to my Sovereign were I to permit any influence to prevail with me inconsistent with the welfare of the people whom I have been sent to govern, and whose happiness I am enjoined to advance by every means at my disposal.

If, unhappily, I have failed in this object, I am not beyond the complaints of the people of Upper Canada; but, in common with the highest and the lowest servants of the Crown, I am answerable for my measures and conduct. From this high responsibility I do not seek to be relieved; nor can I be easily convinced that it is the wish of the people of this province to see it transferred, with all the powers of government, to a few officers in the colony, who acting independently of the wishes of the Sovereign and of the policy of the general Government and Legislature of the empire, would sway for a time the destinies of this country, and expose it to the continual struggles of party and faction, so utterly at variance with the prosperity and happiness of a young and rising community.

(Signed) GEO. ARTHUR.

No. 39.
Sir Geo. Arthur
to the Marquis of
Notmanby.
August 27, 1839.
Encl. 3 in No. 39.

No. 40.

(No. 183.)

COPY of a DESPATCH from Major-General Sir G. ARTHUR to the Marquis of NORMANBY.

MY LORD,

Government House, Toronto, 9th Sept. 1839.

No. 40.
Sir Geo. Arthur
to the Marquis of
Normanby.
Sept. 9, 1839.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch, No. 84, of the 23d of July, enclosing for my information a 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 had 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 50 miles of the Canadian frontier. Your Lordship has kindly explained the grounds on which this decision had been adopted.

Aug. 29, 1839.

The receipt of this official communication has enabled me to comply with the wish expressed by the Executive-Council, in their Minute of the 20th of August, of which a copy has been already transmitted to your Lordship, that "your Lordship would place it in my power to explain that the release of the prisoners did not proceed from any disapproval of their sentence, or from a belief that injustice had been done them, but, on the contrary, that it resulted from legal difficulties, which Her Majesty's Government regretted, and of which it admitted the weight with great reluctance.

I have now the honour to enclose a copy of the Upper Canada Gazette, which contains such extracts from your Lordship's Despatch as I considered it prudent to make public; and their promulgation, I am satisfied, will be of the greatest service in the mitigation of an evil that seems to have been quite unavoidable, and which Her Majesty's Government have unsuccessfully struggled hard to avert.

I have the honour to be, my Lord,

Your Lordship's most obedient humble servant,

The Marquis of Normanby,

GEO. ARTHUR.

&c. &c. &c.

Enclosure in No. 40.

UPPER CANADA GAZETTE, 28th August, 1839.

Provincial Secretary's Office, Toronto, 26th August, 1839.

Encl. in No. 40.

THE Lieutenant-Governor announces that the undermentioned state prisoners, viz.,—

Ira Anderson,
James Brown,
Randal Wixon,
William Alves,
Robert Walker,

Leonard Watson,
John Goldsbury Parker,
Finlay Malcolm, and
Paul Bedford,

who were sent to England for the purpose of being transported to a penal colony, have been released.

Her Majesty's loyal subjects will be gratified to find, from the perusal of the following extract from a Despatch from the Right Honourable the Marquis of Normanby, Her Majesty's Ministers have been fully sensible of the inconvenience that might result from the discharge of those "self-convicted" prisoners, and have only yielded to their liberation from inevitable necessity.

By his Excellency's command.

R. A. TUCKER, Provincial Secretary.

Extract from a Despatch, No. 84, of the 23d July, 1839, from the Marquis of Normanby, Her Majesty's Principal Secretary of State for the Colonies, to his Excellency Major-General Sir George Arthur, K.C.H., &c. &c. &c.

"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 judgment 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 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."

No. 41.

(No. 191.)

COPY of a DESPATCH from Lieutenant-Governor Sir GEORGE ARTHUR to the Marquis of NORMANBY.

MY LORD,

Government House, Toronto, 17th September, 1839.

As my despatches must be closed this evening, in order to be forwarded by the Great Western, I am anxious to convey to your Lordship intelligence of our situation down to the latest period.

Rumours of the movements of the disaffected within the province, and of their allies, the self-styled patriots on the American frontier, whispers of plots and conspiracies, and of "Russian agencies" being at the bottom of all, are extending just as they did last year, with the addition of the excitement that is occasioned by the continued meetings in favour of "responsible government," which, the reformers say, they must and will have.

I apprehend, however, that these reports, gathering strength and augmenting terror as they pass on from alarmist to alarmist, are founded upon what is the desire of the disaffected in the province and their partisans on the frontier, rather than upon what they will actually attempt.

Some robberies of a daring kind have been committed, within the last fortnight, on the rivers St. Clair and St. Lawrence; and four days ago the episcopal church at Chippewa; on the Niagara frontier, was burned by incendiaries, who are supposed to have crossed from the United States; but of this I have seen, as yet, no positive proof.

In this harassing way, isolated crime, and provocation to retaliation, which it will require great vigilance to prevent, will most probably be the system of aggression attempted to be carried on throughout the winter, unless, providentially, the parties contemplating such proceedings should be deterred by the danger of the enterprise, to themselves.

No. 40.
Sir Geo. Arthur
to the Marquis of
Normanby.
Sept. 9 1839.
Encl. in No. 40.

No. 41.
Sir Geo. Arthur
to the Marquis of
Normanby.
Sept. 17, 1839.

No. 41.
Sir Geo. Arthur
to the Marquis of
Normanby.
Sept. 17, 1839.

To this end the capture of the banditti that landed at Cobourg, as reported in my despatch of the 21st of August, No. 176, and their immediate conviction, will have proved very important means; while another marauding attempt, lately made at Grenadier Island, in the St. Lawrence, terminated in one of the party, who had crossed the St. Lawrence, being shot, without the contemplated robbery being effected.

Our state of preparation, and the examples of last year, will, I trust, prove a sufficient security against the execution of any renewed schemes of violence or outrage in considerable force; unless, indeed, there should arise anything here which may be termed an insurrection, in which case thousands would be ready to cross from the opposite frontier and render active assistance.

At present I can discover nothing seriously to apprehend. On the contrary, I hope to see the existing feverish state of things subside, so soon as the "responsible government" meetings are over, and yet there is an appearance of undefinable mischief that makes me continually anxious.

By the British Queen I shall have the opportunity of again addressing your Lordship in a few days.

I have the honour to be, my Lord,

Your Lordship's most obedient humble servant,

GEORGE ARTHUR.

The Marquis of Normanby,

&c. &c. &c.

No. 42.

No. 196.)

COPY of a DESPATCH from Lieutenant-Governor SIR GEORGE ARTHUR to the Marquis of NORMANBY.

My LORD, Government House, Toronto, 25th September, 1839.

At the request of certain magistrates of the township of Guelph, I have the honour to transmit to your Lordship the accompanying copy of a declaration signed by 300 of the inhabitants of that township and its vicinity, in reference to the report of the Earl of Durham on the affairs of British North America.

I have further the honour to transmit a copy of the letter from the magistrates which accompanied the declaration, as also of my reply thereto.

I have the honour to be, my Lord,

Your Lordship's most obedient humble servant,

GEO. ARTHUR.

The Marquis of Normanby,

&c. &c. &c.

Enclosure 1 in No. 42.

Declaration of the undersigned Inhabitants of the Township of Guelph, District of Gore, and its vicinity, in reference to the Report of the Earl of Durham.

To his Excellency Sir George Arthur, K.C.H. Lieutenant-Governor of the Province of Upper Canada, and Major-General Commanding Her Majesty's Forces therein, &c., &c., &c.

May it please your Excellency,

We, Her Majesty's loyal and dutiful subjects, the undersigned inhabitants of the township of Guelph, and its vicinity, deem it our duty, at the present critical period, to give expressions to our sentiments respecting the state of this province, and more especially with reference to the report of the Earl of Durham, a document which now forms the subject of much public discussion.

We are persuaded that the greatest want experienced by Upper Canada at this moment is that of repose and tranquillity. We are convinced that our most dangerous enemies are internal strife and dissention. Threatened, as we are, with a continuance of those predatory violations of our soil, which have been already attended with the murder of our fellow subjects and the plunder of their property, and which may yet result in a national and bloody war, of which this province must be the theatre.

We deeply feel the importance of maintaining unanimity amongst ourselves; we believe that by doing so we shall best strengthen the hands of the executive in taking measures for our defence, and most effectually place ourselves in that state of preparation on which, in a great measure, depends our safety. Nor is internal tranquillity less essential to the encouragement of immigration, than it is to our successful defence against foreign insult and

No. 42.
Sir Geo. Arthur
to the Marquis of
Normanby.
Sept. 25, 1839.

Encl. 1 in No. 42.

aggression. Who will cast in his lot among a distracted people? Who will invest his capital where all things appear in a state of insecurity and commotion?

Influenced by these considerations, we are most reluctant to take any step to increase the excitement recently occasioned within this province by the Report of the Earl of Durham, but as in that Report an important change is recommended in the mode of administering the government of this colony, a change which, plausible as it may appear, we consider to be pregnant with danger to our monarchical institutions, and to expose to much peril our connexion with the mother country, and as the attempt is now being made to obtain an expression of public opinion in favour of that portion of Lord Durham's Report to which we refer, we are compelled thus formally to express our sentiments, lest the resolutions which have been adopted at a few public meetings should appear to be the voice of the whole people of Upper Canada.

We readily admit that Lord Durham's Report contains many valuable suggestions, which we should be glad to see carried into effect, but we feel bound to protest in the strongest manner against the adoption of that portion of it which recommends that the executive government of this province should be rendered responsible for all its acts to a majority in the House of Assembly; we believe that we already possess a responsible government; our executive is responsible to the Crown, whose Ministers are responsible to the Imperial Parliament. We possess, besides, the privilege of a representative House of Assembly, and we know that a law cannot be enacted, nor a tax imposed, without the consent of the majority of the people of this province, given through their representatives in that House. There all public accounts are called for and examined, and all public measures freely debated; and we do not doubt that every representation of that House will at all times command the fullest attention of the Imperial Government.

This is all the responsibility we desire, and we are sure that it is all that is compatible with our connexion with England as one of its colonies, for we cannot forget that we are not an independent nation, but a province of a great empire. We find it admitted by Lord Durham that the system which he has recommended would render this province independent of the mother country, so far as relates to its internal government.

Such being the case, we see nothing to prevent the popular branch of the legislature from assuming the most democratic form, and establishing universal suffrage, vote by ballot, and all the distractions attendant on annual parliaments, with a House of Assembly so constituted, and an executive responsible to it for all its acts. We are of opinion that we should have virtually exchanged a monarchy for a republic, a form of government under which the experience of the United States proves that every species of public fraud and corruption may prevail; or if the particulars above-mentioned should be regulated by the Imperial Parliament, we believe that the spirit of independent legislation without any reference to the Imperial Government would soon acquire such strength (more especially when we consider our proximity to a neighbouring republic) as to issue in repeated attempts to throw off what would be regarded as the yoke of England, we mean English determination of our form of government, English regulation of our foreign relations and of our trade, and the disposal by the British Government of the public lands of this province, as also of the revenues arising therefrom. All which matters Lord Durham proposes to reserve for the control of the mother country. And when we consider how liable to fluctuation and change is the popular will, and how often a few designing men succeed in inflaming the minds of the people, and in leading them to adopt opinions which when left to their own unbiassed judgment they reject; when we recollect the course pursued by the House of Assembly of Lower Canada under the rebel Papineau, and the line adopted by our own Assembly under the traitors Bidwell and McKenzie, we fear that the control of the mother country, or, to use another expression, of Lord Durham's, "a subordination on the part of the colony," would be but ill secured by the authority of the Imperial Legislature, by the protection which we should desire against foreign enemies by the beneficial terms secured to our trade, or by our share of the reciprocal benefits which would be conferred by a wise system of colonization, which are the only guarantees suggested by Lord Durham. Such another Assembly as McKenzie's might, by some misfortune, again misrepresent the province;—are we prepared at its bidding, to turn rebels against our Sovereign and become republicans? We answer, "Never!" And yet we are convinced that such is the condition to which the loyal inhabitants of Upper Canada would be involuntarily reduced in consequence of the adoption of the responsible government recommended by Lord Durham.

To conclude, we are far from intending by this declaration of our sentiments to give it as our opinion that there are no evils affecting this province which call for redress; on the contrary, we believe that measures ought speedily to be taken to relieve this colony from the difficulties under which it labours.

We are of opinion that the honour and dignity of the British Crown, and the peace and happiness of Her Majesty's subjects in this province, imperatively demand that such measures should be adopted as shall effectually oblige the American Government to restrain its citizens from continuing their disgraceful outrages against the lives and properties of the people of this province, so that, no longer harassed by fears of lawless violence, the inhabitants of Upper Canada may devote themselves to their several pursuits in security and peace.

We believe that the high prices of the wild lands of the Crown present a most serious obstacle to our prosperity, and that it should speedily be reduced within the lowest possible limits. We are desirous of seeing immigration promoted on an extensive and well-regulated system, calculated to promote the comfort and welfare of all who may be induced to settle amongst us; and that a firm line of policy, involving the complete and final settlement of all

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No. 42.
Sir Geo. Arthur
to the Marquis of
Normanby.
Sept. 25, 1839
Encl. 2 in No. 42.

the great questions now pending, should be promptly adopted by the Imperial Government. We believe that, if these measures are taken, Upper Canada would rapidly flourish, that its inhabitants would gladly repose under the powerful and fostering protection of the British empire, grateful for British law, because it affords them British freedom, and unwilling to exchange its long-tried blessings for the crude novelties and republican theories of Lord Durham and his admirers.

(Signed) G. LYNCH, and 299 others.

Enclosure 2 in No. 42.

To His Excellency Sir GEORGE ARTHUR, Knight Commander of the Royal Hanoverian Guelphic Order, Lieutenant-Governor of the Province of Upper Canada, and Major-General commanding Her Majesty's Forces therein, &c. &c. &c.

May it please your Excellency, Guelph, 16th September, 1839.

Encl. 2 in No. 42.

WE, Her Majesty's loyal and dutiful subjects, the undersigned magistrates of the township of Guelph and its vicinity, desire respectfully to express to your Excellency the deep regret and anxiety we feel at witnessing the excitement recently occasioned in this province by the Report of the Earl of Durham; and we cannot avoid stating our conviction, that the interests of Upper Canada have been placed in greater jeopardy by the recommendation of such a system of responsible government as that Report contains, than by all the efforts hitherto made by rebellion and sedition for the destruction of our laws and liberties.

Dark as the prospect appears at this moment, we are, however, not left without encouragement to hope for better days.

We have learned, with the highest satisfaction, the strong expression of opinion given by several of Her Majesty's Ministers in opposition to Lord Durham's scheme of responsible government; and we trust that no representations made to the Imperial Government during the fever of a temporary excitement will ever induce it to lend its sanction to a system which would inevitably lead to the dismemberment of the empire, and the establishment of republican institutions within this province.

We derive further encouragement from the knowledge that Upper Canada contains a strong and numerous body of loyal subjects of Her Majesty who have not suffered themselves to be deluded by the plausible theory of Lord Durham, and who are determined to live and die in defence of our glorious constitution. We have great satisfaction in being able to corroborate this statement in the most satisfactory manner, so far as this township is concerned; and with that view take the liberty of submitting to your Excellency the accompanying declaration, in reference to the Report of the Earl of Durham, signed, in a few days, by upwards of 300 of the most substantial people of this place, which we respectfully solicit your Excellency to transmit to England, to be laid before Her Majesty.

We conclude by assuring your Excellency that, while we look anxiously to the Imperial Government for the exhibition of firmness and constitutional principles in settling the affairs of this province, and to the loyal inhabitants of Upper Canada for union, activity, and fidelity in defence of the cause of loyalty and order, we rely with the fullest assurance upon the constitutional feeling, the energy, and lengthened experience of your Excellency for the successful conduct of the government of this province at the present most critical period of its history.

(Signed) BROOKE YOUNG, J. P. GIFFERY LYNCH, J. P.
THOMAS SAUNDERS, J. P. ROBERT ALLING, J. P.
W. THOMPSON, J. P. EDWARD MURTON, J. P.
W. HEWATT, J. P. EDWARD HENNING, J. P.
O. C. HUNT LAYS, J. P. JOHN POORE, J. P.
GEORGE S. GRANGE, J. P.

Enclosure 3, in No. 42.

GENTLEMEN, Government House, Toronto, 20th September, 1839.

Encl. 3 in No. 42

I HAVE received your address of the 16th instant, and have considered with attention the declaration which accompanies it from a respectable body of the inhabitants of Guelph and its vicinity, which I will not fail to transmit to Her Majesty's Secretary of State, in accordance with your request.

The question of responsible government I felt to be one of so much importance, that, in answer to an address from the district of Gore, I expressed my deliberate sentiments fully upon it, and beg to enclose you a Gazette, containing a copy of that paper.

I thank you for the sentiments of confidence which you so kindly express towards myself, and most heartily concur in your conviction, that repose and tranquillity are the blessings most

needed by the people of Upper Canada, and am well assured that you judge rightly in supposing that by unanimity among yourselves you will most effectually strengthen the hands of the executive government in providing for the peace and safety of the country.

(Signed) GEO. ARTHUR.

No. 42.
Sir George Arthur
to the Marquis of
Normanby.
Sept. 25, 1839.

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Brook Young, Esq., and the other Magistrates of the Township of Guelph and its Vicinity, whose Names are subscribed to an Address, dated 16th September, 1839.

No. 43.

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

Government House, Toronto, Sept. 27, 1839.

No. 43.
Sir George Arthur
to the Marquis of
Normanby.
September 27th, 1839.
No. 5.
(Cobourg Star, 18th
Sept., 1839.)
No. 6.

CONTINUING the narrative contained in my Despatch, No. 191, of the 17th instant, I have now the honour to report, that the same rumours to which I before alluded respecting the designs of the disaffected in the province, and their partizans on the American frontier, continue to prevail.

All the wicked heads on both sides are constantly at work, plotting mischief; and many inconsiderate persons, by the course they are now pursuing at the "Responsible Government" Meetings, promote the designs of the most criminal characters.

The foundations of civil order were broken up by the occurrences of the year 1837; and general mistrust and bad feeling open out a way for the display of the worst passions of the worst men, of which they seem keenly disposed to avail themselves.

* * * * *

I have already informed your Lordship of the destruction, by fire, of the Episcopal Church at Chippewa, and the documents now enclosed in relation to that occurrence, would seem to confirm, beyond a doubt, that it was the act of an incendiary from the United States.

No. 1.

A few days afterwards the greater part of the buildings on the property of Colonel Creighton, on the Niagara frontier, were destroyed in a similar manner, and his dwelling-house was saved with difficulty from the conflagration.

It was found to be impossible to try the banditti mentioned in my Despatch, No. 176, who crossed over from Oswego, and were apprehended at Cobourg, for the capital offence, under the Provincial Act 1 Vic., ch. 3, but they were convicted for conspiracy to murder Mr. Henry.

A Coburg Newspaper, containing a summary of the judicial proceedings in this atrocious case, is enclosed.

No. 2.

Excitement on the subject of "Responsible Government" remains unabated; and meetings, termed "Durham Meetings," of the advocates of the system, continue to be convened in various parts of the province.

Two extensive meetings of this kind have been holden during the past week, at Simcoe and Niagara.

The Conservative party—I wish to be understood as attaching to this word its true meaning, and that which would apply to any party in England—is, I think, generally acting with discretion throughout the province.

One address has been forwarded to me, signed by the inhabitants of Guelph, in the Gore district, condemnatory of the principles of local government, advocated in the Earl of Durham's Report. The signatures were individually procured, as the magistrates considered, whilst they desired to express their sentiments, that it was proper to avoid the excitement of a public meeting—a course of conduct, which, I hope, will be generally followed.

Application was made to the Sheriff to call a "responsible government" meeting in this city; but as he considered it would bring down the Orange party in considerable numbers, who reside to the north and west of Toronto, for whose peaceable disposition it was not possible to answer on such an occasion, he declined to call the meeting.

No. 43.
Sir George Arthur
to the Marquis of
Normanby,
September 27th, 1839.
No. 8.

No. 3.

The government was, of course, not appealed to in the matter, and I thought the Sheriff was wrong, and I expected fully that the meeting would have been convened without his interference; but it seems the affair has subsided quietly.

The Orange party, the most formidable, certainly, as a body, in the Province, are all alive. They are, as Her Majesty's government is already aware, enthusiastically loyal; and, resolving to maintain the constitution, they turned out to a man in 1837, and that in a way that in some instances evinced a love of their country quite romantic.

It has been reported to me that there is a considerable organization of independent companies at Rochester, Oswego, Buffalo, and Detroit, under the direction of the state authorities, but, with what view I have not yet been able clearly to ascertain. It may be, that the American government consider that this description of force may be more effective in the suppression of aggression than their totally unorganized militia; at the same time, feeling that there is cause for retaliation from our side, they would be in a better state of preparation to resist it. These companies are armed and clothed, but receive no pay.

The state of the province I have lately been obliged to investigate with deep attention, preparatory to addressing the Commander of the Forces on the subject of the militia force to be kept up during the winter months, because the period for which the services of a portion of that force were engaged will expire about the end of October, and it was necessary to take some immediate action in regard to them. As my communication to Sir John Colborne embodies the views which I entertain respecting our position with reference both to internal and external elements of danger, I transmit a copy of it for your Lordship's perusal.

The uneasiness of the loyal portion of the community on the Niagara frontier has been the subject of anxious consideration in the Executive Council. Your Lordship will be aware that, even if troops were placed in every house, it would not be possible to guard against the hand of the assassin or the incendiary, and it is deeply felt that these villains are secure as soon as they escape into the States!

The Council has advised, as the best protection, that a small police force should be stationed at Niagara, rather than any increase of troops in that quarter, and the necessary expense defrayed from the casual and territorial revenue, before an application can be made to the House of Assembly, upon which advice I intend to act during the winter months, and I trust it will meet with your Lordship's approval. Should it be necessary, I shall adopt the same course on the western frontier—for these villains, who are making it their business to cross over and commit murders and robberies, must be stopped in their career, if possible.

John G. Parker, one of the Canadian convicts, lately liberated in England, now residing in Rochester, is desirous of entering into an arrangement with some Englishman at that place, to effect a transfer to them of his landed property in this province, in exchange for similar property which they hold in the States.

I shall take the opinion of the law officers on the question of Parker's property here, being in any way subject to attainder, so as to avoid further difficulty with the House of Assembly; but, if there be no legal obstacle in the way, as I think there cannot be, I shall be glad to facilitate an arrangement which, I hope, may be the means of severing him from all further connexion with this province.

The question of the "Union" is now very little discussed in Upper Canada: not only republicans and ultra-reformers, but some excellent persons of liberal principles are most clamorous for "responsible government," and, strangely enough, this is demanded by persons who, in other respects, strongly condemn Lord Durham's Report, as well as the Bill that has been sent out, as too democratic, and likely to lead to separation, which they protest they do not desire, whilst they ask for a measure that must inevitably dissolve the connexion.

Such matters as I have referred to in this communication, as may require to be enlarged upon, will be submitted in a separate despatch.

In this, my only intention is to convey a general outline of our present position. There is enough just now to make one, in the administration of this government, very anxious; but, so far as I can judge, vigilance and determination will keep all safe during the winter.

No. 4.
21st Sept., 1839.

(Copy.)

Enclosure 1 in No. 43.

LETTER from Mr. CUMMINGS.

No. 43.
Sir George Arthur,
to the Marquis of
Normanby,
September 27th, 1839

SIR,

Chippawa, 16th September, 1839.

I HAVE the honour to enclose three affidavits, made by respectable persons at this place, for the information of his Excellency, respecting the burning of the church at this place, of which there can be no doubt but that it was done by persons from the other side of the river.

I have, &c.
(Signed) JAMES CUMMINGS.

To the Civil Secretary, Toronto.

Encl. 1 in No. 43.

(Copy.)

John Ussher, of Chippawa, in the township of Stamford, Esquire, maketh oath and saith that he was awakened between the hours of one and two o'clock on the morning of the 13th instant, and informed that the church in this village was on fire; that this deponent, on looking out of the window, observed the said church in flames.

That afterwards, about the hours of twelve or one o'clock of the same day, this deponent being of opinion, from previous acts of the same nature, that the fire in question had been the work of an incendiary from the United States, made a diligent search (in company with two other gentlemen) to obtain every information on the subject. That, upon examining the beach in rear of the church, this deponent discovered the mark where a flat-bottomed boat or canoe had been hauled up, a number of shavings on the beach, and a distinct track of a human foot, about eleven inches long, four inches broad, low heel, and round-toed boot or shoe.

That he distinctly traced this track up the bank and back again, and found from the river clay on the fence where a person had crossed, viz., the second panel on the right of the church in rear.

That this deponent has not the slightest doubt that some persons (there being the marks of several feet where the said boat or canoe was hauled up) from the opposite shore crossed over land burned the said church. When this deponent observed the flames the wind was blowing from the north.

Further this deponent saith not.

(Signed) JOHN USSHER.

Sworn before me, at Chippawa, this
14th day of September, 1839.

(Signed) JAMES CUMMINGS, J. P.

George Coventry, Esquire, affirmeth and says, that he went after John Ussher, Esquire to examine the beach, and corroborates the testimony of said Ussher; that he picked up one of the shavings on the beach, and on examination it proved to be the shaving of white wood, which wood is not in common use in this part of the country.

(Signed) GEORGE COVENTRY.

Affirmed before us this 14th September, 1839.

(Signed) SAMUEL STREET, J. P.
JAMES CUMMINGS, J. P.

James D. Slater, of Chippawa, gentleman, maketh oath and saith, that he was among the first who went to the church, as stated in the foregoing affidavit of John Ussher, Esquire; that he found the church burning from the outside at the north-west corner, where there were a few shavings, that appeared to have been dropped in carrying to the fire; that on the vestry-door there was light wood, and also shavings, which had not ignited.

(Signed) JAMES D. SLATER.

Sworn before us this 14th September, 1839.

(Signed) JAMES CUMMINGS, J. P.
SAMUEL STREET, J. P.

Enclosure 2 in No. 43.

(Extract from the Cobourg Star, 27th September, 1839.)

We are compelled to break off our extracts here, and also to exclude various other matters of interest (including a column or two of advertisements), to make room for the long and interesting trial of the prisoners concerned in the late conspiracy at this place; the four

Encl. 2 in No. 43.

No. 43.
Sir George Arthur
to the Marquis of
Normanby.
September 27th, 1839.

Encl. 2 in No. 43.

principal of whom, we are happy to say have since their conviction been promptly and safely conveyed to the Penitentiary. Their sentences are as follows:

Hart:—Seven years hard labour in the Penitentiary, and to give security, himself in 400*l.*, and two sureties each in 200*l.*, for three years' good behaviour on leaving it.

Wilkins, Wilson and Baker:—Five years Penitentiary, and security the same as Hart.

The Elder Ash:—Six months' imprisonment in the district gaol, with a fine of 100*l.*, and to give security for three years' good behaviour, in addition, the same as the others.

The younger Ash:—Twelve months' imprisonment, and a fine of 50*l.*, security the same—three years.

The Assizes closed on Saturday morning last, when Mr. Justice Jones, and the Attorney General immediately proceeded by land to Port Hope, where a steam-boat was in waiting to convey them to Toronto.

TRIAL OF SAMUEL P. HART AND OTHERS.

(Extracted from the *Cobourg Star*.)

Friday, September 13th. Before Mr. Justice Jones, assisted by the Hon. Messrs. Burnham and Boswell.

S. P. Hart, William P. Wilkins, Henry Wilson, William Baker, Joseph Ash, sen., and Joseph Ash, jun., were placed in the dock, charged with conspiring to murder Robert Henry Esq.; to enter the dwelling-house of the said Robert Henry, and to induce one Henry J. Moon to aid and assist them to rob and murder. The indictment contained seven counts. The prisoners pleaded not guilty. The prisoner Hart seemed unconscious of the situation in which he was placed, and behaved throughout with a great degree of levity. The two Ashes were accommodated with seats before the dock; the other three are strong, powerful looking men. Wilkins has every appearance of a desperado, and the loss of the right eye gives his face a peculiarly sinister appearance.

The following Jury were sworn:

John Betty,
Thomas Webb,
Edward C. Hull,
Israel Humphries,
Samuel Cooley,
Joseph Swayne,

Robert Blomfield,
William White,
Peter Spiers,
Francis Burnett, jun.
Thomas Webster,
Alex. Mellis.

Mr. Attorney-General opened the case by referring to that part of the Judge's charge which defined the various kinds of treason, and said that the crime with which the prisoners were charged did not affect their lives. Of all the attempts to violate the law of which he had ever heard, this was the most atrocious, the most cold-blooded; the very thought of it made the blood run cold, and retreat to the heart. One of the prisoners, long a resident in this village, had formed an attempt to take away the life of one of its most respectable and inoffensive inhabitants, Robert Henry, from whom, no doubt, he had often received acts of kindness. But true is it that the Almighty looks with an angry eye on the deeds of the wicked, and contrives to dissipate their plans; and happy had it been for Hart if he had attended to the various warnings of the last two years,—that that Almighty Providence had so often exercised his miraculous interposition to shield the innocent and destroy the guilty. It was horrible to think that he, the son of an old soldier, should conspire to imbrue his hands in the blood of innocent and inoffensive men, and endeavour to subvert the government of this country. And that Ash,—this old man—I do not like to look upon him,—that he, with the king's deed in his pocket for one of the finest farms in the neighbourhood,—who has been well known and hitherto respected, should league himself with such men, is truly horrible, and shews to what a state the demon of change and innovation has brought this once happy province. Gentlemen of the Jury:—It will be proved to you that their plan was to murder this old man (pointing to Mr. Henry)—this good old man, who he was sure had never done aught to gain the hatred of any man living. The learned Attorney went on to state the facts as they were afterwards proved in evidence. Gentlemen of the Jury:—Do you not see the hand of Providence in the bringing forth the evidence?—Moon had connected himself with their political plans, but when murder was mentioned,—when he found he was expected to become the midnight assassin—that virtuous feeling which the Almighty has planted in every bosom asserted its sway, and he, at the risk of his own life, determined to save that of others. That feeling may lie torpid—may be suppressed; but totally destroyed it cannot be. Yes, gentlemen, Moon came forward in obedience to its impulse, and, gentlemen, said the Attorney General, I honour him for it—I proclaim it, gentlemen, I honour him; and assert that, as the guilty sinner who repenteth deserves to be received into heaven, so does this man deserve to be received into respect by every loyal inhabitant of this province. I have heard his story, and assert that I believe every word he uttered. We will also produce two sailors, who were on board the schooner, and whose appearance here to-day shews something almost miraculous. It was deemed of some consequence to have the evidence of Sprague, for whose production we have made every exertion, and who, I am free to say, I believe is kept away by the guilty confederates of these designs. I sent Mr. Ruttan over to Rochester to carry to Sprague my written assurance that he should not be prosecuted. Mr. Ruttan, as he will tell you, by the merest accident, (chance I will not call it, gentlemen, for it was not chance, it was the interposition of God to detect the guilty) meets on board a boat the two men, who will now be produced, and who will corroborate Moon's evidence in a most singular way. I know the

learned counsel for the defence will be instructed to impugn Moon's evidence; and by whom will he be instructed?—By Hart, gentlemen, who offered, for 300*l.*, to betray to the Government all the plans of his guilty associates. I have my hand on the letters from Hart, in which he offers to become Queen's evidence; and betray the persons who were leagued with them. Gentlemen, vice is always cowardly. These men, with these arms, lay plans of murder, to be executed in the dead of night, and quietly submit to be taken prisoners with these murderous weapons in their reach. Had these things taken place among those people and those institutions which they would wish to introduce here, do they think, can they think, that they would have escaped popular indignation, and after six weeks, quietly and peaceably, unhurt, untouched, be placed upon their trial before twelve of their countrymen, defended by the ablest advocate, and guarded by the sacred majesty of the British Law?

The learned gentleman described at full the law as regards conspiracy, and so closed his address, of which we have been able to give but a very imperfect sketch.

After the Attorney-General's speech the witnesses on both sides were ordered to withdraw, on motion of the prisoner's counsel. The first witness called was

Mr. Sheriff Ruttan—Was directed by the Attorney-General to proceed to the other side, in order to convey to Sprague a written assurance that he would not be prosecuted if he came over; saw Sprague, who said that he would come over, but that he had first to go to Oswego for some books. Mr. Ruttan proceeded to Oswego, and while on board the Express fell in into conversation with the captain, who mentioned that he had on board one of the men who had been on the schooner which took Hart and his party over to Canada.

[Mr. Ruttan was proceeding to state the conversation, when he was stopped by Mr. Boulton, who objected to anything being given in evidence which took place on the other side, unless some of the prisoners were present. This objection was overruled: the Attorney-General, however, waved the right to examine Mr. Ruttan.]

Second Witness.—Resides near Rochester; is a sailor; has seen the four prisoners (Hart, Wilson, Wilkins, and Baker); it was on board a vessel at Oswego: Hart came on board first; it was the latter part of July. Was one of the hands on board the schooner Guernsey, Captain Terry: Hart, on coming on board, spoke to the captain; they went below; did not hear any of the conversation. It was on Friday—the rest came at night. There were ten in all—the four prisoners at the bar and six others. We started for the head of the lake. After we sailed we found we had to go in a different direction. The captain said he had to go to Cobourg to land some passengers. Set sail after twelve o'clock at night; were going to the head of the lake for lumber. Next day saw several pistols and bowie knives, &c.—they had them at first in a trunk; saw them take them out and fire the pistols; were practising with them: had a great number; they had belts in which the pistols and knives fitted: they belted them on.

[The knives and pistols were here produced, and a formidable array they made; they seemed to strike with horror those who had not before seen them.]

One of the passengers—a tall man, I do not see him here—told me that we were now in their power, and should do as they said, or else we should suffer for it. None of the others were present when he told me this.

[Mr. Boulton objected that this could not be given in evidence, as the person alluded to was not present.]

They were all armed alike and appeared to act together. They said they were going to Cobourg, to murder a man who lived there, of the name of M. Cormack, who they said was Custom-house officer.

[Mr. Boulton objected to this evidence, as irrelevant to the charge, and objected particularly to the question relative to the murder of M. Cormack, as no fact can be given in evidence which is not laid in the indictment. Objection overruled.]

Their next object was to rob the bank, and if possible burn the town. They did not mention who was in charge of the Bank. They said they were going to rob a man who lived at the back of Cobourg; did not hear his name; he was a farmer; they said he had a great deal of money. Does not know whether any other than the tall man said anything about the murder. While they were on board witness observed some organization: Hart appeared to have been leader;—witness judged so from his general conduct while on board—he seemed to have a great deal to do in the matter. Six of the passengers landed three or four miles below Cobourg; this was after twelve o'clock on Saturday night; some of our men put them ashore in a boat; the four at the bar were of those who went ashore. The other four were landed at Whitby next night. After having landed all the passengers we proceeded to river Credit, where we took in our lading, and returned to Oswego, where the vessel was seized. Does not know of anything else having taken place on board. Observed some bottles, which they said contained spirits of turpentine, and several bundles of matches. James Stewart was a hand on board.

Cross-examined.—He has not been paid anything for coming here; but came willingly and freely.

Attorney-General.—When did you first hear of this trial?—Question objected to. The Attorney-General consented.

Third Witness.—Has seen the prisoners before; it was on board the Guernsey, of Genesee. They came on board at Oswego. The captain's name was Terry. I was a hand on board; saw them come on board; there were ten in all; did not at first observe anything except the ordinary travelling luggage, trunks, and carpet-bags. It was on Friday night they came on board; it was in July. Does not recollect the date; it was past the middle of the month. We left Oswego after twelve o'clock at night. There was very little wind when we sailed.

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and in the morning we had only got four or five miles from land. Saw them (the prisoners) after we ad got out on Saturday. They brought a trunk on deck, from which they took out pistols and knives which fitted into belts [identifies the belts produced]. They buckled the belts on to show how they were worn; and then took them off again. Heard Hart say he had lost his house and property, and had been driven from home; and that he was determined to have satisfaction. One of them said it was their determination to murder Mr. M' Cormick, to rob and murder Mr. Boulton, and rob the Bank, and some farmer; after they had done this, they were to go to the wharf, and if there was a vessel there, to seize it, and make their escape. They landed about six or seven miles below Cobourg: it was nearly daylight when they landed. I was one of the hands in the boat that took them ashore; there were six landed; the four prisoners landed, and two others, whom I do not see. When we got to Whitby, on Sunday night, we put the other four ashore there. I saw some bottles of spirits of turpentine and bundles of matches. Hart appeared as leader, and had a good deal to say.

By the Court.—The prisoners, while on board, loaded the pistols and fired them off. They appeared as if practising.

By the Attorney-General.—Did not see any one in command except Hart, who seemed to have a great deal to say. They had a large quantity of arms. Some arms were left behind after they had been set ashore. They were all armed when they landed—that is, they had on the belts, with the knives and pistols.

Henry J. Moon.—Knows the prisoners at the bar by sight. I know Hart personally—have known him two or three years. He did once propose to me to engage in some business. I had, during the summer, been working at a place called Nunda Valley, about fifty-five miles from Rochester. Having finished the job, about the 12th of July I came into Rochester, intending to come over in the steam-boat to Cobourg; found that the steam-boat had left, and went back to the country; returned on Monday, and as I was passing John Montgomery's boarding-house I saw Hart at the door. I had met John Montgomery once before, at the American tavern, when he told me he had escaped from Kingston, and that he was the person who had kept the tavern at Yonge-street, which was destroyed during the rebellion. Hart came and spoke to me; said he wished very much to see me, and asked if I had seen Powers; I told him I had not, as I had been for some time on this (the American) side, and had not been home. As the conversation was going on we walked up the street. Hart asked me if I wished to go into a money-making business; I said that I did, as I wanted some money very much indeed. I asked him what it was, and understood him to say, he was about getting a schooner, on which they were to put two pieces of cannon, and go skulking. As we were talking, a young man, whose name is, I believe, James Boswell, past, and asked Hart where he was going; he said he was going to New York. When Boswell had passed, Hart told me he said that to deceive Boswell, and that he was going to Oswego. He then asked me where I was going; I told him I was going home. He said he had some papers which he wished I would take to his wife. He said he wished me very much to return; I told him I would, unless business was brisker in Canada than when I left it. Hart then said, if I am not here, I will leave a letter for you at Montgomery's. While we were talking saw a man with green spectacles at Montgomery's door. Hart told me if I saw Carpenter to ask him if he knew where there was plenty of money. On my return home I saw Mrs. Hart at Tourje's. Tourje is a tin-smith. I delivered her the papers, from which I had torn off the cover. The cover was directed to George Perry. I tore off the cover because I wanted to see what was inside. It was a bundle of the Lewiston Telegraph. I handed the papers to Mrs. Hart. I set about doing some little repairs to my house, and, having finished them, I went into Cobourg on Saturday, and agreed to go to work for Dean, haymaking. On Monday I went to work, and worked till Wednesday. I recollect, in presence of John M'Carty, junior, and Chauncey Dean, I told the offer. I had from Hart. On my going home on Wednesday, my wife told me Sprague had sent for me. On the day following—that was Thursday, the 25th—I went down to Cobourg; saw Sprague—shook hands with him.

[Mr. Boulton objected to any conversation between Sprague and witness being given in evidence. Objection overruled.]

We went into Sprague's wood-shed, when he told me that he had seen Hart, who desired him to give me a message, to go over to Rochester to meet him, and if he was not there to proceed to Oswego. He (Hart) had asked Sprague if he would tell me; Sprague said he would; but, added he, I did not tell him all I would say to you. I told Sprague I thought he (Hart) was injurious to the cause; Sprague agreed. We were about half an hour in conversation. Sprague did not say much about the matter. Sprague requested me to go over to Drew's with him. I believe it was some business about bail; Sprague had gone bail for Drew and, wished to get himself secured. On the Sunday following my wife and I went over to Robert H. Williams,—he is married to my wife's sister. Williams and I went into the saw-mill and sat down on some boards. I fell partly asleep; the day was very warm. I was roused by Williams' boy coming in to say that a man on horseback wanted to see his father. Williams went out,—I followed; and as I passed them, heard Williams say, that's Moon. The man on horseback was the elder Ash. On hearing my name mentioned, I turned round, then Ash beckoned to me. I came back. He told me there were some persons at his house who wished to see me that evening. I do not know what time of the day this was; it might be about one; it was before dinner. After I had shaken hands with him, I was quite close to him; I then asked him who they were? he could not tell me, but said I should come and see. I then said, it is enough, I will go. I asked him into the house; he got off his

horse, which Williams took to put up. Ash and I went into the house, sat in the kitchen for a few minutes, then went into the square room. Saw Adolphus Liscome, coming towards the house. Ash and I walked out. I again asked him, who was at his house: he laughed, and said he would not tell me. We took dinner. Ash stopped for dinner. I asked Williams to let his boy go over for my coat, and also asked him for his horse, which he gave me; and I then told him to walk over home with my wife, and wait at my house till I came home. I told Ash I had better start a little before evening, and suggested that he should go one way and I the other: he agreed to it. I then asked him where he lived; he told me in a blue house about two miles below Cobourg. Ash remained at Williams's about two hours; I went on. When I came to the house I met Ash at the gate, who showed me where to put up my horse: he went and cut some grass for him. When I had put up my horse, I went into the house, and waited till Ash returned: he came in, and beckoned me to follow him; I did so. He then told me the persons who wanted to see me were at his son's. I followed him over across the road. He went to his son's door and knocked: the door was unlocked. The rap was a peculiar one, and in a way which I was well-acquainted with. The door was opened. When we entered the house, William P. Wilkins came forward and called me by name. I recollected he was the same person I had seen standing at Montgomery's door in Rochester, with spectacles on, while I was talking to Hart. I never had spoken to Wilkins before. Wilkins shook hands with me. Old Ash left us. The next one who came in (Baker) also shook hands with me. Hart came into the room, with whom I went into the kitchen, where we entered into conversation on the subject of the expedition. Hart told me what they had come over for; that it was their intention to rob Maurice Jaynes, a man who lives in the back concession, about two miles and a half from Ash's; that they also intended to rob the bank, to get what money they could. Our conversation at that time was short. Hart told me six had come over. I asked if Sprague had been there; he said no, but that they had sent for him. We then went into the room, where I was introduced to Lett and Wilson. When I first entered, Lett had come two-thirds of the way down stairs without a shirt. While we were in the room, we saw Asa Woolcott and his wife coming towards the house. We all ran up stairs together. I told Hart he was in great danger; he replied, not perhaps in so much danger as others. Hart and Wilson lay down on the floor, Wilkins on the bedstead. As we sat, Baker was on my left hand, and Lett on my right. We entered into conversation. Lett told me his name was Benjamin Lett; that he had cost the province about 6000*l*. There is a man, said he, pointing to Wilkins, who was an officer at Prescott, and for whose head the government would give a great deal. While we were whispering, Hart made frequent motions for us to be silent; we stopped, but commenced again immediately. They showed me their pistols, which I examined, and the knives: there was a trunk there, in which they kept them. Lett put on his belt: it contained four pistols and a bowie knife: he buttoned up his coat, and asked me if I could observe anything; I said no: he then told me such was his every-day dress when on the other side. They were all present then except Kennedy (whose real name, I afterwards discovered, was Owen Molson), who they said had gone for Sprague. The first thing I asked was, was Anderson with them? (I had known Anderson before); Hart said that was the reason he wished me to come over, as the upper party had no leader, but that Anderson had gone with them. We then began to plan how to proceed, and how we should escape. I advised them to take to the bush, upon which they appeared very angry, and said Hart had told them that there were persons on this side ready to succour them, and who would have a craft ready. Hart said that there were, and that they need have no fear, as a certain person had been seen walking from the wharf with another person. Hart did not mention the names of the persons referred to. They then said that they were going to Jaynes's. Hart then said, that before he left the province he had gone to Maurice Jaynes's, to see where he kept his money; that the excuse he made was to get some money changed, and that Jaynes kept his money in a pail, in a churn, in the inner room, and that it could be easily got at. The name of the person who was to have the craft ready was not mentioned. The men said they must first see their way clear, and see Sprague about it before they undertook anything. We conversed as to the best plan for robbing Jaynes,—as to whether all should go, or only a part. Lett said he would go with another man, and do the job himself.

[The Judge took the evidence here, as if Moon had said that Lett named Baker as the one who should go with him. The difference is trifling, and of no consequence.]

I told them it would be a difficult matter to do it, as Jaynes' family would rally the neighbourhood; and suggested that they should make all the family lie down on their faces except one, who should show them where the money was. Some one spoke of the means to be adopted to carry off the money; I proposed a bag, to which Baker remarked, that will never do, as it would rattle through a bag pretty quickly. Lett proposed to call out the family one by one, and, as they came out, make them give up the money; but Baker said that will never do, as we tried the same plan at Taylor's, and Mrs. Taylor, having overheard the demand made from the others, had concealed the money in her bosom, and so they had got far less than they expected. It was decided that Jaynes should be first robbed, but the plan was unsettled on. They said the work could be done before bed-time, and that then they could get through all the business that night, and escape. After Jaynes they were to go to Mr. Boulton. As I had received notice from Sprague that the Boultons were to be cut off before January, I was particular in inquiring as to the fate of the Boultons. Boulton had served some paper on me, to get possession of the farm I lived on. I showed it. I was told not to mind, as, before that, the farm would be mine. I knew they had a great desire to get rid of both the Messrs.

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Boulton, particularly the younger, on account of the part he took at the Durham meeting in Cobourg. Mr. George Boulton has long been considered as an enemy to the people, and was to be made away with. The great object of the party was to rob. After this they intended to go to Henry's. Hart said he knew that Robins slept at Grigg's, and that no one would be there except the old man and his family. I asked him how they intended to get in. Hart said we will break open the door, and here we shall have to take the old man's life, as he keeps the keys always about his person, and would not give them up. This was Sunday night. Mr. Ash's family now came home from Cobourg, where they had been to meeting. We then took tea. All were present when the attack on Mr. Henry's house was mentioned, and all agreed. None of Ash's family were present. After tea, we went up stairs to lay plans. Neither Kennedy nor Sprague were present. It was dusk: the moon had not risen. I said I would go into Cobourg, and see Sprague; and said, as I might be known, and suspicion raised, I will put on Lett's coat and hat. Did so. Rode up to Cobourg; did not see Sprague; returned to Ash's. When I came back, Lett and Hart were in the kitchen running bullets by the stove. Young Ash and a woman, whom I supposed to be his wife, were in the kitchen. It was now bright moonlight. Shortly after I saw old Mr. Ash talking to Hart, while Lett continued running bullets. The sweat ran down his face. I went up stairs. Hart came up, and sent Wilson down to watch the gate. While Baker and I sat by the window, we saw a man, who Baker said was young Woolcott, talking to Hart. We were very near to them, and I overheard Woolcott say that his waggon was not ready. Hart and he continued in conversation. Hart afterwards told us that it was Woolcott, and that, if we put off the business till to-morrow night, Walter Woolcott would do anything with us. Some time after, Hart came up with Kennedy. I then asked if Sprague had come. Hart said he had. I then asked where he was. Hart said down stairs. Sprague came up; and, as he passed me, he drew his hand backwards across my face, after the manner of one giving another a slap, and said, what are you here, too? Yes, said I, I am. We then again conversed over the matter. The plan of escape was changed; and Hart suggested to take Downer's schooner, which was then at the wharf. We were all present except Wilson, who watched the gate. It was next debated whether the men on board should be put on shore at the wharf, or to take them out some way, and then send them ashore in a boat. The latter plan was thought best; and it was determined to put the business off till the next night, when we were all to meet at Ash's. I asked Kennedy to ride my horse into Cobourg. Sprague and I went on foot. When we had got a little distance from Ash's, I asked Sprague, Are you going to join these men? Well, says he, I don't know; are you? I said I would not, as I did not like to be near Lett, who had fire in his eye, and would, I remarked, as soon murder me as any one else. We went on together. Kennedy was on horseback, and considerably a-head. I told Sprague I was going to enter a complaint against the men, and wished him to come with me to do it; he said, you must do it yourself: I said I would; I am not going to become a midnight assassin, if I was a patriot. Just before we entered Cobourg we talked the matter over again: I told Sprague, you see this is going to ruin us; I feel sorry for the men; but it would be too bad to allow them to go on. Sprague said, you had better go and do it:—we then parted. I went home, and found Robert Williams there. Before I had left his house I told him to go home with my wife, and wait there till I came back, and I would tell what took place. I asked Williams to sit down, and I would tell him: I did so; and said, if this is reform, I am done with it for ever. Asked Williams to stay till day-light; did not feel safe, but was too proud to tell him I was afraid. I felt sick at heart after what I had seen; went to bed, roused up again; Williams had gone. Williams lives about three mile from my house. Before I went to bed I told Williams I was going to bring the men to justice. I was then employed in repairing bridges which had been torn down by the heavy rains. My wife did all she could to dissuade me from giving information, and told me my life was not safe, as they had persons friendly in the country who would murder me.

The next morning I went into Cobourg to set my men to work. Did so, and then went to see Mr. D'Arcy Boulton. It was between nine and ten o'clock when I saw him; told him I had something of consequence to tell him, and asked him if I could see him at twelve o'clock. Bid him not speak to me, if he met me in the street. Mr. Boulton was going to the Town Hall. I met Sprague, which delayed me some time, as I was very anxious to get him to go to work, being suspicious that he would give information to Hart and his party. I had some business with Mr. Conger, about getting a man to come and help me to work. Met Mr. Conger and Mr. Boulton together. I asked Mr. Boulton what title he had to my land, as if he had not one, my title was good. He told me, if I would call at the office, he would show me. I asked this question to deceive Mr. Conger, and as an excuse for going into Boulton's office. I went there. Mr. McCarry was there. Mr. Boulton sent him away, making some excuse about business. This was about twelve o'clock. Mr. Boulton requested me to let Captain Clark know it. They then went for Squire Benjamin Clark, to whom I gave a full account, described the men, and made an affidavit as to the facts. Saw Kennedy on Monday: took tea with him at Foster Sprague's. At half-past six I returned from work; went to Sprague's, where I saw Kennedy; when he came in, we all sat down together. After tea, Kennedy asked me to take a walk with him. We went into the garden. He seemed anxious to induce me to go farther into the garden: I did not think it prudent to do so, so refused. He said, I wonder whether it is found out, as if I thought it was, I'd lay my course. I told him I did not know how it could be found out. I told him to go down, and that I would follow. As I left Sprague's, I saw Kennedy going across the fields by the Seminary: he was going pretty quickly. I then went to Benjamin Clark, and told him now was the time to go: I went on before, and had got some length, when, seeing no one coming, I turned back: I

met Captain Clark and another person, with whom I went as far as Captain Boswell's gate. When I saw Kennedy, he was going on a good trot. I then thought Sprague had told him all was discovered, and I was very anxious to have Mr. Clark and his party go on, as if the persons escaped it would be thought I was deceiving, and I would have incurred the hatred of the friends of the prisoners. I stopped about ten minutes at Mr. Boswell's gate, and then returned alone to Sprague's. I stopped at Cotter's, and asked Borgs what the matter was. When I got to Sprague's, I met Henry McCarty, and Sprague and his wife, at the gate. I asked them also what was the matter. McCarty left. Sprague's wife advised him to go away: he appealed to me, and said, I leave it to Moon, he knows whether I should or not. I advised him not to go. I had a good deal of trouble in inducing the prisoners to put off till Monday night the execution of their plot. It was at night everything was to be done. Does not think that the party would have taken any life, unless to obtain money.

[The clear and explicit manner in which this evidence was given, carried conviction to the mind of every one in court that it was perfectly true.]

Cross-examined by Mr. Boulton.—Has never been concerned with Hart in this plan. Mr. Hart spoke to me at Rochester. I understood from Hart's language, that he was only building castles in the air. I had been putting up a frame for Deacon Messenger. I made fun of Hart's suggestion to Mr. McCarty and Mr. Dean, thought at first the matter had reference merely to reform. I was ready to join a political scheme. Sprague told me he had seen the man with spectacles. I was never ready to enter into any transaction with such men. Hart did not tell me anything about it the first time. Never saw Lett before to my knowledge. Do not know of what country the others are: have no opinion on the subject. If they were inhabitants of Cobourg or its vicinity I think I should know them. Had never seen a bowie knife previous to February last, when one was shown me: the knife now produced is a bowie knife. I never was willing to go into any plot to take away life. I had once joined in a political party. I had given up the hunter's cause some months, from the character of the persons I had seen engaged in it. Lett was a stranger to me.

[Witness here explained his expression relative to Lett and Baker going to Jaynes. Witness's explanation agrees with the way in which we have taken it down.]

There are settlers near Jaynes'. Did not at that time knew where the bank was kept. First became suspicious of Sprague relative to the Cobourg plot: I feared he would tell Hart. I was afraid I should be assassinated if Sprague got to Ash's before me. When Sprague and I left young Ash's, Lett and another man went out to sleep. Have no knowledge of the Ashes being concerned in the murder or robbery; had no conversation with them on the subject. The sworn Hunters have a particular knock. I was initiated as a Hunter. I always understood that a Hunter gave two knocks. Ash gave three—one, two,—three.

[A dispute rose here, as to whether he was obliged to give the knock. The Judge said he could not compel him, but said that witness had better do it; witness, however, declined.]

Witness said he had taken an oath not to divulge any of the secrets of the Hunters' Lodge.

His Lordship.—How comes it, then, that you did divulge them?

Witness.—It was to save life.

[This answer caused a great sensation in the Court.]

Does not know of any private signals belonging to the party who came over: I told Lett, if you commit these depredations they can follow you into the States, and the Government there would give you up: he said they dared not, as the people would not let them, and said he was not at all afraid.

[During the cross-examination, there had been a good deal of sparring between Mr. Boulton and the witness. The well-known talents of the learned gentleman for cross-examination failed to embarrass the witness in the least; nor could all his arguments detect the least contradiction. Mr. Boulton wished to draw the witness into a disclosure of the names of those on this side whom he had heard as belonging to the Hunters, and supported his argument that he could so do, on the ground that if witness gave the names of men of the highest respectability—of some whom he even then had in his view, it would go a great way to shake his credibility with the jury. The judge decided the question could not be put. And here we may mention, that Moon never gave in the names, particularly referred to by Mr. Boulton; it was a weak plan of the enemy to give publicity to such assertions, and name Moon as the author,—thus hoping to weaken his testimony: but all failed.]

Robert H. Williams. I live near Moon, whose relative I am, as we both married sisters. Recollect, old Ash coming out to my place; it was about the latter end of July. Moon and his wife had come over to my house: it was on Sunday, the weather was very warm, and Moon and I went into the saw mill before dinner. While here talking, Moon fell partly asleep; my boy came in and told me a man on horseback wanted to see me. Went out, saw old Ash. Why Mr. Ash, say I, what you lost? No, said he, I am going to my brothers: Moon, who had come out of the mill, passed. Ash asked who it was. I said it was Moon. Ash said he had a message for him, and beckoned Moon back. Moon came and spoke to him; he was happier to him than I. Moon and he talked very low. Ash remained at my house more than two hours: he took dinner. He and Moon had some private conversation. I went over to Moon's house with his wife to wait for my horse, which Moon had borrowed to go into Cobour. It was about half-past twelve, when Moon came back: he told me all that

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Cross-examined.—The Ashes bear a good character; are not likely to commit a robbery.
Kenneth Mackenzie sworn.—Was at the capture of the prisoners at Young Ash's; heard young Ash deny that any strangers were in his house. When the party arrived at young Ash's, three went round to the back of the house; John C. Boswell and witness, followed by young Mr. Ruttan, went to the front door. Witness put his hand to the door to open it; Mr. Boswell told witness to stop, till he would demand, in the Queen's name, to open, and deliver the prisoner within, which he did with a loud voice. The door was opened by the younger Ash. Mr. Boswell and witness entered; Mr. Ruttan followed. Mr. Boswell asked young Ash if there were any strangers in the house; he said no: witness replied immediately, "Yes, Mr. Ash, I heard the noise of many feet running up stairs before we entered;" witness also said, with a pretty loud voice, to Mr. Ash, if he would give up those persons peaceably, no harm would be done to himself or property; but if not, that they would play the mischief with both; said also that escape was impossible, as a strong armed force was round the house: he said this with a view of awing the persons in the house, in case their number might be greater than their party. Ash then said that some person was upstairs: Mr. Boswell asked the name: Ash said he did not know: Mr. Boswell asked if Sam Hart was in the house? Ash said no. Mr. C. Clark and Mr. Manners went into the kitchen, in a back door: Wilkins was there. Sam Hart soon made his appearance on the stairs. Witness immediately laid hold of him, in case he might have weapons concealed about him; took a quantity of balls, percussion-caps, a box of very superior matches, a pocket-knife, some keys, and a pocket-book, containing a scrap of paper, some tomato pills, $3\frac{1}{2}$ d. piece, and a copper, out of his pockets. Witness asked young Ash how he could tell such a falsehood as that he did not know the name of the persons in his house, as he must know Hart as well as his own wife. Ash said he intended to do so, but did not; heard young Ash say at one time the prisoners Wilkins and Wilson were going to work for him; at another, that they arrived in the night, the one previous; the last with Sam Hart, and entered his house: did not hear him say that he knew the other prisoners had arms. Ash seemed collected at first, but got a good deal agitated latterly; does not know anything at all about Sam Hart's handwriting.

John Brady.—Was present when the men were taken; old Ash was over in the hog-pen; it was after some persons were taken we hunted old Ash back, and gave him up. I do not know what he was doing in the hog-pen. I was outside; saw a man go along the top of the house by the back kitchen.

John Herbert corroborates Captain Clark's statement, and produced a bowie-knife, a pistol, a bullet-mould, several balls, some caps, and matches, all of which he found under a bed in old Ash's house: the old man held the candle while Mr. Clarke and I went up stairs; it was the second time.

Charles Ruttan.—Saw all the men taken except Baker and old Ash. When Hart was taken he said you are not the men we want, there are others; and we will have them too. Ash said Hart had come into his house altogether without his knowledge. Ash seemed confused, and prevaricated very much—at one time saying he did not know that they were in the house, at another that they were there without his knowledge, and at another time that they were going to work for him—corroborates J. C. Boswell's evidence.

W. S. Conger.—Is acquainted with Hart's handwriting; believes one of the papers now produced to be in Hart's handwriting; it is very much disguised; has seen Hart write; and, though he could not swear positively, to the fact, believes it to be Hart's writing.

W. W. Boswell cannot swear to Hart's writing.

G. S. Boulton.—Believes one sheet to be Hart's writing; one is disguised too much to be easily sworn to.

[The following are the letters. We insert them, although not given in evidence, as there was no doubt of their being in Hart's writing.]

"Sunday morning.

"Dear Sir,—Enclosed is a communication, such as I supposed you wished. It may not be frank enough for Arthur, but as far as he is concerned I care not, for I hate him; and if I approved of the plans which are laid by the Patriots he might wait till his death, and then never see a scrap of a pen from me. But I desire a change upon honourable principles; and when such a time comes that honourable men take hold, I am with them again, as I have been before, true as steel. For the benefit of honourable Tories I offer my services, and to secure the office in order that I may have the means of supporting an aged father and a wife and child. I bought this office, and agreed to pay one thousand dollars for it. The executive are responsible for the payment of the money, one instalment of which is now due, or will be so when I print the next number, being the last number of the second volume. I had nothing left when those villains at Belleville destroyed my office, consequently I shall have to call upon the executive for 50*l.* (two hundred dollars) to meet this payment, unless I get it from you. And if I take their money I shall have to swallow an oath which will prevent my being of any service to you. So you perceive why I press for 50*l.* now. I have no doubt that, upon your recommendation, Arthur will forward the money; indeed it is a trifling that it under-rates the value of my services. But, as I have already remarked, I do not seek money. I ask you, what would have been three hundred pounds to your brother if he had lost his steamer "Traveler"? And there was he in Rochester, endeavouring to get information, while I was there, and Johnson, with his men, and a plan laid to take his boat. We were on board, had two cases of pistols, swords, dirks, combustibles, &c.; and after going to the mouth of the river, I persuaded Johnson, who was at the mouth of the river, to abandon it. Had I desired money, how easy I could have had it then. I trust, therefore, that if you have any wish to procure my aid, you will send me over two hundred dollars on Monday, to preclude the necessity of

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my calling upon them, and this is the only object I have in pressing for it, and for the remainder, before I start for Albany, as I shall then be untrammelled by oaths of such a nature as to forbid my uttering a word to friend or foe.

"I remonstrated against doing your late brother's family any injury, last night, in such a manner as I think will prevent it. There is one man, however, at Youngstown, by the name of — who has played spy to both parties, and I feel afraid his days are few; but it is of no consequence, as he cannot get into the new one. Such low creatures are unfit for the business, and I have to request that such characters are never sent to me, by reference or any other way. I know every one of them, as we have men in every town, who are appointed by myself to watch the conduct of the members in the old association, and such as are fit for the new they report to me, and I to the president of the lodge. You will understand that we keep up two lodges. We are on sure ground this time, but an unfair one.

"The executive will not know but that I have received the sum from my subscribers.

"Yours, &c. TELEGRAPH.

"P.S.—If a communication had not passed between Arthur and yourself, I should have preferred to have only offered my services to your brother in preserving steam-boats, and then I could have done with 50% as a loan. You can now act your pleasure whether you forward the enclosed or not; but I must have the 50% to-day, or else I shall have to apply to the Buffalo fund for it, so as to meet the payment due this day.

"Does your brother — attend the opening of parliament? Some M.P.P.'s are to be assassinated, in order to create disorder in Toronto, and a call in of the troops, by which means they will obtain a chance to effect a landing.

"Your note, dated February 15, only came to hand Saturday night. Where could it have been detained?"

Lewiston, February 14, 1839.

SIR,—I have received a letter from Albany, of which the following is a copy of a part.

"I am directed to notify you to attend a convention at this place, for the 25th instant, to take into consideration the best method of destroying the Canadian steam-boats on Lake Ontario, as early as practicable; also, to learn from you what assistance has been promised us in Canada, in regard to carrying out our plans for assassination. You will be careful to avoid any conversation with — as he is suspected.

"I have only to remark, that I shall attend this convention, at which, I am informed, there will be the various leaders; and if the Canadian Government wish my services, they must forward me three hundred pounds before I leave here; this being the sum which I am liable for the "Executive" for my establishment, and which I would only require as a loan, until I have given such information as shall be of more value than money, and shall have preserved many lives.

"With regard to those men I mentioned, upon reflection I think they could return in safety, as they are not excepted in the general amnesty.

"Unless my terms are accepted, our correspondence must drop, unless I should hear of anything which particularly concern yourself or family, when you may depend upon my assistance, and I shall rely upon your confidence.

"I am, &c.

"P.S. There is a leader here from Quebec."

The elder Ash, in his examination, stated that he remained at Williams's house only a quarter of an hour, and that he told Moon Hart wanted to see him; in other respects he fully corroborated the evidence of Moon, as did also Hart and Wilkins; the former of whom refused to sign his examination, but acknowledged before the magistrates that it was taken down correctly; he stated in addition, that they landed near Mr. Evans's farm. Baker contradicted the statement of the others; his account of himself is so absurd that we give it. He states that he is a native of the United States, and came over to Canada to see his mother, who lives down back of Colborne; she is married to a man named Benjamin Weddfield. He came over in a schooner; left the Niagara river in said schooner on Friday last (July 16), and landed at the first port below this (Cobourg) on Monday morning; took him from that time until the evening to come to the house where he was taken last night. Does not know Hart; does not recollect the name of the captain of the schooner; brought no arms with them; saw no man in the house he was taken in but the old man, and a man whom the girls called brother-in-law; was going to work for a few days in the neighbourhood, and then thought of going to Chippawa, where he had a brother living last winter. Explains that he inquired for his mother as he came up the country, and that the people told him she lived up; passed through no village on his way up, should think it was about eighteen or twenty miles from the place where he landed to the place where he was taken. There was a sort of platform where we landed. There was one or two beside him on the schooner; altogether on board there were, including crew, seven persons. In addition to the above, the said Baker says that the coat he has on is his own, and states that the bullets and percussion-caps, which were found in his pockets last evening, he brought with him from the other side, explaining that he had been out hunting before he started with his cousin, George Patrick; and had not taken the bullets out before the schooner started.

Captain Charles Clark.—Heard on Monday, July 29, that a party of men, under Samuel Hart, were concealed in the houses of the two Ashes, armed with bowie-knives, &c., with intention to attack the town that night, murder the Messrs. Boulton and Mr. Henry, and also to rob and murder one Maurice Jaynes of Hamilton; arranged a party for their capture, but subsequently, hearing that one of the party had left Sprague's, to give the rest information

that the authorities were on the look out to capture them, hurried down with Mr. Robert Manners and four others only. On arriving at the younger Ash's, where the greater number of the conspirators were understood to be, went to the back door and burst it open: on entering, saw the man Wilkins in the kitchen, and made him prisoner. At this time, the others were at the front door knocking for admittance; saw the younger Ash come down stairs and hold the front door to prevent their entrance. Called to him, that if he did not open the door at once he would blow his brains out: on which he opened it, and admitted Mr. Manners and the others; demanded of young Ash where the men were concealed, and told him to fetch down Hart and the rest, or they would fire the house; on this Sam Hart came down stairs and gave himself up; seeing these secure, started with Mr. Tremaine to the elder Ash's; saw old Ash and Luke standing near the fence; asked Ash if he had any armed men in his house, or any men at all? He said there were none but what he then saw; told him he would not take his word, and demanded a candle to search the house; went up stairs alone, Tremaine having returned to young Ash's. In an upper room found the prisoner Baker; secured him: took him to young Ash's, and delivered him to the charge of the party there. Returned to the elder Ash's and searched the house a second time; found a quantity of bowie-knives, pistols, &c., between the bed and mattress, upon which Baker threw himself when found. [This evidence is our of place; Captain Clark having been examined immediately after Mr. D. Boulton.]

This closed the evidence for the prosecution.

Mr. Boulton defended himself from the imputations cast on him for defending these men. He did not defend the crime of which they were accused; he stood there to give them assistance; and to see that they were not wrongfully convicted. He endeavoured, with all his powers, to eradicate the impression which the evidence of Moon had made on the jury; remarking in very strong language on the story told by him, and laying down certain principles in law. We have no note of his speech, but if able to procure anything like an epitome thereof, we shall publish it. He then called Robert H. Williams to prove that Moon had offered him money to join the Patriots. The Attorney-General objected, and the judge refused to allow him to be recalled.

Evidence for the Defence.

Samuel Stevens.—Is acquainted with Moon; has known him eight or ten years; his general character is not very good for truth or veracity; should not believe him on oath.

Cross-examined.—I have been eleven years in the country; have resided all this time in Belleville; Moon never resided in Belleville, but in Ameliasburg; have not known him for two or three years; have heard of him from other people; cannot say whether I should know if he were a Patriot; it is three years since Moon left Ameliasburg; I have had a difficulty with his brother, who arrested me for breaking into his barn; I was arrested on a charge of treason last winter.

Jacob W. Byers.—Has lived in Belleville; knows Moon; should not believe him on oath.

Cross-examined.—I have been personally acquainted with him six or seven years; Moon lived in Ameliasburg, which place he has left three years, since which I have only seen him once; has never been arrested for treason; was at home all winter; saw Moon in Clark.

By a Juror.—Did you not keep out of the way of the authorities last winter?—No.

Did you not go back among the Indians?

(Witness hesitated.) I went back, but not among the Indians.

J. C. Bush.—Has been acquainted eight or ten years with Moon; lived in Ameliasburg; does not think Moon is to be believed on his oath in a court.

Cross-examined.—Moon has not resided in Ameliasburg for three years; I have had a quarrel with him.

Nelson G. Reynolds.—Is acquainted with H. J. Moon; his general character is notoriously bad; does not think he is to be believed on oath.

Cross-examined.—I am the person who was accused and tried for high treason, but was momentarily acquitted.

[This witness was evidently prepared to show spirit, and his indignation was beautifully ridiculous.]

William Williams.—Lives in Hamilton; knows very little of Moon; knows, in fact, nothing about him; never had any dealings with him; knows nothing of his being an infidel.

Mr. Lyman.—Is acquainted with Moon; has known him three or four years; of his general character for veracity cannot say anything; would believe him as soon as any man he knows, upon his oath.

Nathan Williams.—Lives in Coburg; is not much acquainted with Moon, or his character, except by hearsay; knows nothing of him personally; does not know anything of his being an infidel.

The Hon. H. Burnham.—Has known the Ashes for some years; has known the elder Ash forty years; has not known the younger Ash so long; always thought them quiet, honest, industrious men; his opinion has been, however, much changed by late circumstances.

The Hon. W. Boswell gave nearly the same evidence.

This closed the defence.

The Attorney-General replied in a most feeling and eloquent address.

The Judge having summed up, the jury retired, and in a few minutes returned a verdict of "Guilty" against all the prisoners. Next morning the judge addressed the prisoners, on passing sentence, in nearly the following words:—

"All you, after a long and patient trial, which lasted nearly seventeen hours, have been found

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guilty, by an intelligent jury, of a conspiracy. Your defence was conducted by the great skill and ability of an able counsel; I may say the ablest counsel in the province. Conspiracies are of rare occurrence in this, till lately, happy province; a conspiracy formed for such enormities as that for which you now stand convicted, is seldom heard of in any country; I may say that I have but seldom read or heard of any that surpasses it in atrocity. You have conspired together to commit the highest of human crimes—murder, robbery, and arson; your designs of wickedness were conceived with a deliberation and coolness that appal the human feelings. You, beyond doubt, in the first instance resolved to murder Mr. Henry, an aged and worthy man, who never did any of you the slightest injury, but probably extended acts of kindness to some of you; you resolved to rob the Bank, and to burn it, as well as to destroy all the inmates of the house, if this was necessary to carry your dark intentions into execution. You have carried with you bowie knives and other weapons of death, which were exhibited at your trial; they are truly frightful to look upon; fit weapons for assassins indeed! Assassin-like, you have chosen the night to carry on your wicked and dark work of destruction. You have been concealed in the house of the younger Ash, lying in wait for your prey. A mysterious interposition of Providence thwarted your horrible designs; a knowledge of your intentions came to the authorities at Cobourg. An individual, Moon, who has acknowledged himself to have been your sworn associate in political crimes, or in what is called the Patriot cause, hesitated when he heard of your resolution to murder innocent individuals, to plunder their houses; to his honour he has made your intentions known, as well as your place of retreat; where you were captured by a smaller number of men than your party consisted of. You have acted, as assassins invariably do, cowardly; you had not the heart to offer open resistance; your intentions were to murder in the dark such as could offer you no resistance. The men who took you acted like brave men indeed; few in number, but full of courage; they have acted as brave men do; they have offered no violence to you: they delivered you up to justice; they have not committed excesses: they have not treated you as you would be treated, under less aggravating circumstances, in the land you have just left; no lawless or summary punishment was attempted to be inflicted on you.

“You, the older Ash—Oh! I can scarcely find language to address you as I ought. An old man, almost on the verge of the grave, the father of a family, and in good and comfortable circumstances; you have borne a good character before; it is truly lamentable to see you standing here this day, convicted of such an infamous crime. You have harboured and countenanced men bent on executing the most diabolical purposes; you have, to all appearance, acted in concert with them; you have been the channel of communication between them and Moon, while they supposed that individual to be of their own wicked number; you went on the Sabbath-day to inform him of their arrival at your son's house. Your own statement is contradictory, by no means satisfactory. It is painful to me, indeed, to see a man of your years situated in so disgraceful a situation.

“You, the younger Ash, have brought yourself into a situation that is truly deplorable. You, a young man, who, it is said, made always a great profession of religion! Your conduct does not argue to have borne much under its benign influence. You have, on the Sabbath-day, gone to a place of worship, and left assassins, men who intended to murder and rob your neighbours, sheltered and secreted in your house. You had seen the arms,—this you acknowledge: it is impossible that you could have been ignorant of the atrocious deeds contemplated by those desperate men. You say you intended to go to the authorities;—this you did not do, nor anything else that would show in the least your horror of the conduct of the men whom you secreted. You and your father have borne good characters before this time. You have commenced as Reformers, to become discontented; then identified yourselves with rebellion, as is evident from your connexion with the Hunter's Lodge; your minds got astray, political vindictiveness made you lose sight of your moral duties; from one step to another you have brought yourselves to the disgraceful situation in which you now stand. Your conduct and folly ought to warn others, as I trust they will. Every man has an undoubted right to enjoy his own opinions, and to express them on proper occasions. Every man has a right, if he believes the laws defective, and wrongs to exist, to endeavour to amend and improve them; but no man is justified in resorting to violence, bloodshed, and murder, to accomplish such an end. A good man would never, for one moment, shelter men such as you had under your roof, nor give them countenance for one minute.

“You, Wilkins, Baker, and Wilson, have been engaged probably in what is called the Patriot cause; you are natives of the United States, or at least lived there the greatest part of your lives; you have come to this country, and for what? To murder and plunder individuals who never did any of you the least injury; whom you have never seen. You were connected with those lodges—the Hunter's Lodges—avowedly established to effect a change of government in this province, and to reform our laws. What right have you to endeavour to effect this? Why don't you stay at home, and live under your own boasted institutions and laws? And would it not be better for those in this province, who encourage you, to sell their property, and go to live there also? Better far to follow such a course, than molest the peaceable inhabitants of this province with your lawless expeditions and incursions. You have no kind of interest in the province; the inhabitants want you not; they are better judges of their own affairs than you can be; they do not interfere with you. The fair and impartial trial you have had here, and the defence made, and the treatment you have received since you were captured, may indeed dispel the illusion you have been under; and, if you live to return to your country, keep at home and live a more virtuous life, and leave the people of this province to manage their own affairs. You are young men: it is lamentable to see you engaged in such dreadful undertakings as have been clearly proved against you.

"Samuel Hart, you, I believe, are the son of a man who was a soldier in the British army—who is now an old man. You were born in this country, or lived in it for the greater part of your life. You must be a person of some intelligence, as you conducted a public paper in this province and in the States. You were perfectly aware that the statements you were making regarding oppression were false. That you were a leader on the present occasion is evident. You have been actively engaged in the Patriot cause, and connected with the lodges; your conduct was reckless and abandoned beyond description. You have been planning the most atrocious and inhuman deeds; nothing was too much for you to do. You find fault with Moon: your defence was founded on the incredibility of his evidence; you have endeavoured, through your counsel, to destroy his character by witnesses; you have endeavoured to make him appear not only as a traitor to his country, but also to your cause. You yourself offered, for money, to become a traitor to the cause of the Patriots—a cause, as you said, you were disgusted with; you have offered, for the sum of 300*l.*, to disclose the plans of the Patriots, and to divulge all the secrets of the lodges. A letter, in your own hand-writing, proves this; I have the letter here, and you know that. What will be thought of such a character as you are? The plans of assassination, plunder, and destruction you formed, are of the most horrible nature. Moon, whose character you wished to destroy, has done much good; he not only saved several innocent individuals from a bloody and violent death, but he, in all probability, saved yourself and your confederates from the gallows. You undoubtedly would have committed some dreadful overt act; and in all probability have been taken before you could have escaped, and, instead of being tried for a misdemeanour, you would have been tried for felony for your lives. Moon's testimony, in my opinion, bears the air of truth; and I feel bound now, as the trial is over, to say that I believe it. The testimony of Williams, who is evidently no friend of Moon, corroborates much of it, and that of the two mariners equally agrees with it.

"It now remains for me to pronounce the sentence of the Court on you all. The Court is of opinion that a greater amount of punishment ought to be imposed on you, Samuel Hart, than on any of the rest. Your conduct throughout was so wicked, and your attempts so desperate, knowing, as you did, from your better intelligence, the falsity of your statements, and the enormous nature of the crimes you were about to commit yourself, and induce others to commit. There is no doubt on the mind of the Court that you were the means of leading these men to their present situation of guilt and crime."

[The Judge then pronounced sentence on the prisoners, as published in the last "Star."]

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ORANGEISM.

From the Commercial Herald.

ORANGEISM — COUNTY OF YORK.

A meeting of the Orangemen of the counties of York and Halton was held at Montgomery's Inn, Dundas-street (nine miles from Toronto), on Friday, the 13th inst., at which were present several grand officers of the Grand Lodge, as well as the county, district, and lodge officers in both counties.

James Chambers, Grand Master of the county of York, was called to the chair.

The Lodge being opened in due form, the County Master stated that the meeting was convened at the request of the Right Worshipful the Grand Master, in order to hear certain proceedings adopted by the Grand Lodge at its last meeting, and also certain opinions promulgated by the Grand Master upon the subject of responsible government.

The Right Worshipful the Grand Master then addressed the meeting at some length, in opposition to certain measures of the local government of this province.

A motion was then made by Mr. Brown, County Secretary, and seconded by Mr. Kerr Master No. 4, to the effect that the Grand Master's opinions in favour of responsible government were not in unison with the opinions of the meeting, and ought not to be supported.

This resolution was met with an amendment from Mr. Ashfield, District Secretary of Toronto, and seconded by Mr. Phillips, P.M., of Lodge No. 142, to the effect that the Grand Master be heard, and the whole of the original expunged.

The amendment being adopted, and the original resolution rejected, the Grand Master proceeded to address the meeting at great length in favour of responsible government, but repudiating and condemning Lord Durham's principles; and every proposition that could lead in any manner to separation or republicanism, and concluded by moving the following resolution, which was seconded by Major Elliott, M.P., and passed with two or three dissentient voices only.

Resolved.—That we entirely eschew, condemn, and repudiate every doctrine, opinion, and sentiment expressed or written by the Right Hon. the Earl of Durham, in his Lordship's Report on the state of these provinces; so far as the said Report in any way upholds or advocates elective institutions; or any species of democratic notions, repugnant to the principles of our glorious constitution—a constitution which, under all circumstances, we are resolved to maintain—that we equally repudiate the government of any faction in the colony; but are determined to resist the sway of radicals who seek in any manner, or under any guise, to impair our venerable institution or withdraw from the essence of the British constitution.

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Despatch No. 6.

COUNTY OF SIMCOE.

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A meeting of the County Grand Officers, District Officers, and Masters of Lodges, with a large number of the brethren of the county of Simcoe, was held at Bond Head, in West Gwillimbury, on Saturday, the 14th inst., at two o'clock, at which the following resolutions, after much discussion, were unanimously adopted:—

Resolved,—That however this meeting, or any other loyal men, may differ upon the question of what is called the responsible government, no difference can exist between any loyal men upon direct or indirect revolution, democracy, or treason, in any shape or under any name in which they may present themselves; and this meeting cannot too highly condemn and repudiate every sentiment, feeling, or principle contained, expressed, or implied in Lord Durham's Report on the state of these provinces, so far as they, in any manner, or under any guise or pretext, lead to a separation from the Parent State, or to unite with any party or persons, whether republicans, rebels, or others, whose object in numerous instances seems to have been to overturn our constitution and destroy our connexion with the empire of Britain—a constitution which we are resolved, one and all, to maintain and support.

Moved by Captain Armstrong, seconded by Lieutenant John Ginty:

Resolved—That we entirely approve of the proceedings of the Grand Lodge, in preventing our great and glorious institution from being perverted from the maintenance of the Protestant Religion, the support of the Constitution, and the preservation of the connexion with the Parent state, into a mere cabal, for the support of any faction in this colony; and we trust the Orangemen of this great county will, with the rest of their brethren throughout the province, be ever ready to step forward to resist the manifestly improper and unwarrantable acts of the executive on the one hand, and the equally improper and unwarrantable approaches of republicanism on the other; and that, keeping steadily in view the principles which governed their immortal ancestors, under the guidance of the great and good King William, they will still persevere in opposition to every man, and to every measure, opposed to the Constitution under which they live, and which, at all hazards, we are determined to maintain.

Moved by Doctor Orr, seconded by Mr. Ginty, jun.:

Resolved,—That we cordially approve of the missionary scheme, as proposed and explained to us by the Right Worshipful the Grand Master;—that we also approve of his suggestions touching the future collection and management of dues—and the several other matters which he has thought proper to submit to our consideration this day, as emanating from the Grand Lodge, for our opinions thereon.

Moved by Mr. Ginty, jun., seconded by Captain Armstrong:

Resolved,—That this meeting places the fullest reliance in our Right Worshipful Grand Master, Ogle, R. Gowan, Esq., M.P., and that we not only feel truly grateful for the zeal and devotion he has ever displayed in support of the loyal Orange cause, but also for the frank and manly explanation given us this day, condemnatory of many of Lord Durham's leading principles, and of the faction, at home and abroad, by whom they are supported.

Moved by Francis Hewson, Esq., seconded by Thomas Manning:

Resolved,—That the thanks of this meeting be returned to Captain Phillips, of the township of Toronto, for his manly conduct as evinced in his reply to his Excellency, the Lieutenant Governor, requesting him to use his influence, as a magistrate, to prevent the celebration of the 12th of July, and to suppress Orangism.

Moved by Joel F. Robinson, Esq., seconded by Captain Armstrong:

Resolved,—That a select committee be appointed to promote the interest of such candidates for the representation of this county in Parliament, as can be depended upon to carry out the spirit of the resolutions this day adopted, and that the following gentlemen, with liberty to add to their number, do compose said committee:—J. W. Dewson, J. O. Orr, G. Donwoody, John Ginty, J. Manning, F. Hewson, L. R. Algeo, T. Hayes, C. McVittie, J. Mulock, and W. Graham, sen.

Moved by Major Algeo, seconded by S. Duff:

Resolved,—That the proceedings of this meeting be printed in the Statesman, Church, and Commercial-Herald newspapers.

Let us now point a little attention to these official accounts. The letters signed "One present at the meeting," and "An Orangeman," throw a little light on the Etobicoke affair, and in addition, we have just received the following:—

TO THE EDITOR OF THE PATRIOT.

Toronto, September 20, 1839.

SIR,

In yesterday's Commercial Herald, is reported a meeting of Orangemen, held at Mr. Thomas Montgomery's Inn, Dundas Street; headed Orangism—county of York—and contains in that Report the pretended substance of a resolution, proposed by me, which is false; it having been cut and carved by Mr. Gowan, and is published in the Herald, as follows:—

A motion was then made by Mr. Browne, county secretary, and seconded by Mr. Kerr, Master No. 4, to the effect that the Grand Master's opinion in favour of responsible government, were not in unison with the opinions of the meeting, and ought not to be supported.

Now, Mr. Editor, as I do not wish anything to appear in a public journal, where my name

is mentioned, which is not true—I give my resolution to show to the public that it is different from the above as reported by Mr. Gowan.

“ Moved by John Browne, Grand Secretary, county of York; and seconded by William Kerr, Master of Lodge No. 4.—That it is the unanimous opinion of the Orangemen of the county of York, that it is not in unison with their principles that Ogle R. Gowan, on account of the steps he has taken, relative to the Durham responsibility, remain as head over such a great and glorious association.”

Sir, by giving publicity to the above, you will show to the public the true resolution—and confer a favour on your obedient servant.

JOHN BROWNE.

No. 43.
Sir George Arthur
to the Marquis of
Normanby.
September 27th, 1839.
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“ One Present ”—it will be seen, fully bears out Mr. Browne. Heaven forefend! but, murder should out!! Who has been the garbler? As our worthy friend Sir Allen says, “ We should like to know.” Enough for the present of the Etobicoke affair. Now for the Bond Head business.

We have received from Bond Head a copy of a resolution, moved by Captain Arthur Armstrong, which, we are informed, passed with only one dissentient voice, and that Mr. Ogle R. Gowan's. We see not this resolution in the official account. It is in the following words:

Resolved,—That this meeting hereby pledges itself to support at the next general election, such candidates, and such only, as can declare themselves opposed to the principles of Lord Durham's obnoxious Report, and shall be prepared to uphold the same by every constitutional means in our power.

We are informed that Mr. Gowan tried to explain his plan of Responsible government, but that the meeting indignantly repudiated his notions, and emphatically declared, “ one and all,” that they would resist to the last, every effort of rebels, Radicals, and Durhamites, to impose on the country their “ Responsible government,” which was meant for nothing more nor less than to bring about a separation from the Mother Country. We would beg to observe, that we set down no fact; but as it is handed to us; but we unhesitatingly declare our thorough confidence in our respectable informants. We are ready to hear and publish Mr. Gowan's explanation. We thought it would show monstrously odd if, with his little finger, Mr. Gowan could twist the strong minds of 20,000 loyal Orangemen, to any special purpose of his own. We know that in some portions of the province many loyal men were greatly alarmed at the repeated threats of Mr. Gowan, foolishly enough thinking that the 20,000 were at his beck. We entertained no fear on the subject, because, thinks we to ourself, we know of our own knowledge, that Mr. Gowan reckons without his host; and so it proves. No Damascus steel was ever truer than the Orangemen of this province will prove to their Sovereign and country, in the struggle that is about to “ try men's souls.” Let us here remark, that we have heard an Orangeman who was at the Etobicoke meeting, say, that the alleged garbled resolution, as it appears officially in the Commercial Herald, might consistently be assented to by the vilest rebel traitor in the land; and we have heard that Mr. Gowan's friend, Mr. Reformer Hincks, has declared, that with all his heart he assented to it, himself.

We now take the pleasure to present some Resolutions of an Orange Lodge at Dunville.

Resolutions unanimously passed by the Members of the Orange Association, of Lodge No. 161, at Dunville, in the county of Haldimand, in the District of Niagara and Province of Upper Canada, on the 12th September, 1839:

1st. Resolved:—That the members of this Lodge are, from inclination and principle, firmly determined to support the constitution of this province against the innovations now attempted to be introduced into it.

2nd. Resolved:—That it is with great regret we are under the necessity of thus publicly discountenancing the views taken by Colonel Gowan of “ Responsible government,” in the Statesman of the 27th ultimo, and we unanimously disapprove of them.

3rd. Resolved.—That we invite our brethren throughout the provinces to consider the matter in its true bearing, namely, separation from the mother country; and we feel convinced that they will, as heretofore, unanimously agree with us.

4th. Resolved.—That the feelings of loyalty and attachment to our revered institutions, in which the association has always prided itself, will materially lessen the boasted 23,000 of Col. Gowan's followers, we cannot bring ourselves for a moment to doubt; and our only desire is, that every Lodge in the province may follow our example, in deprecating and opposing any measures that may bring about the distracted state of things desired by the responsible men.

5th. Resolved.—That this Lodge will feel obliged if the Niagara Chronicle, Reporter, Toronto Patriot, and all other constitutional papers, will insert these resolutions in their respective publications.

(Signed) ROBERT GOLDIE, Acting Master.
DAVID PRICE, Secretary.

To the EDITOR of the PATRIOT.

SIR,—You are charged with garbling a copy of a resolution said to be proposed by O. R. Gowan, Esq. and seconded by Major Elliott, at a meeting of Orangemen of this district, held at Montgomery's Inn, Etobicoke, on Friday, 13th September. Having been

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present at said meeting, I beg leave through your columns, to say a few words in explanation:—when Mr. Gowan read the resolution, the middle part of it was objected to. He was charged with an attempt to throw dust in the eyes of the brethren. The consequence was no person seconded it. It was not even read from the chair. Mr. Gowan read it in a hurried manner and kept it to himself. It was not given to the Secretary to preserve with the other papers of the Lodge. The truth of the matter is, it was discarded, as it had a double meaning; for while it condemned Lord Durham's report on the one hand, on the other it went to show the public that we had no objection to Mr. Gowan's new doctrine of responsible government. In this stage of the business a motion was made to adjourn, when Major Elliott said he would second the top and the bottom of Mr. Gowan's resolution, which was carried unanimously. Mr. Gowan says in his account of the proceedings, there were two or three dissentient votes: there was not one to Major Elliott's proposal, except it might have been Mr. Gowan himself.

AN ORANGEMAN.

Toronto, Sept. 23, 1839.

To the EDITOR of the PATRIOT.

SIR,—It would appear from the following article, published in the Examiner of the 18th, that its Editor was in the full confidence of the assumed head of the Orangemen of the Province. Mr. Hincks says: "a garbled copy of a resolution, proposed by Lieut.-Col. Gowan at a recent meeting of Orangemen in this district, has been published by the Patriot. We have not seen the resolution in its proper shape, but we can assure our readers that Colonel Gowan's opinion on responsible government remains unchanged. His letter, in pamphlet form, will be ready for delivery on Saturday."

I beg to state that the resolution, published in your paper of Monday 16th, and said to be a resolution proposed by Mr. Gowan, at a meeting of Orangemen, held at Montgomery's inn, Etobicoke, on Friday, 13th of September, is perfectly correct; it was the only resolution Mr. Gowan moved: if he moved any other which the meeting adopted, it certainly must have been seconded by somebody present. But Mr. Gowan has published in the Commercial Herald of 19th a resolution shaped differently, which he read to the meeting, and which was objected to. It was then near dark; the farmers and other brethren said they would not stay any longer, declaring that they were disappointed; they said they came many miles to hear Mr. Gowan explain the new doctrine of responsible government, complaining that he occupied or monopolized the whole time of the meeting in reading newspapers, some of them sixteen years old, which they had nothing to do with. Previous to Mr. Gowan putting the resolution, he certainly read copious extracts from letters and newspapers, in which he abused Sir P. Maitland, Sir J. Colborne, Sir F. B. Head, the Earl of Durham, and Sir George Arthur. He said their government was rotten at the heart's core, especially that of Sir Francis, for which he received a groan, and was called to order. It was then, as he states in his own account of the proceedings, Mr. Browne moved a resolution, which resolution went to show that Mr. Gowan's conduct unfitted him for the situation of Grand Master, and that he did not represent the Orangemen of Canada. Mr. Gowan then begged to be heard out, and Mr. Ashfield moved a resolution to that effect, which was understood by the brethren to be in pity to Mr. Gowan, and not opposing the resolution of Mr. Browne, only that he thought it out of order.

However as it was evident Mr. Gowan intended to let the sun go down upon his speech, as he appeared to be in dread of some resolutions not favourable to responsible government, which certainly would have been offered to the meeting, had he allowed time, a motion was made to adjourn, it being then almost dark and not one word said about responsible government, although he was several times interrupted and requested to confine himself to the question which brought them there; namely, his reasons for changing his principles: but it was of no use. The consequence was the meeting was about to break up. Mr. Gowan seeing this, said he would sit down if they would give him leave to move one resolution, and he was taken at his word. Now this was the resolution that is said to be garbled by Mr. Gowan's chief supporters—the Mirror and Examiner. Fallen indeed very low, must that man be, in the estimation of all good loyal men, when he requires such support. In conclusion, Sir, I am free to say, you are innocent of the charge of publishing a garbled statement of the meeting or the resolution. I was present when you received the resolution from Major Elliott, who was its seconder. But Mr. Gowan's conduct of late is calculated to deceive—it shows he has one doctrine for the Lodge Room, and another for the columns of the Mirror, the Examiner and the Statesman. It would be well if he would resign his connexion with the institution before he brings any more disgrace upon it.

A MEMBER PRESENT AT THE MEETING.

(Extract.)

Enclosure 4 in No. 43.

SIR GEORGE ARTHUR TO SIR J. COLBORNE.

SIR,

Government House, Toronto, 21st Sept. 1839.

Encl. 4 in No. 43.

I do myself the honour to call your Excellency's attention to the circumstance that on or about the 31st of October next, the period for which the services of the militia and volunteer force, named in the accompanying Return No. 1, were engaged, will cease; and that some action becomes necessary to be taken respecting them without delay.

The Return No. 2 exhibits the whole of the militia force embodied in this province.

To determine what force shall be kept up in Upper Canada, it is necessary not only to refer to the state of the American frontier, but also to the position of Upper Canada itself.

With respect to Lower Canada, your Excellency has of course abundant information of what may be expected there.

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The feeling on the part of the Americans is, undoubtedly, still one of sympathy towards that class of persons who have represented themselves to be oppressed under British rule; numbers have emigrated from this province during the past year, and whatever their real object may have been in leaving this province, I do not doubt they have accounted for it by dwelling upon the hardship of their case here. Notwithstanding the amnesty that was proclaimed, many of the absentees have not availed themselves of it, but have remained in the adjacent States. There has been an expression and an appearance of more cordial feeling towards Her Majesty's subjects, but I do not think it has been sincere. The patriot cause and its offspring, the hunters' lodges, have been, I understand, kept alive throughout the summer; and, on any pretext of disturbance in Canada, thousands of the floating population I have no doubt would be disposed to cross over and give a helping hand. Most of the public works in the State of Michigan have been stopped from the want of means, and great numbers of labourers will be out of employment and ready for any mischief.

The money market in the adjacent States is as bad as it can be, and all the banks are in extreme difficulty. Under the Act of Congress passed during the last session, a volunteer force has been raised which is represented to be considerable; the companies are armed and clothed, and drilled once every day, but the men receive no pay. The professed object of this force is to preserve peace, by enforcing the neutrality laws; but I have no confidence in their professed intentions.

Your Excellency is aware that on the frontier Her Majesty's subjects have been kept in great excitement.

The episcopal church at Chippewa, on the Niagara, was burnt last week, clearly the work of an incendiary from the States. It has just been reported to me that Colonel Creighton's premises have also been destroyed by an incendiary. These circumstances seem to justify the statements made by "Moon," of the scheme of villany which was to be acted upon during the winter.

With regard to the American frontier, there is, in fact, just the same foreboding of mischief which caused so much excitement last year.

Affairs in this province had, I thought, much mended, until fresh agitation was produced on the High Commissioner's Report being generally made known.

Since that time those who took the most active part in the winter of 1837 appear to be reanimated upon the question of "Responsible Government," and no person can, I think, now venture to express a positive opinion upon the exact state of public feeling. Influenced by various motives, I have no doubt a change of the institutions of this country is ardently desired by many; and in discussing "Responsible Government" it seems to me that a very considerable portion of the people regard their allegiance to Great Britain to be an open question on which they may give expression to their sentiments without any dangerous impeachment of their loyalty.

I not only hope, but indulge the expectation, that existing excitement and forebodings of worse things may pass away; but these and other considerations lead me to the conclusion, that the militia force in Upper Canada should rather be augmented than decreased.

I have, &c.

To his Excellency Sir John Colborne, G.C.B.

(Signed)

GEO. ARTHUR.

No. 44.

(No. 200.)

COPY of a DESPATCH from Lieut-Governor Sir GEO. ARTHUR to the
Marquis of NORMANBY.

MY LORD,

Government House, Toronto, 14th October, 1839.

ENCLOSED I have the honour to transmit to your Lordship a copy of a letter to the provincial secretary from the sheriff of the Midland district, detailing the particulars relating to the removal of the convicts from Fort Henry, and their embarkation on board Her Majesty's ship Buffalo, for the purpose of being transported to Van Diemen's Land.

The number of persons included in that Report, 83, exceeds the number I had previously informed your Lordship were awaiting transportation by the addition of one man, John Deans, who had very recently been convicted of murder under circumstances which would scarcely allow of any mitigation of the extreme penalty of the law, and I was consequently desirous to avail myself of the opportunity which was then offered me of inflicting on him the punishment generally deemed

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next in degree to that of death, by transporting him for the period of his natural life.

Could I have ventured to follow the impulse of my personal feelings, I should certainly have extended Her Majesty's free pardon to several others of the brigands; but in the present excited state of this community, justly exasperated at the atrocious attacks upon their property and lives, which have for some time past been made, and are still in practice, by a portion of the border population of the neighbouring states, a further extension of mercy to the brigands would have been viewed with extreme disapprobation and disgust by a great majority of the people of Upper Canada; and, which was an argument of still greater force, it did appear to me that a due regard to their security required that, in the course of treatment to be pursued towards the brigands, a strong example should be put forth by the transportation of a large proportion of them, to deter others, if possible, from similar acts of aggression upon the unoffending inhabitants of this province.

Being thus restrained by considerations of public duty from yielding to my own inclinations in pardoning any more of the brigands, I have directed the provincial secretary to send to the colonial secretary at Van Diemen's Land the fullest information that could be obtained of any favourable circumstances attending the cases of particular individuals, with a request that they might receive every indulgence consistent with their situation.

To enable your Lordship to have, at a single glance, a clear account of the manner in which all the prisoners taken in attempts to invade this province, from the commencement of the late troubles, have been disposed of, I now forward to your Lordship a general memorandum, exhibiting that information in a very concise form.

This, my Lord, I believe, is the last act I have to perform in this fearful tragedy; and my earnest hope is, that whilst the province has been saved from being overrun by a desperate banditti, that no part of my proceedings has been chargeable with undue severity.

I have the honour to be, my Lord,

Your Lordship's most obedient humble servant,

The Marquess of Normanby,
&c. &c.

GEO. ARTHUR.

Enclosure I in No. 44.

Sir,

Kingston, Upper Canada, 11th October, 1839.

I HAVE the honour to acquaint you that, in pursuance of a warrant from his Excellency the Lieutenant-Governor, I proceeded from this place on the 23d ultimo in charge of 83 convicts, and on the 27th delivered them into the charge of the officer commanding Her Majesty's ship Buffalo, at Quebec, whose receipt, attached to a list of their names, I beg leave to transmit enclosed herewith.

The arrangements made by Messrs. M'Pherson & Co., the proprietors of the Rideau Forwarding Company, for the conveyance of the prisoners to Montreal, was most satisfactory, and the prisoners expressed their gratitude for the good accommodation afforded them. They all appeared much dejected on learning that they were to be transported to New South Wales, but said that they could not blame the Government of this country, to which they would ever feel grateful for having spared their lives, and for the liberality and humanity with which they had been treated while in confinement. They attributed their present unfortunate condition partly to the false representation of refugees from Canada, but more especially to the persuasion of men of influence in the United States, by whom they had been induced to invade this country.

I have not yet been able to collect all the accounts connected with the state prisoners, but I expect to receive them in a few days, and will immediately forward them for approval.

I have, &c.

(Signed)

A. M'DONELL,

Sheriff Midland District.

The Hon. R. Tucker, Provincial Secretary, Toronto,
&c. &c.

&c.

His office appears to have been the resort of all classes of persons who have been mixed up in the Canadian conspiracy. He is by no means a man of good education, but a crafty, sagacious rogue; capable of conceiving and executing any mischief; but I was glad to see that he appeared to feel the weight of the degrading punishment to which he had been sentenced.

No credit is, in my opinion, to be attached to the statements of such men, unless they are supported by other testimony; he, however, has given very extensive information against parties both in this province and in the States, who have been implicated in his wicked proceedings; and if there were a good police, his veracity in many instances, might be at once tested; at present, all that can be said is, that his declarations seem to comport with other evidence in possession of government, of which he certainly could not have been aware; and, when these have been strictly investigated, we shall be the better able to judge of the whole of his disclosures.

A person resident at Coburg, who has been an out-and-out Reformer, and formerly a great supporter of Mackenzie, declared himself thoroughly disgusted with the proceedings of the "Patriots" in sending "Hart" and the rest of his gang into Canada to commit murder and arson, and expressed to Colonel Bethune his willingness to give information, provided a promise was made that his name should not be divulged to any person but to the Lieutenant-Governor in perfect confidence.

With this understanding, the individual in question lately proceeded to attend a meeting of delegates at Lockport; and on the 28th ultimo, on his return to Canada, he gave to Colonel Bethune a statement of what had transpired, of which a copy is enclosed.

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Sir George Arthur
to the Marquis of
Normanby.
October 15th, 1839.

No. 1.

This person, I learn from Colonel Bethune, has always borne a good character in all respects, save politics; but it must be kept in mind, the information he gives he can scarcely have gained, except under the pledge of an oath of secrecy, and this must ever make testimony collected from such a source very questionable. This, indeed, the delegate denies; and affirms that, having been at first a warm reformer, and, secondly, a supporter of the "Patriot" cause, his secrecy and adhesion were so entirely relied upon, that no oath was administered to him: if this be true, the conclusion must be that he himself first instituted the lodge, a circumstance which is the more probable, as he was for some months resident at Rochester.

Colonel Bankhead bears gratifying testimony to the exertions made by General Scott, and to the personal influence he possesses to suppress any scheme of violence.

From the secrecy with which their measures are now carried on, it is quite impossible to be fully aware of what is really passing in the States in the "Patriot" cause.

A printed circular, published by what is styled their executive council, in August last, was brought to me a few days ago by Colonel Hartwell, of the Upper Canada militia, who has been for some time residing in the state of Massachusetts. I enclose a copy for your Lordship's perusal.

This paper is full of mis-statements; but clearly enough shows the caution with which the principal conspirators are acting.

No. 2.

A letter which I have received from Captain Sandom this afternoon (a copy is enclosed) refers to some further movement on the St. Lawrence; we shall, perhaps, continue to be subject to such incursions for some time to come; but I am strongly inclined to the opinion that the "Patriot" cause is much on the decline; and Lieutenant Jones, who has been an attentive observer of all that has been passing on the frontier, thinks he perceives distinctly an alteration of feeling on the part of the Americans towards the "Patriot" cause.

No. 3.

The Government of the United States is now sending more troops to the Lake frontier, and there will be, in a few days, sufficient force at Detroit, Buffalo, Oswego, and Sackett's Harbour, to prevent any serious movements on the part of the "Patriots," provided this force is really intended to act in good faith, but,

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putting all things together that have transpired since December, 1837, I cannot overcome some misgivings in the matter.

The American government is also attending to the fortifications on the Lake frontier.

At Sackett's Harbour, Oswego, and Niagara, the works are all undergoing considerable repairs and improvements; and when I left the St. Lawrence last week General Scott was daily expected at Ogdensburg, to fix upon the position of a new fort nearly opposite to Prescott.

I returned a few days ago from the St. Lawrence, having since the close of the last session of the Provincial Parliament completed a tour of inspection through almost the whole of the settled districts of the province.

As my object has been to see and confer with all classes of persons, I have devoted much time to these excursions, and have been open to give and receive information, and to explain matters, with the utmost frankness and unreserve, which, I am satisfied, have been much misunderstood, especially by the agricultural part of the community.

Upon the whole, I wish it were in my power to give your Lordship a more gratifying account of the feeling throughout the province from the impressions made upon my own mind than I have it in my power to impart. Your Lordship will observe in the statements herewith transmitted—and the same have been communicated to this Government by many other sources—that serious disturbances in the province are still looked for. There is nothing I feel the want of more than a good police;—without it, it is not possible to penetrate into all that is going forward; but, so far as I can form an opinion from my own observation, and from those sources of information that are open to me, I do not expect anything like insurrection. Indeed, I am very confident there would be nothing whatever to apprehend in Upper Canada, were it not probable that even slight disturbances may be magnified into a civil war, in which it is open for the "Patriots" on the American shores to take that part which they have shown so earnest a disposition to display in Canadian affairs.

During my recent journeys I have made it my business frequently to confer with persons who were well known to have carried their reform notions to a great extreme; and, although it is not to be expected that such persons would reveal to me all they felt, yet I do place dependence, to an extent, on the assurance they have given me of their satisfaction at the course the Provincial Government has pursued throughout the trying times that have transpired.

I think, notwithstanding all the adverse circumstances since the Earl of Durham first announced his determination to leave the provinces, that we have rather gained than lost ground.

At the same time, I would not conceal from your Lordship that there are many persons of intelligence and of long experience who regard the situation of the country with great apprehension.

The republican party, which after the rebellion were prostrated, have greatly revived of late; and the loyal party are so jealous of any measures that may give an ascendancy to their opponents that it is impossible just now to be too cautious;—in fact, the state of the public mind is such as to convince me that her Majesty's Government took a wise course in not pressing the bill for the union, and its attendant measures, through the Imperial Parliament during the last session.

The country needs repose, and the people time for dispassionate reflection; and, regarding the state of parties in this country to be as I have described it, I submit that the interval of tranquillity should be employed in throwing into the province a body of loyal emigrants from the mother-country, so that possession might be thoroughly secured before important legislation be entered upon.

The effect of the stoppage of the Branch United States Banks will, of course, be immediately apparent in this province. What I apprehend is—that the "floating mass" of population, being thrown out of employment, may tend to increase our border disturbances; but I hope to be able to meet any difficulties of this kind.

The banks of this province were to resume cash payments on the 1st of November: I have not yet considered what course it will be proper to pursue in the present state of the American money-market, but I shall lose no time in taking the advice of the Executive Council upon it.

Since the Earl of Durham's Report was published, the reform party, as I have already stated, have come out in greater force—not in favour of the Union, nor

No. 3 and 4.

of the other measures contemplated by the Bill that has been sent out to this country, but for the darling object so strenuously advocated by Mackenzie, familiarly denominated "responsible government."

In my despatch of the 27th September I stated that the sheriff had declined to convene a meeting which he was requested to call, to take the question into consideration.

I thought he acted injudiciously, though from the very best motives, as it was obvious the parties might proceed without him; and a meeting has accordingly this day taken place.

I have not yet received any report officially of the proceedings, but the Mayor of Toronto has informed me that he attended the meeting—that amongst the advocates of "responsible government" were many persons who were found among the enemies of the country in 1837, and that the loyal party outnumbered them by a vast majority: there appears to have been a great deal of violence exhibited, and, as usual, perhaps all parties are to be blamed.

It is most unfortunate that this theory should have been agitated. I have met it with a decided disapproval whenever it has been proposed to me for my opinion, and I believe with some effect: but it will probably be a point by which the next elections will be extensively influenced; and it is to be the more regretted as it seems, although perhaps to a small extent, to divide the loyal party.

This brings me to the last subject which I shall notice in this despatch, and which has caused me much anxious consideration,—namely, whether the present House of Assembly should be dissolved before the important subjects now pending are brought under the consideration of the legislature.

Influenced by no party considerations whatever, and desiring only to promote the good of the country, I can perceive on many accounts, that the assembly of a new parliament would be most desirable. But when I reflect upon the shock it would prove to the present House, who stood forward so manfully to support the connexion with the mother-country, and take into consideration the existing state of the province, I have arrived at the conclusion, for reasons which I will by the next opportunity more fully explain to your Lordship, that the dissolution of the House ought not to be thought of.

Enclosure I in No. 45.

STATEMENT made by Mr. _____.

I SAW a person (of Cattawissa, Colómbia County, Pennsylvania) on board the steamer Transit, who informed me that he had been in the Newcastle, Home, and Gore districts, upon the business of the "Patriots;" that he found there had been some arms brought into the country from the United States, but not so many as he expected; that he found the reformers in the country had more arms of their own than he supposed, and that the best disposition existed among them to aid the "Patriots" in any measure for the liberation of Canada. He told me that he was an engineer, and was induced to enter into the "Patriot" cause from a knowledge he had of Lount, who had been hanged in Canada;—that Lount lived at his house during the last war, and, on his return to Canada, presented him with a gold watch, which he showed me, but that he took no active part on behalf of the "Patriots" until about two or three months ago. He said that he came to Canada for the purpose of ascertaining the true state of the country, as well for his own satisfaction as for that of the friends of the "Patriots" in his part of the country.

When we were at Lockport, at the meeting of delegates there, he assured the meeting that he would furnish seven hundred men, free of expense, to assist in their contemplated attack upon Canada.

I went to Lockport, at the request of a messenger sent by a committee of the "Patriots" on the other side of the Lake, to meet them at that place on Thursday last, to consult upon the plan that should be adopted by the "Patriots" to carry their wishes into effect. Before leaving home I mentioned the matter to two conservative gentlemen of the place where I live, and they advised me to go to the meeting for the purpose of ascertaining the plans of the "Patriots."

I met eighteen persons there, whom I considered delegates. There were three persons from Canada at the meeting besides myself—one from the rear of Toronto, one from the Gore District, and one from the Niagara District. We were sworn not to mention the names of each other.

It was stated at the meeting that they had about seven hundred stand of arms at Buffalo, and a quantity of arms back of Detroit, and six pieces of cannon. It was also stated that they had cannon and ammunition at Oswega. After speaking of several

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places where they thought an attack should be made upon the province, it was determined that it should be made from Detroit, and that the landing should be effected near Windsor, where the "Patriots" landed last year; that the attack should be made as soon as the canal-boats should be laid up.

It was stated that they had three thousand men upon whom they could certainly rely, and that they would make the attack with that number of men. That arms should be sent over to this province immediately—about six hundred to Whitby, four or five hundred to Presqu' Isle, and large quantities to the London and Western Districts. It was said there were about four hundred stand of arms already in the township of Percy (Newcastle District).

It was spoken of as their plan, that, as soon as they effected a landing in the West, the disaffected in the various districts of the province should rise for the purpose of distracting the attention of Government, and preventing their sending troops to the West. It was expected that, if they could make a stand in the West for a few days, they would be joined by great numbers of persons from the States who are only waiting for such an opportunity to come over to Canada. Sutherland and MacLeod left Lewiston last Friday, for the West, to make preparations for the attack; and Lett went to Oswego on Thursday, to make arrangements for the destruction of the steamer Great Britain. It was expected that she might be detained there by stress of weather over night, when her destruction could easily be accomplished.

They stated at the meeting that there was a British officer at Pennsylvania, who would take command of the attacking party in the west; that they preferred him to Von Shoultz as a *leader*, though they thought highly of the latter.

It seemed to be the opinion of that portion of the meeting who appeared to be most respectable, that the system of burning houses should not be persisted in; though they had no objection to burning the *barns* of Tories. They thought that plan would impoverish the Tories and benefit their own friends more than burning their houses. It was said that they would postpone the destruction of the English church at Toronto, until its completion; and I feel confident it will be attempted, and perhaps by some persons who now reside in the city. They said there was a good understanding between them and some of the inhabitants of Toronto, whom they called "friends." They said one of their particular "friends" was a lawyer in Toronto.

It was stated at the meeting, that they would take no prisoners; they would show them how it worked. They neither expected, ask, nor receive quarter; and they intended to give no quarter to those persons who should fall into their hands.

The impression produced upon my mind, from what I heard at the meeting, is that the disaffected in the Province, particularly in the Newcastle-district, are much more numerous than I had supposed previously.

Mr. ——— highly approved of holding Durham meetings, as it enabled the "patriots" in the province not only to assemble publicly, but privately also; and he advised that they should be held at as many places as possible.

I saw persons to the number of sixty drilling at Lockport, secretly, who are called "patriots," some were using muskets, some swords, when I saw them. I was taken to the place where they were drilling, by a person who was called Serjeant Macintosh, formerly of the 93rd regiment, and by one Watson, son of the Watson who was sent to England, on his way to a penal colony, with John G. Parker, and who, I understand, has lately been liberated by the British Government.

When I lived at Rochester last spring, I heard several very respectable persons say that they considered General Scott friendly to the patriot cause; and that General Scott had stated he only wanted an opportunity to come over to Canada. It was also stated at the meeting at Lockport, that General Scott was not to be feared by the patriots; that if they had no greater enemy than General Scott, they would get on very well.

(Circular.)

Enclosure 2 in No. 45.

Safety Committee Room, 18th August, 1839.

GLORIOUS NEWS FOR THE PATRIOTS.

Encl. 1 in No. 45.

THE Chancellor of the Exchequer, recently declared in the House of Commons, in England, that the Canadian revolution had already cost Great Britain upwards of ten millions of dollars, and remarked that a continuance of the expense of keeping up so large a military establishment in those colonies, could not long be borne.

Daniel O'Connell and Mr. Leader, the great advocates for liberty, ably defended the Lower Canadians in the British House of Commons, and sustained the revolting party in the course they have taken.

John G. Parker, and seven other leading Upper Canada patriots, who were banished by Governor Arthur, have been liberated in England, and are now on their return home.

Instructions have been given by the ministry in England, for the immediate liberation of all the patriot prisoners now in custody of the authorities in the Canadas.

Sir John Colborne has recently been dismissed from the office of Governor General of the Canadas, and recalled to England, in consequence of the severity with which he uniformly treated the French Canadians engaged in the revolution.

Mr. Charles Buller, Secretary to Lord Durham, while the latter was discharging the duties of Governor-General of the North American Colonies) and member of the House of Commons, strongly censured Governor Arthur for executing those brave patriots Lount and Matthews, and unhesitatingly told the Prime Minister, that he Governor Arthur had made false representations relative to Canadian affairs; and particularly in stating the number who signed a petition to have the lives of Lount and Matthews spared.

It is ascertained for a certainty, that Governor Arthur's conduct in relation to the cruel treatment of patriot prisoners, and suspected persons, is disapproved of in England, and it is confidently expected that he will soon be dismissed, and follow Governor Colborne.

The Government of Great Britain have approved of the decision of the Lower Canadian judges, who were suspended from office by Governor Colborne, for interfering with his military law, and are again in office to see that justice is done to the oppressed!!

FELLOW PATRIOTS:—The Committee of Safety have much pleasure in communicating to the friends of freedom the above facts, recently received from unquestionable authority, which cannot fail to dispel the dark cloud which has for months past cast a solemn gloom over the patriot cause.

It is quite clear that the British Government are already tired of the expense of retaining the Canadas at the point of the bayonet; as they have done for the last eighteen months. The enormous amount of doing so, has to be borne by the people in England, or they at once lose those colonies; and it is evident that the six millions of dollars yearly required to maintain a standing army for that purpose, has its proper influence with Queen Victoria's advisers, who will pause before they increase the excitement in England, already bordering on a state of revolution, by an additional tax, which must be restored to, as mentioned by the Chancellor, should the Canadas be retained by the Queen.

The Committee are without proof that the British ministry secretly desire to have these colonies rescued from under their controul, but they are in possession of facts that fully justify a conscientious belief that such is really the case.

The frankness of the Chancellor of the Exchequer in stating that the Canadas could not be long held by Great Britain, under such heavy yearly expense; the manner Messrs. O'Connell and Leader, both in the confidence of the ministry, advocates in the House of Commons the course pursued by the Lower Canadians;—the certain dismissal of Governor Colborne, in consequence of ill-treating the French Canadians, suspected of being concerned in the rebellion;—the strong language made use of in the House of Commons by Mr. Charles Buller, relative to Governor Arthur's conduct in executing Lount and Matthews;—the daily censure heaped upon the latter functionary by the authorities in England; for the tyranny which has characterised all his past acts (whenever he had patriot prisoners in his power);—the liberation of that useful and leading patriot, John G. Parker, and others;—the restoring to office of the Lower Canadian judges, dismissed by Governor Colborne for allowing bail to patriot prisoners confined under Sir John's martial law;—the attention paid to Lord Durham's official report in England (which is most unquestionably in favour of the discontented in the Canadas);—with many other similar facts, all go to strengthen the Committee in their well-grounded belief, that whatever those who wield the power in Great Britain may openly say relative to holding the Canadas, they very prudently, and with an eye to their alarming troubles at home, secretly desire to rid themselves of these expensive colonies, the assertion of all the tory tyrants therein to the contrary notwithstanding.

In pursuing this subject a little farther, the Committee beg leave to remark, that it is well known in Great Britain that full nineteen-twentieths of an immense Lower Canadian population are hostile to their present government, and in favour of a revolution; and it is equally well known by the authorities in England, that those Canadians have only been deterred from a general insurrection, and putting down the hired soldiery and loyalists by a knowledge that, should they make another attempt for liberty, and fail to overpower the soldiers and loyalists, for want of arms, Governor Colborne would certainly pursue the same horrid butchery of men, women, and children, and the destruction of whole villages by fire, that characterized his proceedings in the first and second outbreak. The same, to a certain extent, will equally apply to Governor Arthur's conduct in Upper Canada. If the British ministry were therefore really determined to hold those provinces at the point of the bayonet, as they have thus far done, is it reasonable to suppose that they would under any circumstances withdraw the very men from the government of the Canadas who, it is notorious, have (by their cruel acts, and threatenings to punish more severely in the future) kept a great number of the less informed and timid patriots in both provinces from fulfilling the solemn pledges given to the United States patriots (who went from their homes to assist in giving them freedom) in coming to their assistance, according to expectation; in the hour of danger, thereby causing every defeat the patriots have thus far met with.

The embarrassment which the fearless patriots have had to contend with by such weakness on the part of their timid fellow-citizens in the Canadas will now be effectually removed by the departure of Governor Colborne from Lower Canada, and the daily expected dismissal of Governor Arthur in the Upper Province, and the difficulty that so many real friends

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have so long laboured under for want of arms, can be easily overcome by throwing into the hands of those who will use them a sufficient quantity to make them useful.

Taking a candid view of the whole of the preceding truths, and without giving them any improper colouring, they certainly do forebode prospects cheering to those who still nobly desire to see the Canadas freed from bondage, and who, by now coming forward manfully will accomplish an object worthy and creditable to the name of freemen, and feeling assured that the reorganization of a new society, under such favourable circumstances, will hasten on a crisis so much desired by thousands; yea millions, and with a view of keeping up a high state of excitement and alarm in the Canadas so essentially necessary for the furtherance of that cause. The Committee have thought it advisable to issue circular letters, setting forth their views upon the important subject, and have despatched several of their own members to distribute them confidentially, in different directions, with further authority to form, while on their present tour, societies on our own and the Canadian frontier, agreeable to the accompanying instructions, which, if rigidly observed, will effectually baffle the most sagacious to ascertain even of the formation of a new secret society, or subsequent movements, in time to prevent successful operations.

As soon as the societies can be properly formed (which, owing to the extent of territory on both frontiers, and the extreme difficulty and caution necessary to be observed in approaching the Canadian shores, and passing through those provinces unsuspected, will take some considerable time), notice will be given relative to future proceedings: in the mean time the Committee do earnestly beg and entreat that no public show will be made—no expressions heard to escape the lips of any person calculated to excite suspicion among those who do not feel disposed to heartily unite in the glorious cause; but let all appear as calm and silent as the grave (except nightly meetings) till the proper hour shall arrive.

With reference to future movements, the Committee will merely now remark, that whatever course they may hereafter decide on pursuing in this matter, it now strikes them very forcibly that, as there are many places on the Canadian frontier where landing can be made without coming in direct contact with a superior British force, and hundreds of other places where little or no force is kept, particularly in the Upper Province, a very successful invasion can be for years carried on, if necessary, by the joint co-operation of the friends in the Canadas, affording as the latter can, at all times, the most correct and useful information.

While there continues so great a military force in the Canadas, and while the authorities there continue in the belief that their government across the Atlantic desire them to defend these provinces, it will not be advisable that any place taken possession of by the patriots in those colonies, shall for the present be permanently held.

The example which the tyrants of Great Britain first set our forefathers in the revolutionary war of 1776; followed up by Colonel MacNabb and Captain Drew in the Canadian revolution of 1837, can be speedily accomplished on landing; and the places evacuated before any great combination of force can be brought to bear against the patriots. The insulting manner which the officials, backed up by other loyalists, have, time after time, exposed the lives of hundreds of American citizens, by discharging small arms at our steam-boats and schooners in passing (on their regular and lawful business,) by those hot-beds of toryism, Brockville, Prescott, and other places on the Canadian shores, calls loudly for merited chastisement.

We shall no doubt be told, and very likely too, by our own government, that we are engaged in a cause calculated to create ill feeling between Great Britain and the United States, that may ultimately bring on a national war between those two powers. Anticipating such an objection by some few citizens against the patriot cause, the Committee, in reply, do not hesitate to say, that Great Britain, with her alarming difficulties at home, will not venture a war with the United States Government, in consequence of citizens of the latter taking possession of a territory four thousand miles from England; which costs the latter millions of dollars yearly more than its worth, and which they no doubt wish to get rid of; but suppose on the other hand, that Queen Victoria should be advised to declare war against Uncle Sam, pray tell us: ye wise men, what she would gain by such a step. The Committee say, nothing whatever. What then would she lose?—All her North American Colonies. Besides, would not a war firmly unite the Southern and Northern States? Would not the question relative to Maine, and other disputes, be finally settled in less than a month after a declaration of war? Would the Canadas remain a day under Great Britain? Nay;—but why dwell on this subject?—there is no danger, if danger it can be called, of such being the case.

Shall we then, the offspring of those brave patriots, whose blood flowed so copiously in freeing themselves from the same oppressive and galling yoke of tyranny that the Canadians are groaning under, be prevented from following in the footsteps of our illustrious ancestors. Let us, as a people who know the blessings of freedom, show that the descendants of those who taught Great Britain to be just to the now United States in 1776, will teach Miss Victoria and her Government to be also just to the Canadas, labouring under similar oppression that we once did; and that, should it take years, and millions of dollars, and oceans of blood, those suffering colonies shall yet be free; and the guilty officials who have in the least participated in the murdering of American or Canadian citizens, or in the capturing, trial, or execution of a patriot, may yet in their turn have to enter upon the scaffold for execution, should justice, in a more summary way, not sooner overtake them.

It will, no doubt, be gratifying to the friends of freedom, to know that there is no want of the necessary means to carry on an extensive invasion, should Great Britain drive us to that alternative, and as we can now safely depend on considerable assistance from the Canadas. The Committee look forward at no very distant period to see those provinces a second

Texas; and when that day arrives, be it sooner or later, the names of those registered, as directed by the instructions of this Committee, and continue firm under the new society to the end, will be sure of receiving such rewards as their services may justly entitle them to.

In taking leave of you, fellow citizens and patriots, for a while, the Committee think they have only to call your thoughts for a moment to past events, to convince you that our future prospects to glorious honours and wealth on the one hand, or the total ruin, defeat, and disgrace on the other, depends upon a well organized society, who to a man must, under the most trying circumstances, make strict secrecy, watchfulness, patience, order, perservance, brotherly love, a determination to support the by-laws, his constant watchword.

J. L. QUINN,

Chairman of the Committee of Safety.

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15th October, 1839.
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(Copy.)

Enclosure 3 in No. 45.

SIR,

Kingston, 11th October, 1839, 7 P. M.

I DO myself the honour to enclose for your Excellency's information a placard, which I should not have considered worthy of notice but that I am given to understand that it is a mere pretext for an extensive meeting of "Hunters," who, urged on by Theller, Parker, and such persons who are this night at Ogdensburg, are inclined to renew the scenes of last year.

My informant suggested the propriety of recommending that the "Brockville" should not visit the town of Ogdensburg to-night, as, from the excitement of some people there, some evil consequences might arise; which recommendation I urged on the captain.

I am credibly informed that projects are maturing for the annoyance of the British steam-vessels which traverse the St. Lawrence, in their passage among the islands.

I have, &c.

(Signed) W. SANDOM, Captain, R. N.,
Commanding on the Canadian Lakes.

His Excellency Major-General Sir Geo. Arthur, K.C.H.,
Lieutenant-Governor, Upper-Canada.

Encl. 3 in No. 45.

NOTICE.

AN adjourned meeting of Naturalized Citizens of Ogdensburg and vicinity will be held at the Town Hall, in the village of Ogdensburg, on Friday evening, the 11th instant, at seven o'clock, for the purpose of appointing delegates to attend a State Convention of Naturalized Citizens, to be holden at Syracuse, on the 14th instant, to take into consideration the propriety of petitioning the President and Congress in relation to the claim of Great Britain—"Once a subject, always a subject."

In case of war it is a matter of serious importance that adopted citizens should, by declaratory law of Congress, stand in the same relation to the Governments of the United States and Great Britain as natural born citizens.

Citizens friendly disposed to the object of the meeting are invited to attend.

Ogdensburg, October 10, 1839.

No. 46.

(No. 203.)

COPY of a DESPATCH from Major-General SIR GEORGE ARTHUR to Lord JOHN RUSSELL.

MY LORD,

Government House, Toronto, 18th October, 1839.

I HAVE the honour to acknowledge the receipt yesterday, *via* Montreal, of the duplicate of your Lordship's despatch, No. 1, of the 10th September, transmitting, for my information and guidance, an extract from the instructions which have been addressed to the Right Hon. C. Poulett Thomson, on his assuming the Government of British North America.

No. 46.
Sir George Arthur
to the Marquis of
Normanby.
October 18th, 1839.

No. 46.
Sir Geo. Arthur
to the Marquis of
Normanby.
Oct. 13, 1839.

This portion of the instructions, I observe, contemplates the Governor-General's proceeding to Upper Canada for the purpose of administering the Government in person, the object being "to obtain as much agreement as possible to the plan to be hereafter submitted to the Imperial Parliament."

On Mr. Thomson's kindly affording me a short notice of his intention to proceed hither; I will at once give up the Government House for his use, in order that his Excellency may possess all the convenience which the official residence affords; and your Lordship may rest assured, that I shall be disposed readily and cheerfully to afford the Governor-General all the information in my possession, upon any point respecting which he may wish to consult me.

At the same time, I should not discharge my duty to The Queen's service with fidelity, or act towards your Lordship with candour, if I did not respectfully state my opinion, that with my suspension from the functions of my office, my power to render the Governor-General all the effective assistance I should desire will be materially diminished.

Throughout the period of twenty-five years, during which I have been employed in the administration of some colony, under the orders of twelve successive Secretaries of State, I have laid it down as a rule never to be a party man either in British or Colonial politics. The difficulty of sustaining such a neutral position is extreme; and there are times when one is left thereby almost without any support; but still, firmly and consistently aiming to govern the people, and not to be the leader of a party, has never disappointed me in the end.

Acting upon this principle, I have no expectation that any men who are ultra, either in religion or politics, could be warmly attached to my Government; but I have endeavoured to carry with it the support of all moderate men, who still compose by far the most influential and numerous party in Upper Canada.

My own line of action, so far as I am aware, concurs with the principle by which every member of the Executive Council has been influenced. In that body, I have always encouraged the utmost freedom of discussion, and I avail myself of this occasion of recording with pleasure and satisfaction, that, in the unlimited exercise of freedom of debate, I have never known an instance, in the midst of the most perilous times, and when party feeling has been running exceedingly high, of any exclusive, intolerant, or violent course of policy having found one advocate at the council table. The consequence is, that whilst the Government seeks not the warm plaudits of any party, however powerful, I enjoy a moral influence as extensive as any colonial authority could expect to possess under the circumstances in which this province has, for some time past, been placed; and I do not doubt, that any measures which I might recommend to the legislature, would be respectfully received by the majority, not as party propositions, but as measures at least well intended to promote the general welfare.

Whether, at such a time, it may be prudent to hazard the loss of an influence which has been acquired under peculiar circumstances; and to leave the public to infer, that, on the part of the Home Government, a want of confidence exists as to the judgment or fidelity with which the provincial affairs have been administered, are considerations on which I would not wish to enlarge.

Without offering these remarks, I should not feel satisfied that I had discharged my duty to Her Majesty's service; but having done so, I beg to add, that, if the Governor-General, with whom all the responsibility and deepest solicitude for the success of the great measures in contemplation rest, shall differ in opinion with me, I shall dismiss from my mind every thought upon the subject beyond that of rendering his Excellency the most cordial and zealous support in working out his own plan; and, it is very possible, that I over estimate the objections to it, and that the course to which the instructions point, may practically prove the most beneficial.

I have the honour to be, my Lord,

Your Lordship's most obedient humble Servant,

GEO. ARTHUR.

The Right Hon. Lord John Russell,

&c.

&c.

&c.

(No. 211.)

No. 47.

EXTRACT of a DESPATCH from Sir GEORGE ARTHUR to LORD JOHN RUSSELL.

Government House, Toronto, 11th November, 1839.

In my despatch, No. 203, of the 18th ultimo, I had the honour to communicate to your Lordship the impressions I entertained relative to the proposed assumption of the administration of the affairs of this province by the Governor-General.

The Governor-General will himself, no doubt, have informed Her Majesty's Government of his decision to meet the present Parliament on the 3rd of December next.

It is certainly possible that this proceeding may prove the most beneficial means for the attainment of the end which Her Majesty's Government have in view; and your Lordship may be assured that I shall be happy to render to the Governor-General, during his presence here, every assistance in my power.

But I will not conceal from your Lordship my serious apprehension, that party-feeling, and the excitement always thereon attendant, will be brought into lively activity, upon the occasion of the Governor-General's personal assumption of the Government; and I still strongly entertain the opinion that it would have been more advisable, under the actual circumstances of this province, to have allowed me to propose to the Legislature the measure of the Union, on such grounds as Her Majesty's Government might desire.

If the measure failed, the Parliament might have been dissolved; if it proved successful, the Governor-General would have reserved himself for the United Legislature, unembarrassed with the particular politics of Upper Canada; a consideration which may prove hereafter of considerable importance.

My impression is, that there will be a considerable majority in favour of the Union, abstractedly considered; but as I do not myself know the precise measures contemplated by Her Majesty's Government, in connexion with it, I am unable at present to express a decided opinion upon the whole question.

(No. 224.)

No. 48.

COPY of a DESPATCH from Sir GEORGE ARTHUR to the Right Hon. Lord JOHN RUSSELL.

MY LORD, Government House, Toronto, 22d Nov. 1839.

I HAVE the honour to inform your Lordship that his Excellency the Right Honourable Charles Poulett Thomson arrived here yesterday morning; and that his Excellency having been sworn in, has this day superseded me in the administration of this Government.

It is the Governor-General's desire that I should continue to conduct, as heretofore, the usual routine business of the Government, as his mind will be principally directed to the great political measures which he has in contemplation; and it will be my wish, as well as my duty, to afford his Excellency every assistance in my power.

The subject of the greatest importance to be disposed of is the progress of a Commission, appointed, on my own recommendation in accordance with an address from the House of Assembly during the last session, for the purpose of inquiring into the state of the various public departments, with a view to the adoption of such measures of improvement in regard to them, as may seem to be practicable and advisable.

This Commission, the members of which have been divided into several distinct committees, is now actively engaged in the prosecution of the inquiries that have been entrusted to it; the nature and extent of which will be fully explained to your Lordship by the accompanying printed copy of the Commission and instructions.

I lament to say, that, so far as the inquiry has gone, too much proof is already afforded of great defects in the system pursued in the offices of several public accountants: nothing worse, I hope, will be brought to light, but the aspect, at present, is very unfavourable.

I have the honour to be, my Lord,

Your Lordship's most obedient humble servant,

GEO. ARTHUR.

The Right Hon. Lord John Russell,

&c.

&c.

&c.

No. 48.
 Sir Geo. Arthur
 to Lord John Russell,
 Nov. 22, 1839.

Enclosure in No. 48.

ADDRESS OF ASSEMBLY.

Encl. in No. 48.

To his Excellency Sir GEORGE ARTHUR, Knight Commander of the Royal Hanoverian Guelphic Order, Lieutenant-Governor of the Province of Upper Canada, Major-General Commanding Her Majesty's Forces therein, &c. &c. &c.

May it please your Excellency,

WE, Her Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in provincial parliament assembled, beg leave to thank your Excellency for the careful investigation which has been made into that branch of the public service, connected with the offices of the provincial and private secretary, and for the zealous desire shown by your Excellency to put those departments upon an effectual footing.

We beg leave to inform your Excellency that we are of opinion, that a similar investigation and close scrutiny into the business, conduct, and organization of every other public department in the province, will be productive of great advantage to the public service.

We therefore pray that your Excellency will be pleased to employ some fit and disinterested person or persons, to make such an investigation and scrutiny as would enable them to report on the state of each department, and to recommend such changes in the system of conducting the public duties, as they may think will be beneficial; and that their report should be transmitted to the legislature at the next session; and we assure your Excellency that we will make good the necessary expenses attending such proceeding.

Commons House of Assembly.
 9th day of May, 1839.

ALLAN N. MACNAB, Speaker.

HIS EXCELLENCY'S ANSWER.

GENTLEMEN,

This address is most gratifying to me, and I shall, with great readiness, endeavour to comply with your wishes, by instituting an early investigation into the state of the several public departments under this Government, in order that a particular report of their actual conditions, with suggestions for such changes and improvements as they may appear to be susceptible of, may be laid before the legislature at the next session.

COMMISSION.

UPPER CANADA.

GEO. ARTHUR.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c. &c. &c.

To the Honourable Robert Baldwin Sullivan; the Honourable William Allan; the Honourable Augustus Baldwin; the Honourable William Henry Draper; the Honourable Richard Alexander Tucker, Members of our Executive Council, in and for our said province of Upper Canada; the Honourable Robert Sympson Jameson, Vice-Chancellor of our Court of Chancery, in and for our said province; the Honourable John Henry Dunn, our Receiver-General, in and for our said province; the Honourable John Macaulay, Inspector-General of Provincial Accounts, in and for our said province; the Honourable John Simcoe Macaulay, Member of the Legislative Council, in and for our said province; the Honourable Levis Peters Sherwood, the Honourable James Buchannan Macaulay, the Honourable Jonas Jones, the Honourable Archibald McLean, Justices of our Court of Queen's Bench, in and for our said province; Christopher Alexander Hagerman, Esquire, our Attorney-General, in and for our said province; Charles Chichester, Esquire, Colonel in our Forces; Henry Sherwood, Esquire; the Reverend John McCaul, Principal of Upper Canada College; the Reverend Henry J. Grasett; Samuel B. Harrison, Esquire, Civil Secretary to our Lieutenant-Governor of our said province; William Hepburn, Esquire, Registrar of the Court of Chancery, in and for our said province; James Hopkirk, Esquire; and to all to whom these presents shall come—

GREETING.

WHEREAS the honourable the Commons House of Assembly of our province of Upper Canada did, by their address to our Lieutenant-Governor of our said province, pray that he would be pleased to employ some fit and disinterested person or persons to investigate the business, conduct, and organization of the several public departments in our said province; and that the person or persons so employed should report on the state of the said several departments, and what changes in the system of conducting the public business in the said several departments would, in the opinion of such person or persons, be beneficial; which report the said House of Assembly further prayed should be laid before them at the next meeting of the Provincial Parliament.

Now know ye that we, in compliance with the said address to our Lieutenant-Governor of our said province, and reposing trust and confidence in your loyalty, integrity, and ability,

have constituted and appointed, and by these presents do constitute and appoint you, the said Robert Baldwin Sullivan, William Allan, Augustus Baldwin, William Henry Draper, Richard Alexander Tucker, Robert Sympson Jameson, John Henry Dunn, John Macaulay, John Simcoe Macaulay, Leuius Peters Sherwood, James Buchanan Macaulay, Jonas Jones, Archibald M'Lean, Christopher Alexander Hagerman, Charles Chichester, Henry Sherwood, John M'Caul, Henry J. Grasett, Samuel B. Harrison, and William Hepburn, to be our commissioners, to investigate the business of the several departments of our said province, and the system of conducting the public business in the same, and the organization thereof, and to report to us upon the said several matters, and whether, in your opinion, any change may be made in the system of conducting the public business in the respective departments of the government, which would be to the advantage of our subjects; hereby charging and commanding all persons to be aiding and assisting you, our commissioners as aforesaid, in the performance of the duties, by these our letters patent, assigned to you.

And know ye further, that we do hereby give full power and authority to you, our commissioners as aforesaid, to call before you all and every such person and persons as you, our commissioners as aforesaid, may think proper; and to send for and examine all such papers, records, and documents, of every description, as you, our commissioners as aforesaid, shall judge necessary, with a view to obtain such information as you may deem requisite for your guidance and assistance in investigating the several matters and things as aforesaid, in the respective departments of the government.

And know ye further, that reposing trust and confidence in the loyalty, integrity, and ability of you, the said James Hopkirk, we have constituted and appointed; and by these presents do constitute and appoint you, the said James Hopkirk, to be the Secretary to our commissioners as aforesaid, hereby enjoining you, as such, to fulfil and perform all such lawful duties and commands as you, the said James Hopkirk, may from time to time receive from them, the said Robert Baldwin Sullivan, William Allan, Augustus Baldwin, William Henry Draper, Richard Alexander Tucker, Robert Sympson Jameson, John Henry Dunn, John Macaulay, John Simcoe Macaulay, Leuius Peters Sherwood, James Buchanan Macaulay, Jonas Jones, Archibald M'Lean, Christopher Alexander Hagerman, Charles Chichester, Henry Sherwood, John M'Caul, Henry J. Grasett, Samuel B. Harrison, and William Hepburn, as our commissioners as aforesaid.

In testimony whereof, We have caused these our letters to be made patent, and the great seal of our said province to be hereunto affixed. Witness our trusty and well-beloved Sir GEORGE ARTHUR, K.C.H., Lieutenant-Governor of our said province, and Major-General Commanding our Forces therein, at Toronto, this twenty-first day of October, in the year of our Lord One thousand eight hundred and thirty-nine, and in the third year of our reign.

G. A.

By command of his Excellency.

C. A. HAGERMAN, Attorney-General.
R. A. TUCKER, Secretary.

Sir,

Government House, 22d October, 1839.

In accordance with the address of the House of Assembly, during the last session, I have this day caused a commission to be issued, under the great seal, directed to certain commissioners, of whom you are one, to inquire into and investigate the several departments of the public service.

Being anxious that proceedings should, at as early a period as possible, be taken under the commission, I transmit the commission to you, and have caused the several members of the commission to be notified to meet at the Council Chamber on Friday morning next, at 10 of the clock in the forenoon, in order that the commission may be opened, and the course of business determined upon.

I can only add the earnest desire I feel, and which I beg to impress upon all the commissioners, that the utmost dispatch should be used, which is consistent with a careful discharge of this important duty, so that the reports may receive my consideration, and be prepared for the House of Assembly at its meeting.

I have the honour to be, &c.

The Hon. R. B. Sullivan,
&c. &c. &c.

(Signed) GEO. ARTHUR.

M I N U T E.

WITH a view to institute such an inquiry into the business, conduct, and organization of the various public departments of this province, as was requested by the House of Assembly in its address, at the close of the last session, and for the information and satisfaction of the Government, the Lieutenant-Governor has been pleased to issue a commission, and to appoint the following committees from the board of commissioners so constituted.

CORRESPONDENCE RELATIVE TO THE
INSPECTOR-GENERAL'S OFFICE.

No. 48.
Sir Geo. Arthur
to Lord John Russell.
Nov. 22, 1839.

Encl. in No. 48.

Committee No. 1.

MEMBERS :

The President of the Executive Council.
The Honourable Augustus Baldwin.
His Honour the Vice-Chancellor.
Henry Sherwood, Esq., Q.C.

To this committee is assigned the inquiry into the duties of the inspector-general of public accounts, and the system pursued in his office.

The committee will ascertain—

1. The particular nature and extent of the business which is, and for some time past has been transacted in this department.

2. Whether the business be such as should properly devolve on this office, or whether any portion of it might be beneficially transferred to other departments; or, on the other hand, whether any additional duties might be advantageously assigned to this office.

3. Whether the system of accounts pursued in this office be satisfactory, or whether it be capable of improvement in any respect.

4. Whether the different public accountants transmit their Returns to this office punctually, at regular stated periods; or, if not, whether a sufficient power at present exists, for compelling a prompt and regular transmission of accounts.

5. Whether the information necessary for a strict scrutiny into all money transactions, be promptly afforded by public accountants, and whether any improvement of the present form of rendering accounts to the inspector-general, or in preparing the public accounts of the province, be requisite.

6. Whether the inspector-general has sufficient means of ascertaining that the several collectors and receivers of the public revenue, faithfully and truly account for all monies for which they are responsible.

7. Whether there be means of knowing that due diligence is observed by the respective officers, in the collection of duties on imports, and on shop, tavern, stills, and other licences; as also in punishing such persons as may be detected in attempts at fraudulent evasions of the Revenue Laws.

8. Whether returns be daily made of fines levied by the warrants of magistrates, and paid to the receiver-general, for the public uses of the province, by virtue of any law now in force.

9. Whether the returns be made to this office, of fines levied under the authority of statutes enjoying their appropriation to local purposes; or if not, whether there be any means by which the executive government may learn periodically, the amount of fines so levied, and ascertain and check the manner of their application, to the ends prescribed by statute.

10. Whether the accounts of monies expended by Commissioners appointed under Acts of Legislature, be duly examined at this office.

11. Whether the rents of ferries and mill-seats, which should be regularly paid to the receiver-general, be returned in any form of account to the inspector-general.

12. Whether returns of fines, estreats, &c., be duly made to this office, by sheriffs, clerks of the peace, &c.; or if not, whether there be any other means of checking and controlling the receipts and payments of this class of public accountants.

13. What means exist, whereby payments made from time to time by receivers of public money, may be verified as the full amount for which they ought severally to account.

14. What balances remain due by collectors, inspectors, and all other public accountants, after the lapse of the period within which they should have been accounted for, according to existing laws and regulations.

15. Whether, under the sanction of legislative enactment, and for the purpose of placing public accountants beyond the possible temptation of seeking private advantage, from the use of public monies, temporarily accumulating in their hands, it might or might not be expedient to conclude an arrangement with one of the chartered banks, by which that institution would become the sole depository of public monies, and the medium of payment of all public debts.

16. Whether it be practicable to simplify the public accounts, by reducing the number of distinct funds, among which, as now classified, the receipts and payments on account of revenue and expenditure are distributed.

17. Whether the method hitherto pursued, of issuing a separate warrant for each payment, might or might not, on account of the public service, be advantageously modified, so far as relates to fixed and regular heads of expenditure;—a single warrant, for instance, being issued to the chief officer of a department, for the aggregate amount of all sums required at a particular period, and payable to the individuals of that department.

18. Whether the office of inspector-general, as at present organized and constituted, be adequate, or more than adequate, to the effectual examination and control of all the accounts and returns of public receipts and disbursements, rendered to this department.

19. Whether the salaries allowed in this department are sufficient, or more than sufficient, as a compensation for the duties performed; and whether there be any necessity for an increase, or a reduction of the assistance at present afforded.

20. Whether every item of receipt and expenditure, in which the public have any interest, be regularly and duly brought under the review of this department;—if not, the committee will state the particulars of any failure or omission, with their suggestions thereupon.

As the object of the appointment of the commission is to investigate generally all matters of public interest connected with the several departments, this committee will understand, that they are not restricted to limit their inquiries by the strict letter of the foregoing queries; but that, in the full spirit of the same, they are to pursue any course of investigation which may appear to them expedient.

No. 48.
Sir Geo. Arthur
to Lord John Russell.
Nov. 22, 1839.

Encl. in No. 48.

RECEIVER-GENERAL'S AND OTHER OFFICES.

Committee No. 2.

MEMBERS:

The Honourable William Allan,
The Honourable W. H. Draper,
The Provincial Secretary,
The Inspector-General,
The Honourable J. S. Macaulay,
The Honourable Mr. Justice Jones,
Henry Sherwood, Esq., Q.C.

This committee will inquire into the present state of the undermentioned offices, and the nature of the duties performed in each of them, viz., the offices of—

1. The Receiver-General of the Province;
2. The Commissioner of Crown Lands;
3. The Surveyor-General of Woods and Forests;
4. The Secretary of the Clergy Corporation;
5. The Surveyor-General of Lands;
6. The Chief Agent for Emigration;
7. The Agent for the sale of Clergy Reserves;
8. The subject of "School Lands."

The committee will direct its attention to the following points:—

1. The manner in which public monies, including fees, are received and accounted for, at all the above-mentioned offices; the present state of the receipt, and the manner of appropriation of such monies.
2. The checks, whereby the accuracy of the money transactions in each of those offices is tested; and the method (if any) whereby they may be rendered more effective.
3. The balance in the hands of each of the above-mentioned officers, under every head of service, and its place of custody: that is, whether it be in the personal custody of any officer of each department, or placed in some bank as an official deposit, or as an ordinary one, blended in a common account with private funds, or kept in some other place of supposed security.
4. The outstanding accounts which may be due, or about to become due to the Crown, or to any public trust or institution; whether the same may arise from sales of lands, interest due on sales, rents of lands, or any other source whatever.
5. The names of the accountants who may be in default, and the amount and cause of such default; whether the arrears in such cases be in course of liquidation and collection; and whether proper means have been taken to prevent, as far as possible, the recurrence of similar irregularities, by means of strict checks, and (with reference to the sale or lease of lands) by a close adherence to established regulations.
6. The system generally, upon which the receiver-general's office is conducted: more especially with respect to the distribution of business among the clerks of that department—in which, it is obvious, that the duties of cashier and general book-keeper should rigorously be kept separate and distinct from each other.
7. The mode adopted in the management of the public debt, and whether the issue and redemption of debentures be conducted by the receiver-general upon the most correct, convenient, and satisfactory method.
8. The system generally pursued in the office of the surveyor-general of lands; and whether any modification of it be expedient under present circumstances, for promoting the convenience of settlers, and facilitating the general transaction of business, connected with that department.
9. Whether any improvement be, or be not practicable in the mode of conducting that branch of service, now entrusted to the secretary of the clergy corporation.
10. Whether the salaries allowed in the several departments hereinbefore specified, be sufficient, or more than sufficient, as compensation for the duties performed; and whether there be any necessity for an increase or a reduction of the assistance at present afforded.

As the object of the appointment of the commission is to investigate generally all matters of public interest, connected with the several departments, this committee will understand, that they are not restricted to limit their inquiries by the strict letter of the foregoing queries; but that, in the full spirit of the same, they are to pursue any course of investigation which may appear to them expedient.

CORRESPONDENCE RELATIVE TO THE
EXECUTIVE COUNCIL.

No. 48
Sir Geo. Arthur
to Lord John Russell.
Nov. 22, 1839.
Encl. in No. 48.

Committee No. 3.

MEMBERS:

The Honourable Mr. Justice Macaulay.
The Receiver-General.
The Attorney-General.
The Civil Secretary.

This committee will consider the constitution of the Executive Council; and after a due investigation of the business and duties of that body, will report—

1. Whether the Council, in its constitution, be adapted to the transaction of the business which now devolves on it; or whether any change in that respect be practicable and expedient.
2. Whether any additional duties should devolve on this Board; or whether, on the other hand, any duties now performed by it, should be transferred to other departments of the public service.
3. Whether, in particular, the Council, in its character as a board of audit, be, in all respects, suited to present exigencies, and the increasing pressure of public business.
4. What may be the nature and description of the accounts, and claims upon the public chest, which are usually submitted to the Council for final audit; whether they previously undergo due investigation in every other department; and if not, whether such previous investigation be desirable, and in what manner it may be most satisfactorily performed.
5. Whether it be expedient to make any change in the mode and form of submitting matters of public business to the final review and determination of the Lieutenant-Governor in Council.
6. Whether the accommodation provided for the Council be sufficient for the convenient discharge of its duties.
7. Whether the salaries allowed in this department be sufficient, or more than sufficient, as compensation for the duties performed; and whether there be any necessity for an increase or reduction of the assistance at present afforded.

As the object of the appointment of the Commission is to investigate generally all matters of public interest connected with the several departments, this committee will understand, that they are not restricted to limit their inquiries by the strict letter of the foregoing queries; but that, in the full spirit of the same, they are to pursue any course of investigation which may appear to them expedient.

N. B. The vacancy occasioned by the death of the late clerk of the Executive Council will remain open, until the committee shall have reported how far, in their judgment the Council, under its present organization and system, can efficiently dispose of the important details of business which must continue to claim its attention.

INDIAN AFFAIRS.

Committee No. 4.

MEMBERS.

His Honour the Vice-Chancellor.
The Honourable Mr. Justice Macaulay.
William Hepburn, Esq.

This committee will take up two subjects: first, they will endeavour to ascertain the present condition, both in a moral and political point of view, of the different tribes forming the Indian population; also, what lands or annuities of any kind they possess; and, secondly, they will consider what alteration and amendment may be beneficially introduced in the mode of conducting the Indian department.

With respect to the first division of this subject, the committee will ascertain, as far as it can be done, the number both of those Indians who are settled amongst the white population in this province, and those who are resident in the uncultivated portions of the British empire on this continent.

2. The committee should endeavour to ascertain the number of births, deaths, and marriages among the various tribes, during the last few years; with a view to determine, from such data, how far an increase or a decrease of population may have been the effect of civilization.

3. What are the distinguishing characteristics of the different tribes, in regard to habits, manners, customs, &c.; and what are the chief difficulties to be overcome, in the way of improving their social condition.

4. Among which of the tribes there exists the greatest degree of similarity, so as to warrant the conclusion that they would associate amicably together, if settled in one locality.

5. The present state of these settlements of Indians in the midst of the white population; with reference particularly to the benefit or injury to which the Indian character is subjected by proximity to the whites; whether any change in the system of establishing settlements of Indians amongst the whites, might, or might not, be beneficially made.

6. The present state of the Indian settlement at the Great Manatoulin Island, both as regards the actual comfort and advantage, and the probable future prospect of their advance in civilization, by means of their settlement on that island.

7. The means of subsistence possessed by the unsettled Indians, and the best manner of engaging their attention to agricultural and commercial pursuits, particularly the manufacture of sugar, and the curing of fish, to an extent beyond what may be wanted for their own consumption; and to facilitate their means of doing so.

8. Whether it might be desirable to take any steps to prevent improper advantage being taken of the Indians, by traders and others with whom they have dealings; and what is the effect of the communication of the Indians with the fur traders in the north-west parts of Upper Canada.

9. What is the extent of the present means of affording education and religious instruction to the Indians. Which of the tribes have shown the greatest aptitude in benefiting by the instruction afforded them.

10. What measures would appear best adapted to effect the education of the Indian youth generally, and particularly with a view to the dissemination of Christianity amongst the unconverted Indians, by means of teachers of their own race, educated by the whites.

11. By what means might the Government, with propriety, lend assistance in furtherance of the missionary system.

As to the Indian department, the committee will consider:—

1. The system adopted in paying the annuities to the several Indian tribes; and whether it be not susceptible of improvement.

2. The mode of taking care of the Indian reserved lands, at present adopted, and whether great alterations and improvements might not be effected, much to the advantage of the Indians.

3. The course to be adopted with respect to squatters upon Indian lands, whether altogether without authority, or under colour of recognized titles obtained from individuals amongst the Indians; and how far the Act recently passed will be likely to afford efficient protection to the rights of the Indians.

4. Whether any, and what, alterations may be beneficially introduced in the mode of proceeding, at present adopted, as regards the annual Indian presents.

5. The present course of conducting the business of the Indian department, and whether in many respects beneficial alterations might not be made.

6. The present system of paying monies on account of the Indians, by warrant of the Governor, directed to the commissariat department, alone, without any check on the part of any other department of the Government; and whether some system of check might not be advantageously introduced.

7. Whether the salaries allowed in this department are sufficient, or more than sufficient, as a compensation for the duties performed; and whether there be any necessity for an increase, or a reduction of the assistance, at present afforded.

As the object of the appointment of the Commission is to investigate generally all matters of public interest connected with the several departments, this committee will understand, that they are not restricted to limit their inquiries by the strict letter of the foregoing queries; but that, in the full spirit of the same, they are to pursue any course of investigation, which may appear to them expedient.

EDUCATION.

Committee No. 5.

MEMBERS:—

The Reverend John M'Cauley, D.D.

The Reverend H. J. Grasset.

The Civil Secretary.

This committee will ascertain the state of all school funds; the extent to which they may be made available for their legitimate objects; and will state the amount of such additional aid as may be requisite to carry into effectual operation an enlarged scheme of popular education.

They will examine into the past and present state of education throughout the province, and into the efficiency of the means for promoting it which have been heretofore employed.

They will frame such a plan as will appear to them to be the best calculated to afford the best possible kind of education to the community, at the least possible expense; and will prepare the same, so as to allow of a bill which shall embody it, being submitted to the Legislature at their next meeting.

They will institute an inquiry with reference to the constitution of King's College University, and also to the lands forming its endowment—the revenue derived from them, and the objects to which it has been applied; stating also, how, in future, it may be most beneficially employed.

As the object of the appointment of the Commission is to investigate generally all matters of public interest connected with the several departments, this committee will understand, that they are not restricted to limit their inquiries by the strict letter of the foregoing queries;

No. 48.
Sir Geo. Arthur
to Lord John Russell.
Nov. 22, 1839.

but that, in the spirit of the same, they are to pursue any course of investigation, which may appear to them expedient.

Encls in No. 48.

SHERIFFS, AND CLERK OF THE CROWN AND PLEAS.

Committee No. 6.

MEMBERS:—

Their Honours the Judges,

This committee will inquire into the manner in which the duties of these important offices have been performed.

They will consider whether any alteration is required in the amount and description of the security furnished by the sheriffs, under the existing law, for the due performance of their duties.

They will further consider whether the monies of suitors coming into the hands of sheriffs, or their officers, when not promptly paid over to the parties to whom they belong, might not advantageously be placed in deposit in one of the chartered banks, instead of being left in the sheriff's possession.

They will ascertain if monies collected by the sheriffs on behalf of the Crown, are regularly and promptly transmitted by them to the Receiver-General; and if not, they will suggest such arrangements as will best insure punctuality and exactitude.

They will inquire into the mode and expense of conveying prisoners from one place to another; and will suggest any measures of improvement that may seem to them expedient.

In connexion with the duties of the sheriffs, the committee will report generally upon the state of the public gaols, and the system of discipline pursued in them.

As regards the office of clerk of the Crown and Pleas, the committee will inquire into the nature and extent of the duties appertaining to it; and will report any changes of arrangement which they may think adviseable.

They will consider also the extent and nature of the emoluments; the assistance necessary for the efficient performance of the duties of the office; and the advisability of substituting fixed salaries for fees, as the mode of remuneration.

As the object of the appointment of the commission is to investigate generally all matters of public interest connected with the several departments, this committee will understand that they are not restricted to limit their inquiries by the strict letter of the foregoing queries; but that, in the spirit of the same, they are to pursue any course of investigation which may appear to them expedient.

COURTS OF REQUEST,

AND COMMISSIONERS OF THOSE COURTS.

Committee No. 7.

MEMBERS:—The Law Officers:

This committee will examine the constitution of these Courts in their present state, and consider their efficiency as at present constituted; and whether some alteration in the law might not be made, by which they would be rendered more useful to the community.

Whether some mode of investigating the conduct of the commissioners, upon complaints being made against them by the public, might not be rendered effective.

Whether it would be practicable or beneficial to do away with the present system of compensating the commissioners by fees, and to substitute a fixed but moderate annual stipend, levied either by assessment on the district, or by a tax on each suit, collected by the clerk, and paid to the commissioners by the treasurer of the district; or whether an improvement in the system could be effected in some other and better manner.

Whether it might be practicable to provide for the recovery of small debts in a manner more consistent with the fixed principles of law and equity, by dispensing with the services of the numerous commissioners, now sitting in the Courts of Request, and by substituting a system of occasional Circuit Courts through each district, by the judge of the District Court, with summary powers of decision to the extent of 10*l.*, and liberty of appeal to a jury, at the ensuing regular term of District Court, in all cases above 5*l.*; or by some other system.

As the object of the appointment of the commission is to investigate generally all matters of public interest connected with the several departments, this committee will understand that they are not restricted to limit their inquiries by the strict letter of the foregoing queries; but that, in the spirit of the same, they are to pursue any course of investigation which may appear to them expedient.

MILITIA.

Committee No. 8.

No. 48.
 Sir Geo. Arthur
 to Lord John Russell.
 Nov. 22, 1839.

Encl. in No. 48.

MEMBERS:

The Honourable Mr. Justice M'Lean.
 Colonel Chichester.
 Henry Sherwood Esq.

This committee will inquire generally into the state of the militia service; the effect of the present militia laws; and will suggest any improvements, of which, as it may appear to them, those laws may be susceptible.

They will inquire into the extent and nature of the duties pertaining to the office of Adjutant-General of Militia, with a view to consider whether any, and if so, what improvements may be introduced in the method which has been hitherto pursued of conducting the business of that department.

The committee will further ascertain whether regular returns are made to the Adjutant-General of fees and fines paid and levied under the militia law; and whether they appear to be duly paid to the Receiver-General, and accounted for to the Inspector-General.

They will also ascertain whether the salaries allowed in this department are sufficient, or more than sufficient, as a compensation for the duties performed; and whether there be any necessity for an increase or a diminution of the assistance at present afforded.

As the object of the appointment of the commission is to investigate generally all matters of public interest connected with the several departments, this committee will understand that they are not restricted to limit their inquiries by the strict letter of the foregoing queries; but that, in the spirit of the same, they are to pursue any course of investigation which may appear to them expedient.

(Signed) GEORGE ARTHUR.

By his Excellency's command.

(Signed) S. B. HARRISON.